

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Withdrawn Sections—sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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

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

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

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22 TAC §71.10—3501

22 TAC §75.3—3501

22 TAC §75.4—3509

22 TAC §77.2—3511

22 TAC §§77.3-77.5—3502

#### Part VII. Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids

22 TAC §141.37—3379

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22 TAC §321.1—3402

22 TAC §337.2—3403

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22 TAC §423.12—3511

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22 TAC §521.1—3321, 3325

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22 TAC §571.4—3445

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25 TAC §§402.201-402.222—3409

25 TAC §§405.231-405.246—3409

25 TAC §§405.691-405.724—3409

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28 TAC §1.36—3326

28 TAC §§1.801-1.813—3327

28 TAC §5.6105—3331

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28 TAC §§33.1-33.10—3395

28 TAC §§33.101-33.108—3396

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28 TAC §53.63

**TITLE 31. NATURAL RESOURCES AND CONSERVATION**

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31 TAC §155.10—3334

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31 TAC §305.62—3513

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37 TAC §§233.62-233.64—3504

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40 TAC §10.1002—3340

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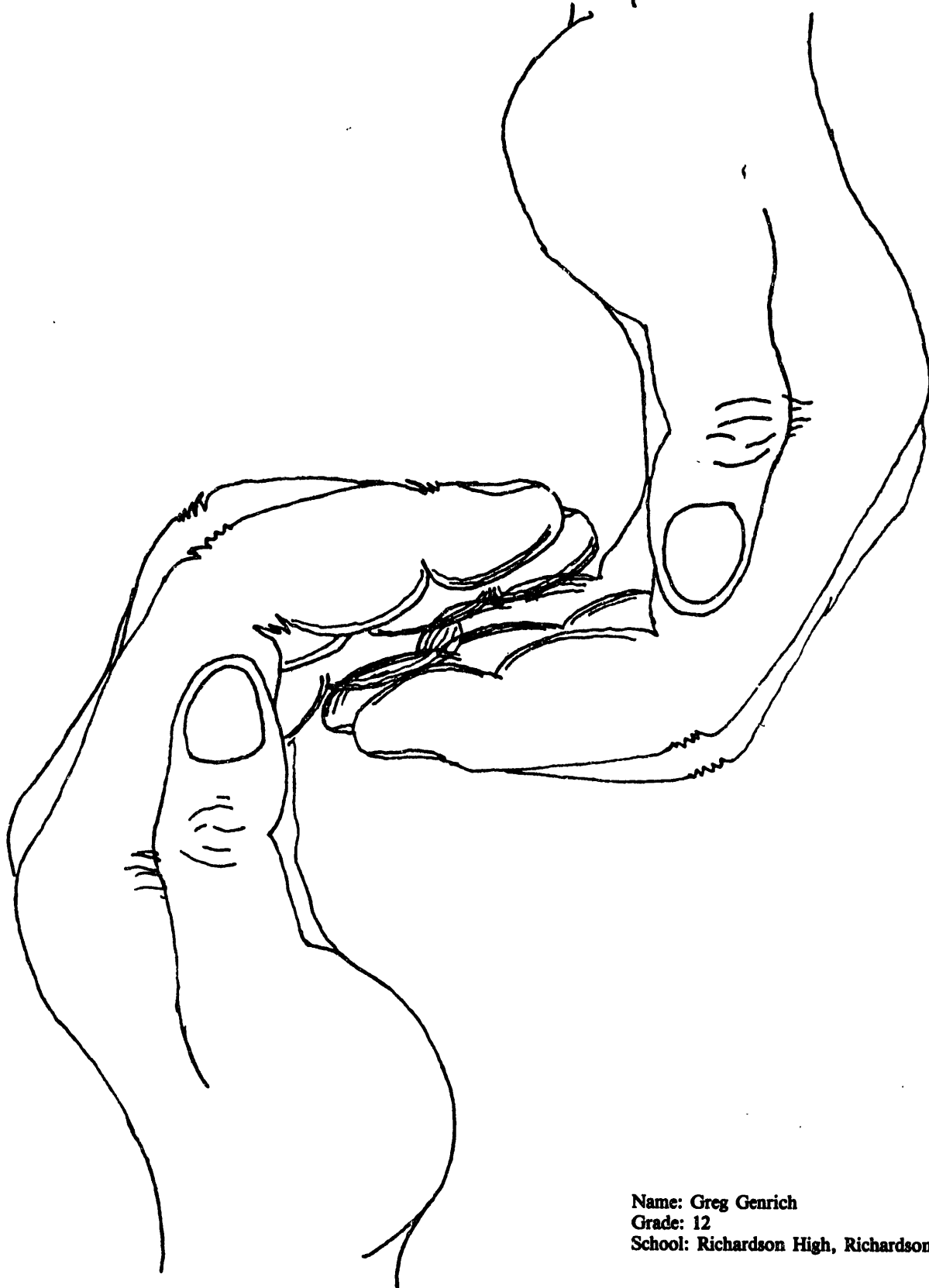
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# DEPENDENCY



Name: Greg Genrich  
Grade: 12  
School: Richardson High, Richardson



# The Governor

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

## Appointments Made July 5, 1988

To be a member of the Role of the Family in Reducing Recidivism Advisory Committee pursuant to Texas Civil Statutes, Article 6203c-19, for a term at the pleasure of the governor: Judith Hoover, 910 Main, Bastrop, Texas 78602.

To be a member of the Criminal Justice Policy Council for a term to serve at the pleasure of the governor: D. L. "Sonny" Keesee, P.O. Box 10536, Lubbock, Texas 79408. Sheriff Keesee will be replacing Mario Santos of Laredo whose term expired.

To be a member of the Criminal Justice Policy Council for a term to serve at the pleasure of the governor: Judge Susan D. Reed, 312 Park Hill, San Antonio, Texas 78212. Judge Reed will be replacing Victor Strecher of Huntsville who resigned.

To be a member of the Criminal Justice Policy Council for a term to serve at the pleasure of the governor: John Holmes, 201 Fannin, Suite 200, Houston, Texas 77002. Mr. Holmes will be replacing Cappy Eads of Belton whose term expired.

To be a member of the Texas Historical Records Advisory Board for a term to expire January 23, 1990: David Farmer, Ph.D., Director, DeGolyer Library, Southern Methodist University, Dallas, Texas 75275. Dr. Farmer will be replacing Dr. Don Carleton of Austin whose term expired.

To be a member of the Criminal Justice Policy Council for a term to serve at the pleasure of the governor: Col. James B. Adams, 6600 Mesa Drive, Austin, Texas 78731. Col. Adams will be replacing Myra McDaniel of Austin whose term expired.

To be a member of the Motorcycle Operator Training and Safety Advisory Com-

mittee for a term at the pleasure of the governor: Alan Roy Tillman, 7935 Burnet Road, Austin, Texas 78758. Mr. Tillman will be replacing Carlos D. Gonzalez of Orange Grove whose term expired.

To be a member of the Motorcycle Operator Training and Safety Advisory Committee for a term at the pleasure of the governor: Dean S. DeSoto, 1222 North Main, Suite 409, San Antonio, Texas 78212. Mr. DeSoto will be replacing Mary Jean Hudgins of Baycliff whose term expired.

To be a member of the Texas Historical Records Advisory Board for a term to expire January 23, 1989: Ron Tyler, Ph.D., 3102 Hemphill Park, Austin, Texas 78705. Dr. Tyler will be replacing Dr. Betty Kissler of San Marcos whose term expired.

To be a member of the Motorcycle Operator Training and Safety Advisory Committee for a term to serve at the pleasure of the governor: Shelley D. Mosley, Route 1, Box 23B, Lancaster, Texas 75146. Ms. Mosley will be replacing Georgie Bond of Austin whose term expired.

To be chairman of the Role of the Family in Reducing Recidivism Advisory Committee for a term to serve at the pleasure of the governor: Mary Wathen-White, 701 Sunshine Drive East, San Antonio, Texas 78228.

To be a member of the Role of the Family in Reducing Recidivism Advisory Committee for a term to serve at the pleasure of the governor: Mary Wathen-White, 701 Sunshine Drive East, San Antonio, Texas 78228.

Issued in Austin, Texas on July 6, 1988.

TRD-8806888

William P. Clements, Jr.  
Governor of Texas



## Appointments Made July 7, 1988

To be a member of the Radiation Advisory Board for a term to expire April 16, 1989: Jesse W. Locke, P.O. Box 2759, Dallas, Texas 75221. Mr. Locke will be filling the unexpired term of Douglas Owen of Dallas whose term expired.

To be a member of the Texas State Board of Examiners of Psychologists for a term to expire October 31, 1991: Ann Crichton Crews, 4339 Normandy, Dallas, Texas 75205. Mrs. Crews will be filling the unexpired term of Joe D. Robbins of Irving who resigned.

To be a member of the State Board of Vocational Nurse Examiners for a term to expire September 6, 1993: Norma Jean Clark, 1918 Sharon Drive, Corinth, Texas 76205. Mrs. Clark will be replacing Kathleen Franklin of Port Arthur whose term expired.

To be a member of the Texas Water Well Driller Board for a term to expire September 15, 1993: James Frank Grimes, 3638 Stables Lane, Dallas, Texas 75229. Mr. Grimes is being reappointed.

To be a member of the Texas Commission on the Arts for a term to expire August 31, 1993: Frances Annette Strake, 5684 Shady River, Houston, Texas 77056. Mrs. Strake will be replacing Carla Francis of Dallas whose term expired.

To be a member of the Texas Historical Records Advisory Board for a term to expire January 23, 1989: David J. Murrach, Ph.D., P.O. Box 4090, Texas Tech University, Lubbock, Texas 79409. Dr. Murrach is being reappointed.

Issued in Austin, Texas on January 9, 1988.

TRD-8807012

William P. Clements, Jr.  
Governor of Texas





Name: Bert Whitaker  
Grade: 8  
School: Wilson Middle School, Plano

# Attorney General

**Description of Attorney General submissions.** Under provisions set out in the Texas Constitution, Texas Civil Statutes, Article 4399, and numerous statutes, the attorney general is authorized to write advisory opinions for state and local officials. These advisory opinions are requested by agencies or officials when they are confronted with unique or unusually difficult legal questions. The attorney general also determines, under authority of the Texas Open Records Act, whether information requested for release from governmental agencies maybe held from public disclosure. Requests for opinions, opinions, and open record decisions are summarized for publication in the *Texas Register*. The Attorney General responds to many requests for opinions and open records decisions with letter opinions. A letter opinion has the same force and effect as a formal Attorney General Opinion, and represents the opinion of the Attorney General unless and until it is modified or overruled by a subsequent letter opinion, a formal Attorney General Opinion, or a decision of a court of record.

## Open Records Decisions

ORD-496 (RQ-1290). Request from James E. Nugent, Chairman, Railroad Commission of Texas, Austin, concerning whether certain information made confidential by published rules of the Federal Interstate Commerce Commission is totally excepted from the Open Records Act, Texas Civil Statutes, Article 6252-17a, or from disclosure under the Act pursuant to §3(a)(10).

**Summary of Decision.** The Texas Open Records Act, Texas Civil Statutes, Article 6252-17a, §3(a)(10), protects from required disclosure commercial or financial data comprising the "waybill sample" of the Interstate Commerce Commission because release of the data would impair the Texas Railroad Commission's ability to obtain the information in the future.

ORD-497 (RQ-1321). Request from J. Scott Chafin, University Counsel, University of Houston System, Houston, concerning whether information related to the University of Houston patent applications on superconductivity research is available under the Texas Open Records Act, Texas Civil Statutes, Article 6252-17a.

**Summary of Decision.** The Texas Open Records Act, Texas Civil Statutes, Article 6252-17a, §4 and §5, do not require that a member of the public actually name the chief administrative officer of a governmental body in order to make a valid request for information under the act. A request is valid so long as it reasonably can be identified as a request for public Records. Whether a particular request reasonably can be identified as such is a fact question that must be resolved on a case-by-case basis.

The Texas Open Records Act, §7(b) requires governmental bodies to submit copies of documents to the attorney general for review to determine whether the documents are protected from disclosure. If the documents are voluminous, representative samples may be submitted. The fact that submitting copies may be burdensome, however, does not relieve a governmental body of its responsibility to submit them.

The Texas Open Records Act, §3(a)(1), in conjunction with the Texas Education Code,

§51.911, (as added by the 69th Legislature, 1985, Chapter 818, §2) protects from disclosure information related to the commercial application or use of superconductivity research at the University of Houston.

ORD-498 (RQ-1341). Request from David M. Douglas, General Counsel, Texas Department of Public Safety, Austin, concerning whether class-type listings from driver's license recJM files are protected from required public disclosure under Texas Civil Statutes, Article 6678b, §21(j)(3), in conjunction with the Open Records Act, Texas Civil Statutes, Article 6252-17a, §3(a)(1).

**Summary of Decision.** Article 6687b(21)(j)(3) prohibits the Texas Department of Public Safety from providing "class-type listings from the basic driver's license record file to any person or business." That provision overturns the holding in Open Records Decision Number 465 (1987) that the department is required to identify the driver's license files that contain a certain type of document in JM to make the documents available to a person who requests them under the Texas Open Records Act, Texas Civil Statutes, Article 6252-17a.

## Opinions

JM-914 (RQ-1351). Request from Charles D. Travis, Executive Director, Parks and Wildlife Department, Austin, concerning the conflict between provisions of the Parks and Wildlife Code.

**Summary of Opinion.** There were typographical errors on pages 8 and 9 in Attorney General Opinion JM-914 (1988). The third sentence in the first full paragraph on page 8 of the opinion should read: "Accordingly, the punishment to be assessed for violation of any of the sections listed above, except for §§47.003(a), 47.007, and 47.012, shall be a fine of not less than \$10 nor more than \$200; in addition, anyone so convicted is subject to the forfeiture, for one year from the date of conviction, of any license held under the authority of the listed sections." (Correction underscored.) The second sentence of the first paragraph of the

"Summary," located on page 9 should read: "Therefore, the punishment to be assessed for violation of any of the sections listed above, except for §§47.003(a), 47.007, and 47.012, is a fine of not less than \$10 nor more than \$200; additionally, anyone so convicted is subject to the forfeiture, for one year from the date of conviction, of any license held under the authority of the listed sections." (Correction underscored.)

JM-918 (RQ-1159). Request from Sam H. Smith, Executive Director, Board of Tax Professional Examiners, Austin, concerning whether the registration requirements of Texas Civil Statutes, Article 7244b, apply to personnel of a private collection firm that has contracted to perform property tax collection services for a taxing unit.

**Summary of Opinion.** In an instance in which a taxing unit has entered into a contract to obtain assistance in current and delinquent tax collections from a private collection firm, the field collectors of the firm and the firm officers who supervise and direct collections operations for the firm must register with the Board of Tax Professional Examiners, pursuant to Texas Civil Statutes, Article 7244b, §11, if the chief administrator of the taxing unit's tax office so requires TRD-8806949

JM-919 (RQ-1173). Request from Stan Schlueter, Chairman, Ways and Means Committee, Texas House of Representatives, Austin, concerning whether the directors of a taxing unit are permitted to waive interest penalties on a tax payment delinquent by reason of a central appraisal district error.

**Summary of Opinion.** To effectuate the legislative intent the term "agent" as used in the Tax Code, §33.011, central appraisal district making appraisals for use by the taxing unit. Therefore, the directors of a taxing unit are permitted to waive interest and penalties on a tax payment which is delinquent by reason of an error of a central appraisal district. TRD-886950

JM-920 (RQ-1240). Request from Perry L. Adkisson, Chancellor, Texas A&M Univer-

sity System, College Station, concerning the construction of the Texas Commercial Fertilizer Control Act, the Agriculture Code, Chapter 63.

**Summary of Opinion.** The Texas Feed and Fertilizer Control Service has implied authority to notify the possessor or purchaser of fertilizer that laboratory analysis of the product demonstrates it to be out of compliance with the requirements of the Agriculture Code, Chapter 63. By sending this notification to the purchaser or possessor, the service does not deprive the fertilizer manufacturer of property without due process of law. The Agriculture Code, §63.094(d), does not require that equal weight be given to analytical findings of commercial laboratories when a manufacturer contests the results of the state chemist's analysis. TRD-886951

JM-921 (RQ-1298). Request from William D. Gooch, Director and Librarian, Texas State Library, Austin, concerning whether the Library and Archives Commission may grant funds to certain regional library systems.

**Summary of Opinion.** Regional library systems established pursuant to the Library Systems Act may have as members only public libraries as defined in the Government Code, §441.122(9), (12). Regional library systems may contract with non-public libraries for the purchase of sale of specialized resources and services. Government Code, §441.128(d). TRD-886952

JM-922 (RQ-1314). Request from Roy Blake, Chairman, Senate Administration, Texas State Senate, Austin, and Bill Haley, Chairman, Public Education Committee, Texas House of Representatives, concerning whether commercial feed lots are subject to the Texas Feed Control Act of 1957.

**Summary of Opinion.** Having reconsidered Attorney General Opinions C-105 and H-895, we again hold that the Texas Commercial Feed Control Act of 1957, now codified as the Agriculture Code, Chapter 141, does not apply to feed lots which merely keep and feed stock for owner. TRD-886953

JM-923 (RQ-1308). David H. Cain, Chairman, Committee on Transportation, Texas House of Representatives, Austin, concerning whether an unincorporated association insurance carrier organized under the Texas Lloyd's plan may serve as a "corporate surety" under Texas Civil Statutes, Article 5160.A.

**Summary of Opinion.** The requirement in Article 5160.A of a bond executed by a "corporate surety" authorized to do business in Texas is not satisfied by surety bond

insurance issued by a Lloyd's company authorized to do business in Texas. TRD-886954

JM-924 (RQ-1326). Kent A. Caperton, Chairman, Jurisprudence Committee, Texas State Senate, Austin, concerning whether the Probate Code, §81(a)(9), which requires an applicant for probate of a will to disclose his social security number conflicts with the Federal Privacy Act, §7.

**Summary of Opinion.** The Probate Code, §81(a)(9) is invalid as inconsistent with the Federal Privacy Act, §7, to the extent that it requires an applicant for probate of a written will to state his social security account number on the application. The applicant may be requested to give his social security number voluntarily if he is provided the following information: whether the disclosure is mandatory or voluntary, by what statutory or other authority the number is sought, and what uses will be made of it. The federal Privacy Act does not prohibit a requirement that the decedent's social security number be included on the application. TRD-886955

JM-925 (RQ-1355). Request from Tim Rudolph, Somervell County Attorney, Meridian, concerning the powers and duties of a county attorney pro tem under the Code of Criminal Procedure, Article 2.07.

**Summary of Opinion.** The county attorney pro tem serving pursuant to an agreement entered into by Somervell and Bosque Counties is not relieved of the requirement to file an information because his time of service may be somewhat more limited than that of the county attorney who serves for a term. A county attorney pro tem may sign an information. The information must reflect on its face the authority under which the county attorney pro tem serves. The fact that the district attorney may be willing to perform any duty imposed upon the county attorney by Article 2.02 does not preempt any authority of the county attorney pro tem. The judge in the court in which the county attorney pro tem represents the state should enter an order in each case appointing him to represent the state. It is not necessary for the commissioners courts of Somervell and Bosque Counties to renew the contract of each term of court. TRD-886956

JM-926 (RQ-1398). Request from Helen L. Campbell, Commissioner, Firemen's Pension Commission, Austin, concerning whether the board of trustees of the Austin Fire Fighter's Relief and Retirement Fund may expend funds to hire an administrator and an attorney, and related questions.

**Summary of Opinion.** The board of trustees of a fire fighters relief and retirement fund established under Texas Civil Statutes, Article 6243e.1, is authorized to establish an office and hire necessary personnel apart from the city. The board may hire an attorney in certain cases, and the board has custody of its records. TRD-886957

JM-927 (RQ-1405). Request from Joe Warner Bell, Trinity County Attorney, Groveton, concerning whether a county commissioner may act as surety on a bail bond for an offense committed in his county, and related questions.

**Summary of Opinion.** A commissioner may not act as a surety on a bail bond for a defendant in which he and the county he serves have an interest. TRD-886958

JM-928 (RQ-1350). Request from Rene Guerra, Criminal District Attorney, Hidalgo County Courthouse, Edinburg, concerning the selection of a depository by a hospital authority.

**Summary of Opinion.** The provisions of the Local Government Code, Chapter 108, relating to depositories for municipal funds apply to the Edinburg Hospital Authority. The authority may not enter into a contract that allows the depository to transfer funds to sister banks owned by the same holding company that do not qualify according to law as official depositories for a municipality. TRD-887010

JM-929 (RQ-1429). Request from Jerry Cobb, Criminal District Attorney, Carroll Courts Building, Denton, concerning the eligibility of certain former district judges for assignment.

**Summary of Opinion.** The 70th Legislature, Acts 1987, Chapter 516, page 2128, adds an exception to the requirement that a judge must have four years of judicial experience to sit by special assignment. Government Code, §74.055. The exception is for a "former district judge who has served as judge of more than one district court," and it applies only to a judge who has been elected or appointed to more than one district court. It does not apply to district judges who have exchanged benches pursuant to the Government Code, §24.303. TRD-887011

## Requests for Opinions (RQ-1458)

Request from Terry McEachern, State of Texas District Attorney Office, 64th and 242nd Judicial District, Counties of Hale and Swisher, Plainview, concerning salary increase for elected officials in Hale County. TRD-8806925

(RQ-1459)

Request from Robert E. Davis, Chairman, Productivity Bonus Commission, Austin, concerning the authority of the Productivity Bonus Commission created by Texas Civil Statutes, Article 6252-29. TRD-88069

◆ ◆ ◆

(RQ-1460)

Request from James Warren Smith, Jr., County Attorney, Frio County, Pearsall, concerning whether certain county roads contracts must be competitively bid under court/engineer system, Texas Civil Statutes, Article 6702-1, §3.201. TRD-8806927

◆ ◆ ◆

(RQ-1461)

Request from Will Reece, Texas Council on Vocational Education, Austin, concerning the authority of the Texas Council on Vocational Education to purchase plaques for its officers. TRD-8806928

◆ ◆ ◆

(RQ-1462)

Request from Lias B. "Bubba" Steen, Executive Director, State Purchasing and General Services Commission, concerning the exchange of property between the State Purchasing and General Services Commission and the Department of Public Safety. TRD-8806929

◆ ◆ ◆

(RQ-1463)

Request from Joe Lucas, El Paso County Attorney, El Paso, concerning the authority of a home rule city to promulgate an ordinance prohibiting the discharge of pellet guns, wrist rockets, and other such devices. TRD-8806930

◆ ◆ ◆

(RQ-1464)

Request from John C. Bamhill, Crosby County Attorney, Crosbyton, concerning whether a county's general liability insurance coverage meets the requirements of the Government Code, §51.302. TRD-8806931

◆ ◆ ◆

(RQ-1465)

Request from A. J. (Jack) Hartel, Liberty County Attorney, Liberty, concerning a county's purchase of errors and omissions insurance. TRD-8806932

◆ ◆ ◆

(RQ-1466)

Request from Joe Warner Bell, Trinity County Attorney, Groveton, concerning

whether a district clerk may charge a fee for filing transfer papers in a child support enforcement action. TRD-8806933

◆ ◆ ◆

(RQ-1467)

Request from Chet Edwards, Texas Senate Committee on Nominations, Austin, concerning whether a former utility consultant may be appointed to the Public Utility Commission, and related questions. TRD-8806934

◆ ◆ ◆

(RQ-1468)

Request from Mike Millsap, House of Representatives, Austin, concerning the constitutionality of a plan to finance renovation of the Capitol. TRD-8806935

◆ ◆ ◆

(RQ-1469)

Request from Jack M. Rains, Secretary of State, Austin, concerning whether a filing with the Secretary of State is necessary to perfect a security interest in manufactured housing held as inventory. TRD-8806936

◆ ◆ ◆

(RQ-1470)

Request from James A. Adkins, Acting Commissioner, Texas Department of Mental Health and Mental Retardation, Austin, concerning whether a state official or employee traveling at state expense on official state business is exempt from the hotel occupancy tax imposed by the Tax Code, Chapter 156. TRD-8806937

◆ ◆ ◆

(RQ-1471)

Request from Marlin W. Johnston, Commissioner, Texas Department of Human Services, Austin, concerning political activity by employees of the Texas Department of Human Services. TRD-8806938

◆ ◆ ◆

(RQ-1472)

Request from George Pierce, Chairman, Committee on Urban Affairs, concerning procedures for protesting a proposed change in a zoning classification. TRD-8806939

◆ ◆ ◆

(RQ-1473)

Request from Janelle M. Haverkamp, Office of the County Attorney, Cooke County Attorney, Gainesville, concerning the authority of a commissioners court to approve the budget of the tax assessor-collector under certain circumstances. TRD-8806940

◆ ◆ ◆

(RQ-1474)

Request from Terral Smith, State Representative, Austin, concerning whether the Family Code, §14.05, requires payment of child support beyond age 18 were the child is arguably "not diligently pursuing a high school diploma." TRD-8806941

◆ ◆ ◆

(RQ-1475)

Request from Alfred F. Hurley, Office of the Chancellor, University of North Texas, Denton, concerning the use of Higher Education Assistance Funds to renovate facilities at the University of North Texas. TRD-8806942

◆ ◆ ◆

(RQ-1476)

Request from Bruce Gibson, Chairman, Texas House of Representatives, Committee on Financial Institutions, Austin, concerning whether a school district may rent a school building owned by a nonprofit foundation under certain circumstances, and related questions. TRD-8806943

◆ ◆ ◆

(RQ-1477)

Request from Henry B. Keene, Chairman, Board of Pardons and Paroles, concerning the constitutionality of the Texas Code of Criminal Procedure, Article 42.18, §27, regarding contracting for parole services, and related questions. TRD-8806944

◆ ◆ ◆

(RQ-1478)

Request from James M. Kuboviak, Brazos County Attorney, Bryan, concerning the construction of the term "actual costs" in the Tax Code, §6.27, and related questions. TRD-8806945

◆ ◆ ◆

(RQ-1479)

Request from Don Keith, Criminal District Attorney, Livingston, concerning the constitutionality of the Tax Code, §6.30, with regard to the division of duties incident to tax collection. TRD-8806946

◆ ◆ ◆

(RQ-1480)

Request from Robert Bernstein, Commissioner of Health, Texas Department of Health, Austin, concerning the preemption by the Texas Department of Health of local ordinances regulating the sale of abusive glues and aerosol paints. TRD-8806947

◆ ◆ ◆



Name: David Lankford  
Grade: 7  
School: Wilson Middle School, Plano

# 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 13. CULTURAL RESOURCES

### Part IV. Texas Antiquities Committee

#### Chapter 43. Procedure

##### Subchapter A. Definitions and General

###### • 13 TAC §§43.1, 43.2, 43.3

The Texas Antiquities Committee (TAC) proposes amendments to §§43.1, 43.2, and 43.3, concerning definitions and general agency procedure. The sections provide for efficient, orderly administration of contested proceedings before the committee, define terms used in the subchapter, and establish administrative procedures for filing documents with the committee. The amendments are proposed as house-keeping changes which add definitions for the terms "committee" and "committee staff"; transfer filing of documents with the state archaeologist to the committee staff; and remove language allowing the committee to make exceptions to the existing sections for good cause.

Molly F. Godwin, administrative technician, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Ms. Godwin also has determined that for each year of the first five years the proposed sections are in effect the public benefit anticipated as a result of enforcing the sections will be clarification of commonly used defined terms; expedient filing of documents and elimination of inappropriate or conflicting language from the text. 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 Molly F. Godwin, Administrative Technician, Texas Antiquities Committee, P.O. Box 12276, Austin, Texas 78711.

The amendments are proposed under the Natural Resources Code, Title 9, Chapter 191 (revised by Senate Bill 231, 68th Legislature, 1983, and House Bill 2056, 70th Legislature, 1987), §191.052, which provides the Texas Antiquities Committee with the authority to promulgate rules and require contract or permit conditions to reasonably effect the purposes of Chapter 191.

###### §43.1. Purpose and Scope.

(a) (No change.)

(b) Scope. This chapter governs procedure for instituting, conducting, and determining those matters within the committee's jurisdiction. The sections in this chapter shall not be construed to enlarge, diminish, or alter the jurisdiction, powers, or authority of the committee or the substantive rights of any person. [The committee may make exceptions to these sections for good cause.] The procedures prescribed in these sections supplement any applicable procedures required by statute.

(c) (No change.)

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

**Committee**—The Texas Antiquities Committee.

**Committee staff**—The employees of the Texas Antiquities Committee, other than hearing examiners, who by statute are considered to be employees of the Texas Historical Commission, Title 9, Chapter 191, §191.018, and who serve as the staff of the committee in any proceeding.

§43.3. *Filing Documents.*

(a) Filing with the committee staff [state archaeologist]. All documents relating to a proceeding pending or to be instituted before the committee shall be filed with the committee staff [state archaeologist]. For the sole purpose of determining the date of filing, a document shall be deemed filed only when actually received, accompanied by the filing fee, if any, required by statute or committee rule. The section does not govern the committee's determination as to the substantive adequacy or completeness of an application.

(1) If a document is sent to the committee staff [state archaeologist] by first-class United States mail in an envelope or wrapper properly addressed and stamped and is deposited in the mail two days or more before the last day for filing, it shall be deemed filed in time if received not more than five days after the last day for filing. A legible postmark affixed by the United States Postal Service is prima facie evidence of the date of mailing.

(2) For purpose of any responsive document (e.g.: a reply to exceptions, responsive brief, or reply to motion) for

which the time period for filing commences with the filing of another document, the initiating document shall be deemed filed when it is actually received by the committee staff [state archaeologist], whether on, before, or after the last day for filing it.

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

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

Issued in Austin, Texas, on June 8, 1988.

TRD-8806970

Molly F. Godwin  
Administrative Technician  
Texas Antiquities  
Committee

Earliest possible date of adoption: September 15, 1988

For further information, please call: (512) 463-6098

##### Subchapter B. Adjudicative Procedures

###### • 13 TAC §§43.53, 43.55, 43.59, 43.67, 43.81, 43.87, 43.89, 43.93, 43.111, 43.125, 43.127, 43.159, 43.181, 43.191, 43.203, 43.227

The Texas Antiquities Committee (TAC) proposes amendments to §§43.53, 43.55, 43.59, 43.67, 43.81, 43.87, 43.89, 43.93, 43.111, 43.125, 43.127, 43.159, 43.181, 43.191, 43.203, and 43.227, concerning form and content of pleadings; filing; determination of completeness of initial pleadings; lost records and papers; docketing and numbering causes, written motions; prefiling prepared testimony and exhibits; designation and use of hearing examiners; prehearing conference; order of procedure; reporters and transcripts; subpoenas; proposal for decision and examiner's report; pleading before final decision; form, content, and service; and ex parte communications. These sections provide a set of adjudicative procedures in contested proceedings brought before the committee pertaining to participants, pleadings, docketing and notice, prehearing proceedings, hearings, evidence, proposal for decision; examiner's report, orders, and ancillary proceedings and proceedings beyond order. These amendments are proposed as house-keeping changes to remove inappropriate or conflicting language; clarify or qualify general terms or phrases; revise and update rules to be compatible with statutory changes, 68th Legislature, 1983; and delegate review of applications, pleadings, and exceptions relating to contested matters to committee staff or the attorney general or his designee.

Molly F. Godwin, administrative technician, has determined that for the first five-year period the proposed amendments will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the amendments.

Ms. Godwin also has determined that for each year of the first five years the proposed amendments are in effect, the public benefits anticipated as a result of enforcing the amendments are provision for accurate and expedient review of legal documents by committee counsel; elimination of layman review of legal documents; and removal of burden of legal responsibilities of the TAC from the office of the state archaeologist. There is no anticipated economic cost to individuals who are required to comply with the amended sections as proposed.

Comments on the proposal may be submitted to Molly F. Godwin, Administrative Technician, Texas Antiquities Committee, P.O. Box 12276, Austin, Texas 78711.

The amendments are proposed under the Natural Resources Authority Code, Title 9, Chapter 191 (revised by Senate Bill 231, 68th Legislature, 1983, and House Bill 2056, 70th Legislature, 1987), §191.052, which provides the Texas Antiquities Committee with the authority to promulgate rules and require contract or permit conditions to reasonably effect the purposes of Chapter 191.

**§43.53. Form and Content of Pleadings.**

(a) (No change.)

(b) When official forms for committee proceedings are developed, the committee staff [state archaeologist] will furnish them on request. A pleading for which an official form has been developed must contain the information and other matter designated in that official form and must conform substantially to that official form.

(c) (No change.)

**§43.55. Filing.** An original and 10 [seven] copies of each pleading must be filed with the committee staff [state archaeologist]. Each copy filed must include a certification that a copy has been served on each party of record, stating the name of each party served and the date and manner of service. If a filing fee is applicable, the filing fee must accompany the pleading.

**§43.59. Determination of Completeness of Initial Pleadings.**

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

(c) The committee delegates to the committee staff or attorney general, or his designee, as the general counsel of the Texas Antiquities Committee, [state archaeologist] the authority to:

(1) (No change.)

**§43.67. Lost Records and Papers.**

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

(c) Such a substituted copy when filed with the committee staff [state archaeologist] as a part of the record has the force and effect of the original.

**§43.81. Docketing and Numbering Causes.**

(a) When an application or pleading intended to institute a proceeding has been

received by the committee staff [state archaeologist] and has been preliminarily determined complete, the committee staff [state archaeologist] shall docket the matter as a pending proceeding, number it in accordance with the established docket numbering system of the committee, assign an examiner (unless the matter is to be heard originally by the committee), issue a call for participants, and see that the committee's responsibility to give notice of the application or pleading is met.

(b) The committee may institute a proceeding on its own motion by causing the attorney general [general counsel of the General Land Office], or his designee, as the general counsel of the Texas Antiquities Committee, to file an appropriate pleading with the committee staff [state archaeologist].

**§43.87. Written Motions.** Any motion relating to a pending proceeding shall, unless made during a prehearing conference or a hearing, be written and shall set forth the relief sought and the specific reasons and grounds for relief. If based upon matters which do not appear of record, it shall be supported by affidavit. Each written motion shall be filed with the examiner or the committee staff [state archaeologist], as appropriate.

**§43.89. Prefiling Prepared Testimony and Exhibits.**

(a) (No change.)

(b) A person who intends to offer prepared testimony at a hearing shall prefile the testimony with the committee staff [state archaeologist] not more than eight nor less than five days prior to the hearing for consideration and review by the general counsel or examiner prior to the hearing, and shall serve a copy of the prepared testimony on each other party to the proceeding and each other person who has filed a non-party statement or written request to receive such testimony. The committee staff or examiner may authorize the late filing of prepared testimony upon a showing of good cause and extenuating circumstances.

(c) To receive a copy of prepared testimony submitted in compliance with this section a person who is not a party must bear the reasonable expense of the copies sought and the person must file a written statement in compliance with §43.69 of this title (relating to Notice of Nonparty Participation), or file a written request with the committee staff not less than 15 days prior to the hearing. A person is not made a party to a proceeding by the filing of such a statement or request.

**§43.93. Designation and Use of Hearing Examiners.**

(a) (No change.)

(b) Each docketed proceeding shall be routinely set for original hearing by the committee unless within five days of docketing a proceeding, the chairman directs the committee staff [state archaeolo-

gist] to set the proceeding for original hearing by a hearing examiner.

(c) (No change.)

**§43.111. Prehearing Conference.**

(a) Upon written notice, the examiner assigned to a proceeding may, on the examiner's [his] own motion or on the motion of a party, direct the parties or their representatives to appear at a specified time and place for a prehearing conference to formulate issues and consider any of the following:

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

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

**§43.125. Order of Procedure.**

(a)-(i) (No change.)

(j) Before writing his report and proposal for decision, the presiding examiner may call upon any party for further relevant and material evidence on any issue. The presiding examiner [He] shall not consider such evidence or allow it into the record without giving each party an opportunity to inspect and rebut it.

(k) (No change.)

**§43.127. Reporters and Transcripts.**

(a) If necessary or requested, the [The] committee shall engage an official reporter to make a stenographic record of the hearing and to file it with the committee [state archaeologist]. The committee may allocate the cost of the reporter and transcript among the parties.

(b) If a transcript of the stenographic record is requested, the committee may assess costs of preparing such a transcript to the requesting party or person.

(c) (No change.)

**§43.159. Subpoenas.**

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

(c) The party requesting a subpoena shall deposit with the committee [state archaeologist] a sum sufficient to insure payment of the witness' reasonable and necessary travel expenses and the necessary witness fee.

**§43.181. Proposal for Decision and Examiner's Report.**

(a) (No change.)

(b) Decision adverse to a party.

(1) (No change.)

(2) The proposal for decision, if adverse to a party, must be prepared by the examiner or by one who has read the record, and must contain a statement of the reasons for the proposed decision and a statement of each finding of fact and conclusion of a law necessary to the proposed decision. The examiner may request that any party draft and submit a proposal for decision including proposed findings of fact and conclusions of law separately stated. In making such a request, the examiner will indicate to all parties the general nature of the intended proposal for final decision to



be drafted. When the presiding examiner wishes to use the special skills of the committee staff in evaluating the evidence received or record made, he may request in writing to the committee [state archeologist] the assignment of appropriate personnel who have not participated in the review or processing of the matter. The presiding examiner may communicate with any committee employee assigned under this section.

(3) (No change.)

(c) (No change.)

**§43.191. Pleading Before Final Decision.** The committee may permit or request parties to file briefs and proposed findings of fact within such time after the hearing and before final decision as the committee may specify. A party doing so shall file one original and 10 [eight] copies with the committee and serve a copy on each other party, certifying to the committee that such service has been made.

**§43.203. Form, Content, and Service.** A final decision or order of the committee adverse to one or more parties must be written and signed by at least four committee members. Such final decision must include findings of fact and conclusions of law separately stated. Findings of fact, if set forth in statutory language, must be accompanied by a concise and explicit statement of the underlying facts supporting the findings. Findings of fact must be based exclusively on the evidence and on matters officially noticed. If a party submits proposed findings of fact, the decision must include a ruling on each proposed finding. The committee staff [state archeologist] shall mail or deliver a copy of the decision or order to each party or his authorized representative.

**§43.227. Ex Parte Communications.** Except as provided in §43.181 of this title (relating to Proposal for Decision and Examiner's Report), and unless required for the disposition of ex parte matters authorized by law, no member of the committee and no employee of the committee assigned to propose a decision or assigned to propose or make findings of fact or conclusions of law in a case covered by these sections may communicate, directly or indirectly, in connection with any issue of fact or law with any person or party or any representative of either, except on notice and opportunity for all parties to participate. [Notwithstanding the preceding sentence, a member of the committee may communicate with another member of the committee.]

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 January 1, 1988.

TRD-8806971 Molly F. Godwin  
Administrative Technician  
III  
Texas Antiquities  
Committee

Earliest possible date of adoption: August 15, 1988

For further information, please call: (512) 463-6098

## Subchapter B. Adjudicative Procedures

### • 13 TAC §43.183

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

The Texas Antiquities Committee proposes the repeal of §43.183, concerning countersignature by the state archaeologist. The section provides of countersignature on proposals for decision; examiner's reports, relating to adjudicative proceedings before the committee. The existing section is proposed for repeal and replaced by this new section. The proposed repeal deletes the requirement for countersignature by the state archaeologist on proposals for decisions; proposed new sections require countersignature by the attorney general or his designee.

Molly F. Godwin, administrative technician, 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.

Ms. Godwin 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 removal of inappropriate legal review and countersignature by state archaeologist of legal documents, resulting from contested matters before the committee. 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 Molly F. Godwin, Administrative Technician, Texas Antiquities Committee, P.O. Box 12276, Austin, Texas 78711.

The repeal is proposed under the Natural Resources Code, Title 9, Chapter 191 (revised by Senate Bill 231, 68th Legislature, 1983, and House Bill 2056, 70th Legislature, 1987), §191.052, which provide the Texas Antiquities Committee with the authority to promulgate rules and require contract or permit conditions to reasonably effect the purposes of Chapter 191.

**§43.183. Countersignature by State Archaeologist.**

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

Issued in Austin, Texas, on June 8, 1988.

TRD-8806972 Molly F. Godwin  
Administrative Technician  
Texas Antiquities  
Committee

Earliest possible date of adoption: September 15, 1988

For further information, please call: (512) 463-6098

The Texas Antiquities Committee proposes new §43.183, concerning countersignature by the attorney general or his designee. The section provides for countersignature on proposals for decision; examiner's reports, relating to adjudicative proceedings before the committee. The existing section is proposed for repeal and replaced by this new section. The proposed repealed section removes the requirement for countersignature by the state archaeologist; the proposed new section requires countersignature by the attorney general or his designee.

Molly F. Godwin, administrative technician, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Ms. Godwin 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 appropriate legal review and countersignature by agency counsel of proposals for decision; examiner's reports, resulting from contested proceedings before the committee. 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 Molly F. Godwin, Administrative Technician, Texas Antiquities Committee, P.O. Box 12276, Austin, Texas 78711.

The new section is proposed under the Natural Resources Code, Title 9, Chapter 191 (revised by Senate Bill 231, 68th Legislature, 1983, and House Bill 2056, 70th Legislature, 1987), §191.052, which provide the Texas Antiquities Committee with the authority to promulgate rules and require contract or permit conditions to reasonably effect the purposes of Chapter 191.

**§43.183. Countersignature by Attorney General or his Designee.** The attorney general or his designee shall countersign every examiner's report and proposal for decision.

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

Issued in Austin, Texas, on June 8, 1988.

TRD-8806972 Molly F. Godwin  
Administrative Technician  
Texas Antiquities  
Committee

Earliest possible date of adoption: September 15, 1988

For further information, please call: (512) 463-6098

## Subchapter C. Proceedings Regarding Permits for Salvage, Restoration, or Study

### • 13 TAC §43.241, §43.242

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

The Texas Antiquities Committee proposes the repeal of §43.241 and §43.242, concerning proceedings regarding permits for salvage, restoration, or study. The sections govern proceedings before the committee in regard to or arising under the Texas Natural Resource Code §191.054, concerning permits for salvage, restoration, or study. The sections enable the committee to apply Subchapter A of this chapter (relating to Definitions and General) and Subchapter B of this chapter (relating to Adjudicative Procedures) in processing any application, complaint, enforcement action, in hearing, and in deciding any contested application or enforcement under the said Texas Natural Resources Code, §191.054. The existing sections are proposed for repeal and replaced by the proposed new sections. The proposed repeals revise the subchapter title and expand the subchapter governing authority to include additional sections of the Texas Natural Resources Code.

Molly F. Godwin, administrative technician, has determined that for the first five-year period the proposed repeals are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the repeals.

Ms. Godwin, also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be expansion of subchapter governing authority to ensure continued discovery, due process landmark designation procedures, preservation, and protection of important publicly owned prehistoric and historic cultural properties. 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 Molly F. Godwin, Administrative Technician, Texas Antiquities Committee, P.O. Box 12276, Austin, Texas 78711.

The repeals are proposed under the Natural Resources Code, Title 9, Chapter 191 (revised by Senate Bill 231, 68th Legislature, 1983, and House Bill 2056, 70th Legislature, 1987), §191.052, which provide the Texas Antiquities Committee with the authority to promulgate rules and require contract or permit conditions to reasonably effect the purposes of Chapter 191.

#### §43.241. Scope.

#### §43.242. Application.

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

Issued in Austin, Texas, on June 8, 1988.

TRD-8806974

Molly F. Godwin  
Administrative Technician  
Texas Antiquities  
Committee

Earliest possible date of adoption: September 15, 1988

For further information, please call: (512) 463-6098

The Texas Antiquities Committee proposes new §43.241 and §43.242, concerning proceedings regarding permit for survey and discovery, excavation, restoration, demolition, or study and state archaeological landmark designation. The sections govern proceedings before the committee in regard to or arising under the Texas Natural Resources Code §191.054, concerning permit for survey and discover, excavation, restoration, demolition or study §191.091, concerning ships, wrecks of the sea, and treasure embedded in earth; §191.092, concerning other sites, artifacts or articles; §191.093, concerning prerequisites to removal, altering, damaging, destroying, salvaging, or excavating certain landmarks; §191.094, concerning designating a landmark on private land; §191.096, concerning marking landmark on private land; §191.097, concerning removing designation as landmark; and §191.098, concerning notification of alteration or demolition of possible landmark. The sections enable the committee to apply Subchapter A of this chapter (relating to Definitions and General) and Subchapter B of this chapter (relating to Adjudicative Procedures) in processing any application, complaint, enforcement action, in hearing, and/or in deciding any contested application or enforcement under the said Texas Natural Resources Code, §§191.054, 191.091, 191.092, 191.093, 191.094, 191.095, 191.096, 191.097, and 191.098. The proposed new sections replace the existing sections proposed for repeal, revise the subchapter title, and expand the subchapter governing authority.

Molly F. Godwin, administrative technician, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Ms. Godwin, 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 expansion of subchapter governing authority to ensure continued discovery, due process landmark designation procedure, preservation, and protection of important publicly owned prehistoric and historic cultural properties. 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 Molly F. Godwin, Administrative Technician, Texas Antiquities Committee, P.O. Box 12276, Austin, Texas 78711.

The new sections are proposed under the Natural Resources Code, Title 9, Chapter 191 (revised by Senate Bill 231, 68th Legislature, 1983, and House Bill 2056, 70th Legislature, 1987), §191.052, which provide the Texas Antiquities Committee with the authority to promulgate rules and require contract or per-

mit conditions to reasonably effect the purposes of Chapter 191.

§43.241. Scope. This subchapter governs proceedings before the committee in regard to or arising under the Texas Natural Resource Code §191.054, concerning permit for survey and discover, excavation, restoration, demolition or study §191.091, concerning ships, wrecks of the sea, and treasure embedded in earth; §191.092, concerning other sites, artifacts or articles; §191.093, concerning prerequisites to removal, altering, damaging, destroying, salvaging, or excavating certain landmarks; §191.094, concerning designating a landmark on private land; §191.096, concerning marking landmark on private land; §191.097, concerning removing designation as landmark; and §191.098, concerning notification of alteration or demolition of possible landmark.

§43.242. Application. The procedural sections set out in Subchapter A of this chapter (relating to Definitions and General), and Subchapter B of this chapter (relating to Adjudicative Procedures) shall be applied by the committee in processing any application for a landmark designation, permit, any complaint, or any enforcement action under the Texas Natural Resources Code §§191.054, 191.091, 191.092, 191.093, 191.094, 191.095, 191.096, 191.097, and 191.098 and in hearing and deciding any contested application or enforcement proceedings under the Texas Natural Resources Code, §§191.054, 191.091, 191.092, 191.093, 191.094, 191.095, 191.096, 191.097, and 191.098.

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

Issued in Austin, Texas, on June 8, 1988.

TRD-8806975

Molly F. Godwin  
Administrative Technician  
Texas Antiquities  
Committee

Earliest possible date of adoption: September 15, 1988

For further information, please call: (512) 463-6098

## TITLE 16. ECONOMIC REGULATION

### Part VI. Texas Motor Vehicle Commission

#### Chapter 107. Warranty Performance Obligations

### • 16 TAC §107.8

The Texas Motor Vehicle Commission proposes an amendment to §107.8, concerning a reasonable allowance for the owner's use of the vehicle when the commission enters a repurchase order. The amendment is proposed to formally address the requirements of a reasonable allowance included in the Texas Motor Vehicle Commission Code,

Texas Civil Statutes, Article 4413(36), §6.07(c), and to develop a formula for calculating the allowance in cases where no evidence or insufficient evidence is presented by the parties on that issue.

Russell Harding, executive director of the commission, 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. Harding also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the clarification of how the reasonable allowance for use will be determined in cases where the commission orders a repurchase under the lemon law; such clarification will decrease the number of exceptions to proposals for decision and requests for oral argument that are filed on that issue by manufacturers or distributors, and will result in the more expeditious processing and disposition of lemon law cases. 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 in writing by August 29, 1988, to Russell Harding, Executive Director, Texas Motor Vehicle Commission, P.O. Box 2293, Austin, Texas 78768-2293.

The amendment is proposed under Texas Civil Statutes, Article 4413(36), §6.07(e), which provide that the commission shall adopt rules for the enforcement and implementation of the Texas Motor Vehicle Commission Code, §6.07.

**§107.8. Decisions.** Any decisions by the commission and recommended decision by a hearing officer shall give effect to the presumptions provided in the Texas Motor Vehicle Commission Code, §6.07(d), where applicable.

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

(4) A reasonable allowance for the owner's use of the vehicle as provided [use of the vehicle by the owner shall be taken into consideration in any decision, as specified] in [Texas Motor Vehicle Commission] the Code, §6.07(c) [The condition of the vehicle] shall [also] be taken into consideration in any decision [determining the reasonable allowance for use of the vehicle.]

(A) In arriving at a reasonable allowance for the use of the vehicle, consideration will be given to any evidence presented by the parties. If the evidence presented is irrelevant or nonprobative or if no evidence is presented concerning the reasonable allowance for use of the vehicle, the commission will utilize the following formula to calculate the allowance:

(i) \$.20 per mile for mileage accumulated by the complainant prior to the first report to the manufacturer, distributor, or its authorized

dealer of the defect or condition which forms the basis or part thereof of the commission's repurchase order; and, then:

(ii) \$.05 per mile for mileage accumulated after the first report of the defect or condition until and through the date of the lemon law hearing.

(B) The preceding formula will be used where applicable, provided, however, that the commission may, in its discretion, utilize other mileage figures when deemed appropriate, such as in cases involving commercial or recreational vehicles or when other circumstances, such as condition of the vehicle, justify a higher or lower allowance for use.

(5)-(7) (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 July 8, 1988.

TRD-8807047 Russell Harding  
Executive Director  
Texas Motor Vehicle  
Commission

Proposed date of adoption: September 16, 1988

For further information, please call: (512) 476-3587

◆ ◆ ◆  
**TITLE 22. EXAMINING  
BOARDS**  
**Part III. Texas Board of  
Chiropractic Examiners**  
**Chapter 71. Applications and  
Applicants**

◆ ◆ ◆  
**• 22 TAC §71.10**

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

The Texas Board of Chiropractic Examiners proposes the repeal of §71.10, concerning applications and applicant requirements for certification as a licensed chiropractor. The section is addressed in the Texas Chiropractic Act, Article 4512b, §10(c).

Bobbye Ferris, executive director, 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.

Ms. Ferris 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 that it clarifies the requirements to take a reexamination. There is no anticipated economic cost to indi-

viduals who are required to comply with the repeal as proposed.

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

The repeal is proposed under Texas Civil Statutes, Article 4512b, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate procedural rules and regulations as deemed necessary.

**§71.10. Reexaminations.**

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

Issued in Austin, Texas, on June 29, 1988.

TRD-8806854 Bobbye Ferris  
Executive Director  
Texas Board of  
Chiropractic Examiners

Earliest possible date of adoption: August 15, 1988

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

◆ ◆ ◆  
**Chapter 75. Rules of Practice**

**• 22 TAC §75.3**

The Texas Board of Chiropractic Examiners proposes an amendment to §75.3, concerning rules of practice. The amendment clarifies the scope of certain diagnostic techniques.

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

Ms. Ferris also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the doctor will be able to make a better diagnosis in order to treat the spine. 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 Bobbye Ferris, Executive Director, Texas Board of Chiropractic Examiners, 1300 East Anderson Lane, Building C-245, Austin, Texas 78752.

The amendment is proposed under Texas Civil Statutes, Article 4512b, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate procedural rules and regulations as deemed necessary.

**§75.3. Diagnostic Technique.** Diagnostic techniques are authorized where necessary to make proper diagnosis preparatory to spinal treatment. Such techniques include, but are not limited to: x-rays and physical examination [,] [but shall not include vaginal, rectal, or breast examination.]

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

Issued in Austin, Texas, on June 29, 1988.

TRD-8806853

Bobbie Ferris  
Executive Director  
Texas Board of  
Chiropractic Examiners

Earliest possible date of adoption: August 15, 1988

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

## Chapter 77. Advertising and Public Communications

### • 22 TAC §§77.3-77.5

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

The Texas Board of Chiropractic Examiners proposes the repeal of §§77.3-77.5, concerning advertising and public communications. The repeals will allow for a broader scope of advertising for the doctor and enable the patient to have a broader choice of doctors.

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

Ms. Ferris also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be a broader choice of doctors for the public to choose from. 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 Bobbie Ferris, Executive Director, Texas Board of Chiropractic Examiners, 1300 East Anderson Lane, Building C-245, Austin, Texas 78752.

The repeals are proposed under Texas Civil Statutes, Article 4512b, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate procedural rules and regulations as deemed necessary.

§77.3. Advertising Guidelines.

§77.4. Advertisement of Fees.

§77.5. Miscellaneous.

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

Issued in Austin, Texas, on June 29, 1988.

TRD-8806851

Bobbie Ferris  
Executive Director  
Texas Board of  
Chiropractic Examiners

Earliest possible date of adoption: August 15, 1988

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

## Part XVI. Texas State Board of Physical Therapy Examiners

### Chapter 343. Enforcement of Act

#### • 22 TAC §343.1

The Texas State Board of Physical Therapy Examiners proposes an amendment to §343.1, concerning revocation of license or discipline of licensee. The board has defined these terms used in the Act in order to clarify the intent of the Physical Therapy Practice Act.

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

Ms. Smith 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. 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 Lois M. Smith, 313 East Rundberg Lane, Suite 113, Austin, Texas 78753.

The amendment is proposed under Texas Civil Statutes, Article 4512e, §3(e), which provide the Texas State Board of Physical Therapy Examiners with the authority to adopt rules consistent with the Texas Physical Therapy Practice Act to carry out its duties in administering the Act.

§343.1. Revocation of License or Discipline of Licensee.

(a) (No change.)

(b) A license will be denied, suspended, or revoked for a period of not less than 30 days and a licensee or applicant will be appropriately disciplined if the applicant or licensee:

(1) [except as otherwise provided in paragraph (2) of this subsection,] provides physical therapy [treatment] except upon the request of a physician licensed to practice medicine by the Texas State Board of Medical Examiners, or by a dentist licensed by the State Board of Dental Examiners, or a doctor licensed to practice chiropractic by the Texas Board of Chiropractic Examiners, or a podiatrist licensed by the Texas State Board of Podiatry Examiners, or by any other qualified, licensed health care person authorized to prescribe treatment of individuals; or in the case of a licensed physical therapist assistant, has provided physical therapy treatment other than upon the evaluation and plan of care provided by a licensed physical therapist in accordance with all the applicable Act and rule requirements;

(2) treats a patient other than upon the request of those indicated in paragraph (1) of this subsection, for more than 20 treatment sessions or 30 consecutive cal-

endar days from the initial evaluation, whichever occurs first, and such treatment fails to indicate objective improvement of the patient's condition as determined by current measurable standards of practice, satisfactory to the board;]

(2)(3) practices physical therapy on [treats or continues to treat] a patient whose condition upon initial, subsequent, and ongoing evaluation is determined to be, by current measurable standards of practice, beyond the ability or training of the physical therapist and is not referred immediately to a professional qualified to provide needed care;

(3)(4) practices, allows, condones, authorizes, or has practiced, allowed, condoned or authorized physical therapy to be conducted under the licensee's care, supervision, and/or responsibility in a manner detrimental to the public's health and/or welfare;

(4)(5) does not supervise and maintain the supervisions of supportive personnel, licensed or unlicensed, in compliance with the Act and rule requirements;

(5)(6) is practicing or has practiced with an expired temporary or permanent license;

(6)(7) has used drugs, chemicals, or intoxicating liquors to the extent that professional competence is affected:

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

(7)(8) has received a final conviction of a felony in this or any other state, territory, or nation. Final conviction as used in this subdivision includes one resulting from a plea of nolo contendere;

(8)(9) attempts to obtain or has obtained a license by fraud, falsification, or deception of an application or examination procedure;

(9)(10) has been judged mentally incompetent by a court of competent jurisdiction; or

(10)(11) employs or agrees to employ, pays, or promises to pay, or rewards, or promises to reward any person, firm, association of persons, partnership, or corporation for securing, soliciting, or drumming patients, or patronage. A physical therapist or physical therapist assistant may not accept or agree to accept any payment, fee, reward, or anything of value for securing, soliciting, or drumming for patients or patronage for any physical therapist or physical therapist assistant, physician, or surgeon. Each payment, reward, or fee or agreement to pay or accept a reward is a separate offense. The preceding shall not be construed to prohibit advertising except that which is false, misleading, or deceptive or that which advertises professional superiority or the performance of professional service in a superior manner and that is not readily subject to verifica-

tion.

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 July 8, 1988.

TRD-8907070

Lois M. Smith  
Executive Director  
Texas State Board of  
Physical Therapy  
Examiners

Earliest possible date of adoption: August 15, 1988

For further information, please call: (512) 835-1846

◆ ◆ ◆  
**TITLE 37. PUBLIC  
SAFETY AND  
CORRECTIONS**

**Part VIII. Commission on  
Fire Protection Personnel  
Standards and Education**

**Chapter 233. Minimum  
Standards Manual**

**Minimum Standards for Fire  
Service Instructor**

• **37 TAC §233.41**

The Commission on Fire Protection Personnel Standards and Education proposes new §233.41, concerning minimum standards for fire service instructor certification.

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

Mr. Goad 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 better public fire protection as a result of having well qualified instructors to teach fire fighting and fire protection to the fire service. 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 Ray L. Goad, Executive Director, Commission on Fire Protection Personnel Standards and Education, 510 South Congress Avenue, Suite 406, Austin, Texas 78704, (512) 474-8066.

The new section is proposed under Texas Civil Statutes, Article 4413(35), §2, which provide the Commission on Fire Protection Personnel Standards and Education with the authority to promulgate rules and regulations necessary to carry out the provisions of this Act. (Texas Civil Statutes, Article 4413(35) was recodified by the 70th Legislature as Government Code, Executive Branch, Chapter 416.)

**§233.41. Certificates.**

(a) Fire service instructors certificates will be issued by the commission

when an individual completes the training and teaching requirements designated in the various certification levels.

(b) Instructor certificates must be renewed annually to maintain a valid certificate.

(1) Basic instructor (equivalent to National Fire Protection Association Standard 1041, instructor I):

(A) must have a minimum of three years experience in a paid fire department, a department of a state agency, educational institution, or political subdivision, devoting full time to fire service training and related responsibilities;

(B) must be a high school graduate or possess a GED certificate;

(C) must be approved by his or her fire chief;

(D) must possess at least a basic certificate from the commission as a fire fighter, aircraft crash and rescue fire fighter, marine fire fighter, fire inspector, or a fire and arson investigator;

(E) must possess a basic or higher level certification from the commission in the discipline he or she desires to instruct;

(F) must have completed instructional techniques for company officers from the National Fire Academy; or

(G) fifteen clock hours of teacher instructional training college level course or commission approved train the trainer course.

(H) Instructor application with documentation to verify aforementioned requirements must be submitted to the commission for processing. (Note: The National Fire Protection Association Standard 1001, fire fighter III level, is a prerequisite to qualify for the NFPA 1041, instructor I level.)

(2) Intermediate instructor (equivalent to National Fire Protection Association Standard 1041, instructor II level):

(A) must have completed all requirements in this section for basic instructor;

(B) must have completed a commission approved 30 hour (45 hours for college credit) methods of teaching course, or fire service instructional methodology course from the National Fire Academy.

(C) Instructor application with documentation to verify aforementioned requirements must be submitted to the commission for processing. (Note: An instructor that wants to meet NFPA Standard 1041 for instructor II level must first meet all requirements for NFPA 1041, instructor I level).

(3) Advanced instructor (equivalent to NFPA Standard 1041, instructor III level):

(A) must be a certified intermediate instructor;

(B) must be a member of a fire department, as defined in House Bill 278, 70th Legislature, 1987, §1b-(2);

(C) must have five years service in a paid fire department, a department of a state agency, educational institution, or political subdivision devoting full-time to fire training and related responsibilities;

(D) must be a full-time training officer;

(E) must be knowledgeable in the subjects he or she teaches, and successfully complete the following commission approved instructor training courses:

(i) methods of teaching fire service subjects—30 hours—45 hours required for college credit (complete course description on file in commission office);

(ii) instructional aids—30 hours—45 hours required for college credit (complete course description on file in commission office). The National Fire Academy course in instructional methodology can be substituted for methods of teaching and instructional aids;

(iii) analysis and course making—30 hours—45 hours required for college credit;

(iv) organization and use of instructional material—30 hours—45 hours required for college credit. The National Fire Academy course in course development can be substituted for analysis and course making, and organization and use of instructional material. Note: Complete course descriptions are on file in the commission office for all the instructor courses listed in this section. An instructor that wants to meet NFPA Standard 1041 for instructor III level must first meet all requirements for NFPA Standard 1041, instructor II level.

(4) Master instructor (Equivalent to National Fire Protection Association Standard 1041, instructor IV level):

(A) must possess an advanced instructor certification;

(B) must possess an associate degree or 60 semester hours in fire science or commission approved program. A commission approved program will include at least 15 semester hours of leadership type programs such as: effective speaking, human relations, effective communication management, fire administration, parliamentary procedure, and other equally related subjects;

(C) must be a full-time instructor or training administrator. (Instructors that want to meet NFPA Standard 1041 for instructor IV level must first meet all requirements for NFPA Standard 1041 instructor III level.)

(5) Instructional specialist certificate. This certificate is designed for individuals that are not full-time members of the fire service and who do not qualify for instructor certificates in any of the other categories.

(A) Individuals must have served at least three years in a paid fire department, department of a state agency, educational institution, or a political subdivision, devoting full-time to fire service training and/or related responsibilities.

(B) Individuals must have completed a commission approved methods of teaching type course or possess an equivalent teaching degree.

(C) Individuals must submit an application approved by a fire chief or department head from the department where the individual will teach.

(D) Instructor application with documentation to verify the aforementioned items must be submitted to the commission along with the following items:

(i) documentation for years of paid experience, any state certifications and/or education in field for which approval to instruct is requested; and

(ii) a lesson plan for the course(s) an individual is requesting certification to instruct must be submitted. The five stage lesson plan format from the methods of teaching course should be utilized.

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 July 1, 1988.

TRD-8806863

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

Earliest possible date of adoption: August 15, 1988

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

## Minimum Standards for Fire and Arson Investigative Personnel

### • 37 TAC §§233.62-233.64

The Commission on Fire Protection Personnel Standards and Education proposes new §§233.62-233.64, concerning requirements for intermediate, advanced, and master arson investigator certification.

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

Mr. Goad 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 better trained and educated fire and arson investigators to protect Texas citizens. 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 Ray L. Goad, Executive Director, Commission on Fire Protection Personnel Standards and Education, 510 South Congress Avenue, Suite 406, Austin, Texas 78704, (512) 474-8066.

The new sections are proposed under Texas Civil Statutes, Article 4413(35), §2, which provide the Commission on Fire Protection Personnel Standards and Education with the authority to promulgate rules and regulations necessary to carry out the provisions of the Commission on Fire Protection Act. (Texas Civil Statutes, Article 4413(35) was recodified by the 70th Legislature to the Government Code, Executive Branch, Chapter 416.)  
§233.62. *Intermediate Fire and Arson Investigator Certificate.*

(a) Training programs. Training programs which will be used for certification credit, except for college semester hour classes and nationally recognized fire training, must be submitted to the Commission on Fire Protection for approval prior to starting such training programs. The program submission must contain all information requested by the commission. The commission will not recognize or grant credit twice for the same training program. Training titles may be duplicated, but course contents must be different.

(b) Training points. Training points used in this section are obtained in the following manner.

(1) Twenty non-college training hours will equal one training point.

(2) One semester college hour equals one training point. All college hours and degrees from accredited colleges are

accepted.

(c) Applicants for intermediate fire and arson investigator. Applicants for intermediate fire and arson investigator must complete the following requirements:

(1) must possess a basic fire and arson investigator certificate, as defined in §233.61 of this chapter (relating to Certificates);

(2) must be a full-time, full-paid fire and arson investigator;

(3) must acquire the following college education, or training points, or a combination of both, plus the listed years of fire protection experience:

(A) twenty training points, provided at least 15 semester college hours are in fire science, and seven years experience; or

(B) twenty training points from any combination and eight years of fire service experience; or

(C) forty training points, provided at least 15 semester college hours are in fire science, and five years experience; or

(D) forty training points from any combination and six years fire service experience; or

(E) sixty training points, provided at least 15 semester college hours are in fire science, and three years experience; or

(F) sixty training points from any combination and four years fire service experience; or

(G) an associate degree with at least 15 semester hours in fire science and three years fire service experience; or

(H) an associate degree without 15 semester hours in fire science and four years fire service experience; or

(I) an associate degree in fire science and two years experience; or

(J) one hundred and twenty points or a baccalaureate degree and two years experience.

§233.63. *Advanced Fire and Arson Investigator Certificate.* In addition to the requirements set forth in rule §233.62 of this section (relating to Intermediate Fire and Arson Investigator Certificate):

(1) each applicant must acquire the following college education, or training points, or a combination of both, plus the

listed years of fire protection experience:

(A) forty training points, provided, at least 15 semester college hours are in fire science, and ten years; or

(B) forty training points and twelve years; or

(C) sixty training points, provided at least 15 semester college hours are in fire science, and six years; or

(D) sixty training points and nine years; or

(E) an associate degree, provided at least fifteen semester hours are in fire science and six years; or

(F) an associate degree without 15 semester hours in fire science, and nine years; or

(G) an associate degree in fire science and four years; or

(H) a baccalaureate degree or one hundred twenty training points, provided that at least 15 semester hours are in fire science, and three years; or

(I) a baccalaureate degree or 120 training points without 15 semester hours in fire science, and four years.  
*§233.64. Master Fire and Arson Investigator Certificate.* Each applicant:

(1) must possess an Advanced Fire and Arson Investigator Certificate;

(2) must be a full-time, full-paid investigator;

(3) must complete the following college hours or degrees, plus the listed years of fire protection experience:

(A) associate degree or 60 college hours, provided at least 15 semester hours are in fire science, and nine years; or

(B) associate degree or 60 college hours and 12 years; or

(C) associate degree in fire science and six years; or

(D) baccalaureate degree or 120 college hours, provided, at least 15 semester hours are in fire science, and four years; or

(E) baccalaureate degree or 120 college hours and six years; or

(F) a master's degree and four years fire science experience.

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 July 1, 1988.

TRD-8806865

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

Earliest possible date of adoption: August 15, 1988

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

◆ ◆ ◆  
**Minimum Standards for Fire  
Prevention Personnel**

• **37 TAC §§233.108-233.110**

The Commission on Fire Protection Personnel Standards and Education proposes new §§233.108-233.110, concerning minimum certification standards for intermediate, advanced, and master certified fire prevention inspectors.

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

Mr. Goad 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 better fire protection to the public through more well qualified and educated fire protection personnel. 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 Ray L. Goad, Executive Director, Commission on Fire Protection Personnel Standards and Education, 510 South Congress Avenue, Suite 406, Austin, Texas 78704, (512) 474-8066.

The new sections are proposed under Texas Civil Statutes, Article 4413(35), §2, which provide the Commission on Fire Protection Personnel Standards and Education with the authority to promulgate rules and regulations necessary to carry out the provisions of this Act. Texas Civil Statutes, Article 4413(35) was recodified by the 70th Legislature as Government Code, Executive Branch, Chapter 416.

*§233.108. Intermediate Certified Inspector.*

(a) Training Programs. Training programs which will be used for certification credit, except for college semester hour classes and nationally recognized fire training, must be submitted to the Commission on Fire Protection for approval prior to starting such training programs. The program submission must contain all information requested by the commission. The commission will not recognize or grant

credit twice for the same training or program. Training titles may be duplicated, but course contents must be different.

(b) Training Points. Training points used in this section are obtained in the following manner.

(1) Twenty non-college training hours will equal one training point.

(2) One semester college hour equals one training point. All college hours and degrees from accredited colleges are accepted.

(c) Applicants for intermediate inspector. Applicants for intermediate inspector must complete the following requirements:

(1) must possess an "A" level inspector certification as defined in §233.105 of this chapter (relating to Certification and Courses);

(2) must be a full-time, full-paid fire inspector;

(3) must acquire one of the following combinations of college education, training points, or a combination of both, plus the listed years of fire protection experience:

(A) twenty training points, provided at least 15 semester college hours are in fire science, and seven years experience; or

(B) twenty training points from any combination and eight years of fire service experience; or

(C) twenty training points, provided at least 15 semester college hours are in fire science, and five years experience; or

(D) forty training points from any combination and six years fire service experience; or

(E) sixty training points, provided at least 15 semester college hours are in fire science, and three years experience; or

(F) sixty training points from any combination and four years fire service experience; or

(G) an associate degree with at least 15 semester hours in fire science and three years fire service experience; or

(H) an associate degree without 15 semester hours in fire science and four years fire service experience; or

(I) an associate degree in fire

science and two years experience; or

(J) one hundred twenty points or a baccalaureate degree and two years experience.  
**§233.209. Advanced Certified Inspector.** In addition to the requirements set forth in §233.108 of this chapter (relating to Intermediate Inspector certification) the following requirements must be satisfied to obtain an advanced certified inspector certificate.

(1) Each applicant must acquire the following college education, or training points, or a combination of both, plus the listed years of fire protection experience:

(A) forty training points, provided, at least 15 semester college hours are in fire science, and ten years; or

(B) forty training points and 12 years; or

(C) sixty training points, provided at least 15 semester college hours are in fire science, and six years; or

(D) sixty training points and nine years; or

(E) an associate degree, provided at least fifteen semester hours are in fire science and six years; or

(F) an associate degree without 15 semester hours in fire science, and nine years; or

(G) an associate degree in fire science and four years; or

(H) a baccalaureate degree or one hundred twenty training points, provided that at least 15 semester hours are in fire science, and three years; or

(I) a baccalaureate degree or 120 training points without 15 semester hours in fire science, and four years.  
**§233.110. Master Certified Inspector.** Each applicant:

(1) must possess an advanced investigator certificate;

(2) must be a full-time, full-paid investigator;

(3) must complete the following college hours or degrees, plus the listed years of fire protection experience;

(A) associate degree or 60 college hours, provided at least 15 semester hours are in fire science, and nine years; or

(B) associate degree or 60 college hours and 12 years; or

(C) associate degree in fire science and six years; or

(D) baccalaureate degree or 120 college hours, provided, at least 15 semester hours are in fire science, and four years; or

(E) baccalaureate degree or 120 college hours and six years; or

(F) a master's degree and four years fire science experience.

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 July 1, 1988.

TRD-8806864

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

Earliest possible date of adoption: August 15, 1988

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

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**TITLE 40. SOCIAL SERVICES AND ASSISTANCE**

**Part I. Texas Department of Human Services**

**Chapter 29. Purchased Health Services**

**Subchapter S. Maternity Clinic Services**

**• 40 TAC §§29.1801 - 29.1804**

The Texas Department of Human Services (DHS) proposes new §§29.1801- 29. 1804, concerning benefits and limitations, conditions for participation, reimbursement, and monitoring. The sections are proposed in new Subchapter S, Maternity Clinic Services. Subchapter S adds maternity clinic services as a covered service of the Texas Medical Assistance Program. The new sections also describe reimbursement policies and conditions for provider participation.

Brian Packard, associate commissioner for budget, planning, and economic analysis, has determined that for the first five-year period the proposed sections are in effect there are fiscal implications as a result of enforcing or administering the sections. The effect on state government for the first five-year period the sections are in effect is an estimated additional cost of \$2,608,332 in fiscal year 1989; \$2,788,169 in fiscal year 1990; \$2,935,534 in fiscal year 1991; \$3,157,217 in

fiscal year 1992; and \$3,430,594 in fiscal year 1993. The effect on local government for the first five-year period the sections are in effect is an estimated additional revenue of \$1,273,600 for fiscal year 1989; \$1,409,946 in fiscal year 1990; \$1,546,238 in fiscal year 1991; \$1,695,605 in fiscal year 1992, and \$1,859,400 in fiscal year 1993. There are no fiscal implications for small businesses.

Mr. Packard also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections are the availability of an additional resource for prenatal care with early intervention services to reduce adverse pregnancy and birth outcomes and to allow for good infant development. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division-443, Texas Department of Human Services 222-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in the *Texas Register*.

The sections are proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

**§29.1801. Benefits and Limitations.**

(a) Subject to the specifications, conditions, limitations, and requirements established by the department or its designee, maternity clinic services are those clinic services determined by a licensed physician (M.D. or D. O.) to be reasonable and medically necessary for the care of a pregnant female (patient) during the patient's prenatal period and subsequent 60-day postpartum period. The physician prescribing the services must be employed by or have a contractual agreement/formal arrangement with the clinic to assume professional responsibility for the services provided to the clinic's patients.

(b) The physician must see each patient and prescribe or approve each patient's plan of care. The physician must base the plan of care on a risk assessment completed by the physician or by licensed, professional clinic staff. The assessment must be based on findings obtained through a health history, laboratory/screening services, and a physical examination. The department or its designee establishes the criteria for assessing the patient's risk. The level of services provided to the patient must be commensurate with the risk assessment. Services must be available onsite or through referral or other formal arrangement to patients experiencing a normal pregnancy and to patients whose pregnancy places them at high risk.

(c) Covered services must be furnished on an outpatient basis by the physician or by licensed, professional clinic staff under the direction of the physician. The physician and professional clinic staff must be licensed by the state in which the services are rendered. Services provided by the professional clinic staff must be within the



staff's scope of practice or licensure as defined by state law.

(d) Covered clinic services include, but are not necessarily limited to, risk assessment, medical services, laboratory/screening services, case coordination/outreach, nutritional counseling, psychosocial counseling, family planning counseling, and patient education regarding maternal and child health.

(e) Although the physician does not necessarily have to be present at the clinic when covered services are provided, the physician must assume professional responsibility for the services provided at the clinic and must ensure through approval of the plan of care that the services are medically appropriate. The physician must spend as much time in the clinic as is necessary to ensure that patients are receiving services in a safe and efficient manner in accordance with accepted standards of medical practice. *§29.1802. Conditions for Participation.* Subject to the specifications, conditions, limitations, and requirements established by the department or its designee, a maternity clinic must:

(1) be a facility that is not an administrative, organizational, or financial part of a hospital;

(2) be organized and operated to provide maternity clinic services to outpatients;

(3) comply with all applicable federal, state, and local laws and regulations;

(4) employ or have a contractual agreement/formal arrangement with a li-

censed physician (M.D. or D.O.) who assumes professional responsibility for the services provided to the clinic's patients;

(5) adhere to the Bureau of Maternal and Child Health Maternity Guidelines, dated June 20, 1988, and subsequent revisions issued by the Texas Department of Health, unless otherwise specified by the department or its designee;

(6) ensure that services provided to each patient are commensurate with the patient's risk assessment and documented in the patient's medical record;

(7) be enrolled and approved for participation in the Texas Medical Assistance Program;

(8) sign a written provider agreement with the department or its designee. By signing the agreement, the maternity clinic agrees to comply with the terms of the agreement and all requirements of the Texas Medical Assistance Program, including regulations, rules, handbooks, standards, and guidelines published by the department or its designee; and

(9) bill for services covered by the Texas Medical Assistance Program in the manner and format prescribed by the department or its designee.

*§29.1803. Reimbursement.*

(a) Subject to the specifications, conditions, limitations, and requirements established by the department or its designee, payment for covered maternity clinic services provided by a participating maternity clinic is limited to the lesser of the customary charge or the maximum allowable fee(s), rate(s), or reimbursement schedule, if

any, established by the department or its designee.

(b) Services provided by the physician who assumes professional responsibility for the services provided at the clinic are considered part of the clinic's services and are not reimbursable separately. Covered clinic services include the services of the physician employed by or under contractual agreement/formal arrangement with the clinic.

(c) If the maternity clinic uses or refers the patient to a physician, certified nurse-midwife, and/or hospital that does not participate in the Texas Medical Assistance Program, the maternity clinic must inform the patient in advance of the patient's potential financial responsibility according to the requirements of the Texas Medical Assistance Program.

*§29.1804. Monitoring.* The department or its designee monitors each participating maternity clinic to ensure compliance with the conditions for participation in §29.1802 of this title (relating to Conditions for Participation).

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 July 11, 1988.

TRD-8807069

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Earliest possible date of adoption: September 1, 1988.

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

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Name: Yuki Enami  
Grade: 10  
School: Richardson High, Richardson

# 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 22. EXAMINING BOARDS

### Part III. Texas Board of Chiropractic Examiners Chapter 75. Rules of Practice

#### • 22 TAC §75.4

The Texas Board of Chiropractic Examiners has withdrawn from consideration for permanent adoption a proposed amendment which appeared in the February 5, 1988, issue of the *Texas Register* (13 TexReg 585). The effective date of this withdrawal is July 6, 1988.

Issued in Austin, Texas, on July 6, 1988.

TRD-8806855

Bobbye Ferris  
Executive Director  
Texas Board of  
Chiropractic Examiners

Effective date: July 6, 1988

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

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## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### Part VIII. Commission on Fire Protection Personnel Standards and Education

#### Chapter 233. Minimum Standards Manual

#### Minimum Standards for Fire Service Instructor

#### • 37 TAC §233.41

The Commission on Fire Protection Personnel Standards and Education has withdrawn from consideration for permanent adoption a proposed §233.41 which appeared in the June 10, 1988, issue of the *Texas Register* (13 TexReg 2998). The effective date of this withdrawal is July 6, 1988.

Issued in Austin, Texas, on July 6, 1988.

TRD-8806862

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

Effective date: July 6, 1988

For further information, please call: (512)  
474-9066

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**Name: John Steinbeck**  
**Grade: 11**  
**School: Richardson High, Richardson**

# 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 22. EXAMINING BOARDS

### Part III. Texas Board of Chiropractic Examiners

#### Chapter 77. Advertising and Public Communications

##### • 22 TAC §77.2

The Texas Board of Chiropractic Examiners adopts an amendment to §77.2, without changes to the proposed text as published in the April 26, 1988 issue of the *Texas Register* (13 TexReg 2020). The amendment is adopted so that the public will have a broader choice of doctors based on advertising. The amendment to the section is deleting obsolete and burdensome language.

No comments were received regarding adoption of the amendment.

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

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

Issued in Austin, Texas, on June 29, 1988.

TRD-8806852      Bobbye Ferris  
Executive Director  
Texas Board of  
Chiropractic Examiners

Effective date: July 27, 1988

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

### Part XX. Texas Board of Private Investigators and Private Security Agencies

#### Chapter 423. Rules of Procedure and Seal

#### Hearings, Grievances, and Appeal Procedures

##### • 22 TAC §423.12

The Texas Board of Private Investigators and Private Security Agencies adopts an amendment to §423.12, without changes to the proposed text as published in the June 7, 1988, issue of the *Texas Register* (13 TexReg 2793).

The board has determined that amendment of this section to include the definition of security support person is necessary to comply with Texas Civil Statutes, Article 4413(29bb), §19(a), which was revised September 1, 1987, by House Bill 888, 70th Legislature, 1987.

The section defines the terms used by the board for positions, registrations, and actions taken. The inclusion of the definition security support person will allow for a wider range of services provided by security employees.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4413 (29bb), §11, which provide the Texas Board of Private Investigators and Private Security Agencies with the authority to promulgate all rules and regulations necessary in carrying out the provisions of this 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 July 6, 1988.

TRD-8807057      Clema D. Sanders  
Executive Director  
Texas Board of Private  
Investigators and  
Private Security  
Agencies

Effective date: July 29, 1988

Proposal publication date: June 7, 1988

For further information, please call: (512) 463-5545

#### Chapter 433. Handgun; Security Officer Commission

##### • 22 TAC §433.9

The Texas Board of Private Investigators and Private Security Agencies adopts an amendment to §433.9, without changes to the proposed text as published in the June 7, 1988, issue of the *Texas Register* (13 TexReg 2793).

The board has determined that adoption of this rule is necessary to comply with Texas Civil Statutes, Article 4413 (29bb), §19(a), which was revised September 1, 1987, by House Bill 888, 70th Legislature, 1987.

The section will set out the requirements for the times and places where a commissioned security officer must carry his or her card. The section stipulates that a commission is valid for only one employer at a time.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4413 (29bb), §11, which provide the Texas Board of Private Investigators and Private Security Agencies with the authority to promulgate all rules and regulations necessary in carrying out the provisions of this 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 July 6, 1988.

TRD-8807058      Clema D. Sanders  
Executive Director  
Texas Board of Private  
Investigators and  
Private Security  
Agencies

Effective date: July 29, 1988

Proposal publication date: June 7, 1988

For further information, please call: (512) 463-5545

#### Chapter 445. Employee Records

##### • 22 TAC §445.4

The Texas Board of Private Investigators and Private Security Agencies adopts an amendment to §445.4, without changes to the proposed text as published in the June 7, 1988, issue of the *Texas Register* (13 TexReg 2794).

The board has determined that the adoption of this section is necessary to comply with Texas Civil Statutes, Article 4413 (29bb), §32, which was revised September 1, 1987, by House Bill 888, 70th Texas Legislature, 1987.

The section requires that employers of non-commissioned security officers conduct a pre-employment history check prior to his or her duty assignment, and also requires that licensees maintain on file records of the pre-employment information to be made available for board inspection.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 4413 (29bb), §11, which provide the Texas Board of Private Investigators and Private Security Agencies with the authority to promulgate all rules and regulations necessary in carrying out the provisions of this 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 July 6, 1988.

TRD-8807058

Clema D. Sanders  
Executive Director  
Texas Board of Private  
Investigators and  
Private Security  
Agencies

Effective date: July 29, 1988

Proposal publication date: June 7, 1988

For further information, please call: (512)  
463-5545

### Chapter 451. Registration of Employers or Private Investigators

#### • 22 TAC §451.2

The Texas Board of Private Investigators and Private Security Agencies adopts an amendment to §451.2, without changes to the proposed text as published in the June 7, 1988, issue of the *Texas Register* (13 TexReg 2794).

The board has determined that amendment of this section is necessary to comply with Texas Civil Statutes, Article 4413 (29bb), §32, which was revised September 1, 1987, by House Bill 888, 70th Legislature, 1987.

The section stipulates that the registration of persons required to be registered under the Private Investigators and Private Security Agencies Act, §32 is valid for only one employer.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4413 (29bb), §11, which provide the Texas Board of Private Investigators and Private Security Agencies with the authority to promulgate all rules and regulations necessary in carrying out the provisions of this 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 July 6, 1988.

TRD-8807059

Clema D. Sanders  
Executive Director  
Texas Board of Private  
Investigators and  
Private Security  
Agencies

Effective date: July 29, 1988

Proposal publication date: June 7, 1988

For further information, please call: (512)  
463-5545

#### • 22 TAC §451.9

The Texas Board of Private Investigators and Private Security Agencies adopts an amendment to §451.9, without changes to the proposed text as published in the June 7, 1988, issue of the *Texas Register* (13 TexReg 2794).

The board has determined that the adoption of this section is necessary to comply with Texas Civil Statutes, Article 4413 (29bb),

§32, which was revised September 1, 1987, due to passage of House Bill 888, 70th Legislature, 1987.

The section defines which duties may be performed under certain categories of registration.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 4413 (29bb), §11, which provide the Texas Board of Private Investigators and Private Security Agencies with the authority to promulgate all rules and regulations necessary in carrying out the provisions of this 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 July 6, 1988.

TRD-8807080

Clema D. Sanders  
Executive Director  
Texas Board of Private  
Investigators and  
Private Security  
Agencies

Effective date: July 29, 1988

Proposal publication date: June 7, 1988

For further information, please call: (512)  
463-5545

### Chapter 456. Consumer Information

#### • 22 TAC §456.1

The Texas Board of Private Investigators and Private Security Agencies adopts an amendment to §456.1, without changes to the proposed text as published in the June 7, 1988, issue of the *Texas Register* (13 TexReg 2795).

The board has determined that amendment of this section is necessary to comply with Texas Civil Statutes, Article 4413 (29bb), §12, which was revised September 1, 1987, by House Bill 888, 70th Legislature, 1987.

The section describes the signs required to be displayed in the place of business of licensees, and stipulates that the signs must be obtained from the board.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4413 (29bb), §11, which provide the Texas Board of Private Investigators and Private Security Agencies with the authority to promulgate all rules and regulations necessary in carrying out the provisions of this 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 July 6, 1988.

TRD-8807081

Clema D. Sanders  
Executive Director  
Texas Board of Private  
Investigators and  
Private Security  
Agencies

Effective date: July 29, 1988

Proposal publication date: June 7, 1988

For further information, please call: (512)  
463-5545

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

### Chapter 53. Carrier's Report of Initiation and Suspension of Compensation Benefits

#### • 28 TAC §53.63

The Industrial Accident Board adopts new §53.63, with changes to the proposed text as published in the May 24, 1988, issue of the *Texas Register* (13 TexReg 2443).

New §53.63 is changed from the proposed form by adding two conditions under which the carrier is permitted to suspend payment of compensation, which are by distinguishing the consequences of full duty and light duty work releases, by providing for prehearing conferences under certain conditions, and by exempting from regulation the statutory procedures regarding examinations by the carrier's choice of provider.

The new section sets out the conditions under which the carrier may suspend payment of compensation pending final adjudication of the claim. It follows §53.60, which establishes procedures by which the carrier may request the board to make a determination of forfeiture of benefits.

Oral and written public comment was received on the proposed section, and was generally supportive of regulation in this area. Commenters requested the board to clarify the grounds for suspension of benefits, particularly by distinguishing the consequences of full and light duty releases, and by establishing whether the release must be given by the treating physician. After due consideration, the board amended the proposed section in response to these comments. The amendments affect no new parties nor subjects.

The following individuals submitted comments on the proposed section: Ed Barton; Cue D. Boykin; Kevin Byrne, John Cain, Robert Kugle and Virgil Yanta, of Kugle, Stewart, Dent and Frederick; Willie Chapman, Texas AFL-CIO; Don Denbow and Mike Wade; John Gonzales; Richard Haskell, Tarrant County Trial Lawyers Association; Tony Koriath, representing the Texas Municipal League; Margaret Maisel of Tinsman and Houser; Ron Ogden, of Flahive, Ogden and Latson; Marvin Peterson; Robert Waltman; Ann C. Welch, Exxon Risk Management Services; Harold White; and T. B. Wright, of Bankston, Wright and Greenhill, representing Texas Employers Insurance Association.

The section is adopted under Texas Civil Statutes, Article 8307, §4, which authorize the Industrial Accident Board to adopt rules necessary to administer the Workers' Compensation Act.

§53.63. *Suspension of Weekly Compensation.*

(a) A carrier may not suspend payment of weekly or other periodic benefits

pending final adjudication until there exists evidence justifying suspension. However, in no event, unless directed otherwise by the board, shall a carrier suspend benefits until:

- (1) the injured employee returns to work;
- (2) the injured employee is released by a physician to return to work without restrictions;
- (3) the employee refused employment offered him or her consistent with any restrictions;
- (4) the statutory maximum benefit has been paid;
- (5) the claim is resolved by settlement, A-2 lump sum payment, or matured award;
- (6) evidence exists showing that the carrier has no liability for the employee's injury; or
- (7) there is a third-party settlement which relieves the carrier of its liability.

(b) Medical evidence indicating that a worker can perform work with restrictions or evidence existing showing that the injured employee has engaged in activities inconsistent with his or her impairment shall constitute good cause under §61.25 of this title (relating to Setting at Carrier's Request).

(c) Nothing in this section shall conflict with the provisions of Texas Civil Statutes, Article 8307, §§4(b).

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 July 7, 1988.

TRD-8806980      Scott McAnally  
Executive Director  
Industrial Accident Board

Effective date: July 18, 1988

Proposal publication date: May 24, 1988

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

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**TITLE 31. NATURAL  
RESOURCES AND  
CONSERVATION**

**Part IX. Texas Water  
Commission**

**Chapter 305. Consolidated  
Permits**

The Texas Water Commission (TWC) adopts amendments to §§305.62, 305.125, and 305.401. Sections 305.62 and 305.401 are adopted without changes to the proposed text as published in the May 31, 1988, issue of the *Texas Register* (13 TexReg 2674); §305.125 is adopted without changes to the proposed text as published in the April 1,

1988, issue of the *Texas Register* (13 TexReg 1523) and will not be republished.

Sections 305.62 and 305.401 are amended to incorporate rules promulgated by the United States Environmental Protection Agency (EPA) in response to the Resource Conservation and Recovery Act (RCRA) enacted through the Hazardous and Solid Waste Amendments of 1984 (HSWA). HSWA requirements are currently enforced by EPA. The sections are adopted so that HSWA authorization may be obtained by the state. Section 305.62 is amended to clarify the requirements which are incorporated by reference. The requirements appear at 40 Code of Federal Regulations §264.272(a). In addition, §305.62(c)(2)(C)(xi), is added to allow for a minor amendment to a hazardous waste permit in the event a hazardous waste has been prohibited from one or more methods of land disposal under the federal land disposal regulations promulgated by the EPA on November 7, 1986.

Section 305.125 is amended to parallel the requirements for hazardous waste permits that appear at 40 Code of Federal Regulations §270.30(J)(2). The amendment requires the standard permit condition provision concerning monitoring and reporting requirements to expressly state that the permittee shall retain the records of all data used to complete the application for the permit for a period of at least three years.

Section 305.401 is amended to allow the flexibility of conducting certain activities related to corrective action at the discretion of the executive director. These activities include the submittal of proposed schedules for obtaining information required in 40 Code of Federal Regulations §270.14(c)(8) and a proposed permit schedule in lieu of an engineering plan.

No comments were received regarding adoption of the amendments.

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

• 31 TAC §305.62

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

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

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 July 6, 1988.

TRD-8806907      William G. Newchurch  
Director, Legal Division  
Texas Water Commission

Effective date: July 27, 1988

Proposal publication date: May 31, 1988

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

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**Subchapter F. Consolidated  
Permits**

• 31 TAC §305.125

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

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 July 6, 1988.

TRD-8806908      William G. Newchurch  
Director, Legal Division  
Texas Water Commission

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

## Subchapter L. Compliance Plan

### • 31 TAC §305.401

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

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 July 6, 1988.

TRD-8806909 William G. Newchurch  
Director, Legal Division  
Texas Water Commission

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Proposal publication date: May 31, 1988

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

## Chapter 309. Effluent Limitations

### • 31 TAC §§309.1-309.4

The Texas Water Commission adopts the repeal of §§309.1-309.4 and new §§309.1-309.4, without changes to the proposed text as published in the January 22, 1988, issue of the *Texas Register* (13 TexReg 393).

The new sections establish the permit effluent limitations for disposal of treated domestic wastewater either into or adjacent to waters in the state. The purpose of these new sections is to be more specific in stating permit requirements for each type of effluent disposal.

The commission staff will utilize these sections in the development of a draft permit in response to a permit application. The permit process will not change as a result of this action.

The commission received no written comments regarding adoption of the sections; telephone commenters were positive concerning these new sections.

These repeals are adopted under the authority of Texas Water Code, §5.103 and §5.105, which provide the commission with the authority to adopt any regulations necessary to carry out its powers and duties under the Code and other laws of this state and to establish and approve all general policy of the commission.

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

Issued in Austin, Texas, on July 6, 1988.

TRD-8806910 William G. Newchurch  
Director, Legal Division  
Texas Water Commission

Effective date: July 27, 1988

Proposal publication date: May 31, 1988

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

The new sections are adopted under the authority of Texas Water Code, §5.103 and §5.105, which provides the commission with the authority to adopt any regulations necessary to carry out its powers and duties under the Code and other laws of this state and to establish and approve all general policy of the commission.

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

Issued in Austin, Texas, on July 6, 1988.

TRD-8806911 William G. Newchurch  
Director, Legal Division  
Texas Water Commission

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Proposal publication date: May 31, 1988

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

## Chapter 319. General Regulations Incorporated into Permits

### • 31 TAC §§319.1-319.11

The Texas Water Commission adopts the repeal of §§319.1-319.11 and new §§319.1-319.12. New §§319.2, 319.5, and 319.11 are adopted with changes to the proposed text as published in the January 22, 1988, issue of the *Texas Register* (13 TexReg 397). The other sections were adopted without changes and will not be republished.

The new sections set out the requirements for sampling, analyses, record keeping, and reporting as related to wastewater permits issued by the commission. The new sections also provide clarification of the previous §§319.1-319.11 repealed by this action. The permit process will not change due to this

adoption.

Comments were received from the Texas Chemical Council, the Texas Department of Health, and the Institute for Water Resources of the American Public Works Association.

The Texas Chemical Council (TCC) supported the clarification of the permittee's requirements related to sampling, analyses, record keeping, and reporting. TCC commented that §319.7(d), which specifies that effluent reports must be submitted by the 20th day of the following month, may place a great burden on the permittees who perform sophisticated analyses such as GC/MS which may take a great deal of time to complete, permittees who have to report a large number of analyses and permittees which rely on contract laboratories. The commission understands that there are circumstances which may justify a reporting date later than the 20th of the following month and is willing to consider those cases individually. The proposed section specifically allows alternative reporting dates to be stated in the permit; therefore, we believe the TCC's comment to be addressed.

The TCC and the Texas Department of Health (TDH) commented on Table 3 in §319.9, entitled Required Quality Control Analyses. The TCC suggested that blanks and duplicates are better assurance measures than standards for free chlorine or total chlorine analyses. The commission agrees and has, modified Table 3 to indicate a letter D under the standard column for the chlorine analyses and reworded the explanation for D to read, for the oil and grease analysis and the chlorine—total or free analysis, standards shall be analyzed on a 10% basis. If 1 to 10 samples are analyzed on a particular day, then 1 standard shall be analyzed. Duplicates may be analyzed in lieu of standards for the oil and grease analysis and the chlorine—total or free analysis. The TDH suggested that duplicate and spike analyses be performed on a 5% basis for GC and GC/MS analyses and the commission agrees that this is reasonable, thus the explanation for the letter E in Table 3 has been modified to read, for GC and GC/MS analyses, duplicate and spike analyses shall be performed on a 5% basis. If 1 to 20 samples are analyzed in a month, then 1 duplicate and 1 spike analysis per month shall be performed.

The Institute for Water Resources of the American Public Work Association (institute) commented about §391.11. The institute believes that the commission should cite the latest edition of *Standard Methods for the Examination of Water and Wastewater* in addition to the procedures published in 40 Code of Federal Regulations, Part 136. The commission has spoken with representatives of organizations who are contributing to the development of *Standard Methods for the Examination of Waste and Wastewater* to determine whether this methods manual is coordinated with the United States Environmental Protection Agency (EPA). It appears that EPA comments on the manual related to obtaining methods which achieve the same results as EPA requires. The commission is revising §319.11(b) to read, sample containers, holding times, preservation methods, and the physical, chemical, and microbiological analyses of effluents shall meet the requirements specified in the regulations published in the 40 Code of Federal Regulations Act, 304(g) and be con-



ducted according to this federal regulation or the latest edition of *Standards Methods for the Examination of Water Wastewater*.

The commission is making two minor wording changes to the proposed sections. The first in §319.2 is to replace the term "no-charge facilities" with the term "land disposal or evaporation facilities" with the term "land disposal or evaporation facilities". The use of the new terminology will eliminate confusion/conflict with the term used in the Texas Water Code. The same type of change is being made to §319.5(d). The section will now read, "for land disposal or evaporation facilities, the monitoring requirements shall be specified in the permit. The permittee..."

The repeals are adopted under the Texas Water Code, §5.103 and §5.105, which provide the Texas Water Commission with the authority to adopt any regulations necessary to carry out its powers and duties under the Texas Water Code and other laws of this state and to establish and approve all general policy of the commission.

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 July 6, 1988.

TRD-8806912 William G. Newchurch  
Director, Legal Division  
Texas Water Commission

Effective date: July 27, 1988

Proposal publication date: May 31, 1988

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

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• 31 TAC §§319.1-319.12

These sections are adopted under the Texas Water Code, §5.103 and §5.105, which provide the Texas Water Commission with the authority to adopt any regulations necessary to carry out its powers and duties under the Texas Water Code and other laws of this state and to establish and approve all general policy of the commission.  
§391.5. *Required Sampling Locations and Frequency of Analysis or Measurement.*

(a) Required samples and measurements shall be taken of the effluent from the sampling point described in the permit. Should the permit not specify a sampling point, samples shall be collected immediately following the last treatment unit. These procedures shall be followed unless an alternate sampling and/or measuring point is approved in advance in writing by the executive director or his designee.

(b) Samples shall be taken and measurements shall be made at the minimum frequencies specified in the permit for each parameter. If a permit does not specify a sampling frequency, the permittee shall follow the frequencies set forth in Tables 1 and 2 in §391.9 of this title (relating to Self-Monitoring and Quality Assurance Schedules), basing the frequency of analysis on the currently applicable permitted average daily flow. Table 1 shall be applicable to

treated domestic sewage effluent, while Table 2 shall be applicable to all other wastewater effluents. If a parameter included in a permit is not listed in the applicable table, the permittee will be instructed by the executive director in writing as to what frequency of analysis shall be followed.

(c) The permit may specify different sampling and/or measurement frequencies than specified in Table 1 or Table 2 of §319.9 of this title (relating to Self-Monitoring and Quality Assurance Schedules) on a case-by-case basis, and in such cases the permit controls.

(d) For land disposal or evaporation facilities, the monitoring requirements shall be specified in the permit. The permittee shall monitor flow to a land treatment site on a daily basis and an evaporation system on a weekly basis when utilized. The specific plot or site used for land treatment shall be specified in the permit by name or description.

(e) The monitoring requirements set out in this subchapter are minimum requirements unless the permit specifies a lesser frequency. Additional measurements, samples, analyses, and recordation are encouraged in order to facilitate more effective management and control of facility operations. If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit using approved analytical methods as specified in §319.11 of this title (relating to Sampling and Laboratory Testing Methods), at a minimum, the results of such monitoring that indicate permit noncompliance shall be included in the calculation and reporting of the value submitted on the required monthly effluent report. The permittee may report results of such monitoring that indicate permit compliance. Increased frequency of sampling shall be indicated on the report.  
§319.11. *Sampling and Laboratory Testing Methods.*

(a) All sample collection shall be conducted according to recommendations found in the latest edition of *Standard Methods for the Examination of Water and Wastewater* (prepared and published jointly by the American Public Health Association, the American Waterworks Association, and the Water Pollution Control Federation), or the environmental Protection Agency manual entitled *Methods for Chemical Analysis of Water and Waster* (1979), or the Environmental Protection Agency manual entitled *Biological Field and Laboratory Methods for Measuring the Quality of Surface Waters and Effluents* (1973).

(b) Sample containers, holding times, preservation methods, and the physical, chemical, and microbiological and analyses of effluents shall meet the requirements specified in regulations published in the 40 Code of Federal Regulations Part 136 pursuant to the Federal Water

Pollution Control Act, §304(g), and be conducted according to this federal regulation or the latest edition of *Standard Methods for the Examination of Water and Wastewater*.

(c) Flow measurements, equipment, installation, and procedures shall conform to those prescribed in the *Water Measurement Manual* United States Department of the Interior Bureau of Reclamation, Washington, D.C., or methods that are equivalent as approved by the executive director.

(d) Laboratories shall routinely use and document intralaboratory quality control practices as recommended in the latest edition of the Environmental Protection Agency manual entitled *Handbook for Analytical Quality Control in Water and Wastewater Laboratories*. These practices will include the use of internal quality control check samples.

(e) The sampling and laboratory facilities, data, and records of quality control are subject to periodic inspection by commission personnel. Should the procedures specified in this section no be suitable to any particular situation, nonstandard sampling and testing techniques may be employed in accordance with the procedures outlined in §319.12 of this title (relating to Alternate Sampling and Laboratory Testing Methods).

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 July 6, 1988.

TRD-8806913 William G. Newchurch  
Director, Legal Division  
Texas Water Commission

Effective date: July 27, 1988

Proposal publication date: January 22, 1988

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

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Chapter 335. Industrial Solid  
Waste and Municipal  
Hazardous Waste

The Texas Water Commission adopts amendments to §§335.1, 335.6, 335.10-335.15, 335.24, 335.41, 335.61, 335.71, 335.76, 335.78, 335.112, 335.114, 335.152, 335.154, 335.222, 335.225, 35.226, 335.329, and new 335.431. Sections 335.1, 335.11, 335.24, 335.71, 335.76, 335.225, and 335.226 are adopted with technical corrections to the proposed text as published in the May 31, 1988, issue of the *Texas Register* (13 TexReg 2674). The other sections are adopted without changes and will not be published.

The majority of the adopted sections incorporate regulations promulgated by the United States Environmental Protection Agency (EPA) in response to amendments to the Resource Conservation and Recovery Act (RCRA) enacted through the Hazardous and

Solid Waste Amendments of 1984 (HSWA). HSWA requirements are currently enforced by the EPA. These sections are adopted so that HSWA authorization may be obtained by the state. In addition, the section governing shipping and reporting procedures for generators of hazardous waste or Class I waste has been amended to clarify which requirements are applicable to the different types of generators including primary exporters of hazardous waste. Amendments to §335.13, which were withdrawn and repropounded in the May 31, 1988, issue of the *Texas Register* (13 TexReg 2675) are also adopted.

A new subsection (c) has been added to §335.13 so that the section conforms to the regulations promulgated by the EPA at 40 Code of Federal Regulations §262.42(a). Subsection (c) provides that a generator who does not receive a copy of a manifest signed by the owner or operator of the facility designated to receive the waste shipment within 35 days of its acceptance by the initial transporter must contact the transporter and/or designated facility to determine the status of the waste.

Sections 335.1, 335.10-335.15, 335.24, 335.71, 335.76, and 335.78 are amended to incorporate the regulations promulgated by the EPA on August 8, 1986, (51 FedReg 28664) which govern exports and imports of hazardous waste. Technical corrections have been made to these amendments to accurately state the effective date of November 8, 1986. Additionally, the title of §335.10 was incorrectly referred to in several places. These references have been corrected to refer to the section as Shipping and Reporting Procedures Applicable to Generators of Hazardous Waste or Class I Waste and Primary Exporters of Hazardous Waste.

Section 335.114 and §335.154 are amended to require generators who treat, store, or dispose of hazardous waste on-site to include a description of their efforts to reduce toxicity and a description of the changes in volume and toxicity of waste in their annual reports.

Section 335.112(a)(10) is amended to incorporate interim status requirements for closing and providing post-closure care. The amendment allows owners and operators of surface impoundments to remove or decontaminate wastes to avoid capping and post-closure care requirements. However, under the amendment the owner or operator is no longer allowed to discontinue removal of the wastes and certify closure by demonstrating that what remains is no longer a hazardous waste.

Sections 335.24, 335.41, 335.78, 335.112, and 335.152 are amended to incorporate requirements applicable to land disposal restrictions. New Subchapter O, §335.431, is added to adopt by reference the requirements contained in 40 Code of Federal Regulations Part 268, A, C-E, and appendices which are in effect as of June 4, 1987. The amendments establish a regulatory framework for implementing land disposal restrictions and promulgate treatment standards and associated effective dates for certain solvents and dioxin-containing wastes.

Sections 335.24, 335.222, 335.225, and 335.226 are amended to include technical corrections which clarify the reporting requirements for marketers and burners of hazard-

ous waste fuels. The corrections make clear that these reporting requirements were not intended to be a prerequisite for interim status. The titles of §335.225(2) and §335.226(2) have been changed to read, Notification of Hazardous Waste Fuel Activities. The amendment effects no change in the meaning of the text.

The definition of hazardous waste has been amended to incorporate changes and corrections promulgated by the EPA. The scope of EPA Hazardous Waste Number F006 is clarified. Four wastes which are generated during the production and formulation of ethylene bisdithiocarbamic acid (EBDC) are added to the regulations listing hazardous waste. The definition of hazardous wastes is clarified to more clearly state that hazardous wastes are always subject to regulations prior to being used in a manner that constitutes disposal. In addition, the listings of commercial chemical products is corrected.

A public hearing was held on June 15, 1988, in Austin to receive testimony on the proposed amendments. No oral comments or testimony were received regarding adoption of the amendments and new section. The commission received one written comment on the proposed regulations from Texaco. The commenter suggested that requiring primary exporters of hazardous waste to comply with 40 Code of Federal Regulations §262.57, except to the extent that the federal regulations are clearly inconsistent with Texas law, violates the general rule that in matters of foreign commerce, any conflict between state and federal law must be resolved in favor of federal law. The commission recognizes the general rule of federal preemption in the area of foreign commerce. Under RCRA, §6926, a state's program must be equivalent to the federal program as set out in Subchapter III and must be consistent with the federal and state programs applicable in other states.

Currently, no inconsistencies have been ascertained between the federal and state program, therefore the language in the regulation does not infringe on the rule of federal preemption.

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

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

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

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

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

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

**Designated facility**—A Class I or hazardous waste storage, processing, or disposal facility which has received an Environmental Protection Agency (EPA) permit (or a facility with interim status) in accordance with the requirements of 40 Code of Federal Regulations Parts 270 and 124; a permit from a state authorized in accordance with 40 Code of Federal Regulations Part 271 (in the case of hazardous waste); a permit issued pursuant to §335.2 of this title (relating to Permit Required) (in the case of nonhazardous waste); or that is regulated under §335.24(f), (g), or (h) of this title (relating to Requirements for Recyclable Materials and Nonhazardous Recyclable Materials) or §335.241 of this title (relating to Applicability and Requirements) and that has been designated on the manifest by the generator pursuant to §335.10 of this title (relating to Shipping and Reporting Procedures Applicable to Generators of Hazardous Waste or Class I Waste and Primary Exporters of Hazardous Waste).

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

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

and any intermediary arranging for the export.

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

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

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

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

(c) Any person who generates municipal hazardous waste in quantities greater than or equal to 1000 kilograms in a calendar month or quantities of acute municipal hazardous waste in excess of quantities specified in §335.78 of this title (relating to Special Requirements for Hazardous Waste Generated by Conditionally Exempt Small Quantity Generators) in a calendar month; or any quantities of industrial solid waste shall notify the executive director of such activity on forms furnished or approved by the executive director. Such person shall also submit to the executive director upon request such information as may reasonably be required to enable the executive director to determine whether the storage, processing, or disposal is compliant with the terms of this chapter. Notifications submitted pursuant to this section shall be in addition to information provided in any permit applications required by §335.2 of this title (relating to Permit Required), or any reports required by §335.9 of this title (relating to Recordkeeping and Annual Reporting Procedures Applicable to Generators), §335.10 of this title (relating to Shipping and Reporting Procedures Applicable to Generators of Hazardous Waste or Class I Waste and Primary Exporters of Hazardous Waste), and §335.13 of this title (relating to Recordkeeping and Reporting Procedures Applicable to Generators of Hazardous Waste or Class I Waste and Primary Exporters of Hazardous Waste). Any person who notifies pursuant to this subsection shall have the continuing obligation to immediately provide written notice to the executive director of any changes or additional information, to that reported previously. If waste is recycled on-site or managed pursuant to §335.2(d) of this title (relating to Permit Required), the generator must also comply with the notification requirements specified in subsection (h) of this section. The information submitted pursuant to the notification shall include, but is not limited to:

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

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

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

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

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

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

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

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

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

(b) (No change.)

(c) No transporter may cause, suf-

fer, allow, or permit the delivery of a shipment of hazardous waste or Class I waste to another transporter designated on the manifest, unless the transporter:

(1) (No change.)

(2) retains one copy of the manifest in accordance with §335.14(a) of this title (relating to Recordkeeping Requirements Applicable to Transporters of Hazardous Waste or Class I Waste);

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

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

(d) (No change.)

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

(1) (No change.)

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

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

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

(1) (No change.)

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

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

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

(1) (No change.)

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

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

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

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

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

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

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

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

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

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

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

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

(8) the following hazardous waste fuels:

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

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

(C) (No change.)

(9) (No change.)

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

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

(h) Industrial solid wastes that are nonhazardous recyclable materials; and recyclable materials listed in subsection (b)(5) and subsection (c)(2)-(4) of this section remain subject to the requirements of §335.4 of this title (relating to General Prohibi-

tions) and, §335.6 of this title (relating to Notification Requirements). Such waste may also be subject to the requirements of §§335.10-335.15 of this title (relating to Shipping and Reporting Procedures Applicable to Generators of Hazardous Waste or Class I Waste and Primary Exporters of Hazardous Waste; Shipping Requirements for Transporters of Hazardous Waste or Class I Waste; Shipping Requirements Applicable to Owners or Operators of Storage, Processing or Disposal Facilities; Record-Keeping and Reporting Procedures Applicable to Generators Shipping Hazardous Waste or Class I Waste and Primary Exporters of Hazardous Waste; Record-Keeping Requirements Applicable to Transporters of Hazardous Waste or Class I Waste; and Record-Keeping and Reporting Requirements Applicable to Owners or Operators of Storage, Processing, or Disposal Facilities; respectively), as applicable, if the executive director determines that such requirements are necessary to protect human health and the environment. In making the determination, the executive director shall consider the following criteria:

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

(i) (No change.)

This agency hereby certifies that the 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 July 6, 1988.

TRD-8806914

William G. Newchurch  
Director, Legal Division  
Texas Water Commission

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

◆ ◆ ◆  
**Subchapter B. Hazardous Waste Management General Provisions**

• **31 TAC §335.41**

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

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

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

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TRD-8806915 William G. Newchurch  
Director, Legal Division  
Texas Water Commission

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

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

• **31 TAC §§335.61, 335.71, 335.76,  
335.78**

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

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

vious calendar year and must include the following information:

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

(3) the EPA identification number, TWC registration number, name, and address for each offsite processing, storage, or disposal facility within the United States to which waste was shipped during the year;

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

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

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

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

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

(a) Any person who exports hazardous waste to a foreign country or imports hazardous waste from a foreign country into the state must comply with the requirements of this title and with the special requirements of this section. Except to the extent the regulations contained in 40 Code of Federal Regulations §262.58 which are in effect as of November 8, 1986, provide otherwise, a primary exporter of hazardous waste must comply with the special requirements of this section as they apply to primary exporters and a transporter transporting hazardous waste for export must comply with applicable requirements of §335.11 of this title (relating to Shipping Requirements for Transporters of Hazardous Waste or Class I Waste) and §335.14 of this title (relating to Recordkeeping Requirements Applicable to Transporters of Hazardous Waste or Class I Waste) and Subchapter D of this chapter (relating to Standards Applicable to Transporters of Hazardous Waste). Title 40 Code of Federal Regulations §262.58 sets forth the require-

ments of international agreements between the United States and receiving countries which establish different notice, export, and enforcement procedures for the transportation, processing, storage and disposal of hazardous waste for shipments between the United States and those countries.

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

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

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

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

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

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

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

(B) in lieu of the name, site address and EPA ID number of a permitted alternate facility, the primary exporter may enter the name and site address of any alternate consignee;

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

(D) the following statement must be added to the end of the first sentence of the certification set forth in Item 16 of the Uniform Hazardous Waste Manifest

Form, as set out in §335.10(b)(23) of this title (relating to Shipping and Reporting Procedures Applicable to Generators of Hazardous Waste or Class I Waste and Primary Exporters of Hazardous Waste): "and conforms to the terms of the attached EPA acknowledgement of Consent";

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

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

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

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

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

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

(H) the primary exporter shall provide the transporter with an additional copy of the manifest for delivery to the United States customs official at the

point the hazardous waste leaves the United States in accordance with §335.11(g)(4) of this title (relating to Shipping Requirements for Transporters of Hazardous Waste or Class I Waste).

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

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

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

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

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

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

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

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

(e) (No change.)

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

(g) Except to the extent that they are clearly inconsistent with the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7 or the rules of the commission, primary exporters must comply with the regulations contained in 40 Code of Federal Regulations §262.57 which are in effect as of November 8, 1986.

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

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William G. Newchurch  
Director, Legal Division  
Texas Water Commission

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

◆ ◆ ◆  
Subchapter E. Interim  
Standards for Owners and  
Operators of Hazardous  
Waste Storage, Processing,  
or Disposal Facilities

• 31 TAC §335.112, §335.114

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

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

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Director, Legal Division  
Texas Water Commission

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For further information, please call: (512) 463-8087  
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## Subchapter F. Permitting Standards for Owners and Operators of Hazardous Waste Storage, Processing or Disposal Facilities.

### • 31 TAC §335.152, §335.154

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

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

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TRD-8806918 William G. Newchurch  
Director, Legal Division  
Texas Water Commission

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

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

### Hazardous Waste Burned for Energy Recovery

#### • 31 TAC §§335.222, 335.225, 335.226

The amendments are adopted under the Texas Water Code, §5.103 and §5.105, which provide the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Water Code and other laws of this state

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

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

(1) (No change.)

(2) Notification of hazardous waste fuel activities. Even if a marketer has previously notified the United States Environmental Protection Agency of his hazardous waste management activities and obtained a United States Environmental Protection Agency identification number, he must renotify to identify his hazardous waste fuel activities.

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

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

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

(i) the burner or marketer has notified the United States Environmental Protection Agency and identified his waste-as-fuel activities; and

(ii) (No change.)

(B) (No change.)

(6) (No change.)

§335.226. *Standards Applicable to Burners*

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

(1) (No change.)

(2) Notification of hazardous waste fuel activities. Even if a burner has previously notified the United States Environmental Protection Agency of his hazardous waste management activities and obtained a United States Environmental Protection Agency identification number, he must renotify to identify his hazardous waste fuel activities.

(3) (No change.)

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

(A) he has notified the United States Environmental Protection Agency and identified his waste-as-fuel activities; and

(B) (No change.)

(5) (No change.)

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

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TRD-8806919 William G. Newchurch  
Director, Legal Division  
Texas Water Commission

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

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

### • 31 TAC §335.329

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

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

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

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TRD-8806920 William G. Newchurch  
Director, Legal Division  
Texas Water Commission

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

### Subchapter O. Land Disposal Restrictions

#### • 31 TAC §335.431

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

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

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TRD-8806921 William G. Newchurch  
Director, Legal Division  
Texas Water Commission

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

## TITLE 34. PUBLIC FINANCE

### Part I. Comptroller of Public Accounts

#### Chapter 3. Tax Administration

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

#### • 34 TAC §3.541

The Comptroller of Public Accounts adopts an amendment to §3.541, without changes to the proposed text as published in the June 7, 1988, issue of the *Texas Register* (13 TexReg 2822).

The amendment deleted subsection (b) which duplicates provisions in the Bingo Enabling Act, Texas Civil Statutes, Article 179d, and reletters subsections (c) and (d).

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179d, which provide the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the Bingo Enabling 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 July 8, 1988.

TRD-8807015 Bob Bullock  
Comptroller of Public  
Accounts

Effective date: July 29, 1988

Proposal publication date: June 7, 1988

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

#### • 34 TAC §3.542

The Comptroller of Public Accounts adopts an amendment to §3.542, without changes to the proposed text as published in the June 7, 1988, issue of the *Texas Register* (13 TexReg 2823).

The amendment provided for the handling, custody, use, and destruction of criminal history information. The amendment amended subsections (b) and (c), reletters the present subsection (d), and added new subsections.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179d, §13e(f), which provide that the comptroller shall adopt rules govern-

ing the custody and use of criminal history information.

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

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TRD-8807016 Bob Bullock  
Comptroller of Public  
Accounts

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Proposal publication date: June 7, 1988

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

#### • 34 TAC §3.544

The Comptroller of Public Accounts adopts an amendment to §3.544, without changes to the proposed text as published in the June 7, 1988, issue of the *Texas Register* (13 TexReg 2823).

The amendment deleted definitions of "Authorized commercial lessor or commercial lessor," "Authorized organization or licensed organization," and "Gross receipts," which duplicated definitions in the Bingo Enabling Act, Texas Civil Statutes, Article 179d.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179d, which provide the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the Bingo Enabling 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.

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TRD-8807017 Bob Bullock  
Comptroller of Public  
Accounts

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

#### • 34 TAC §3.546

The Comptroller of Public Accounts adopts an amendment to §3.546, without changes to the proposed text as published in the June 7, 1988, issue of the *Texas Register* (13 TexReg 2824).

The amendment deleted the present subsections (a) and (b) which duplicate provisions in the Bingo Enabling Act, relettered the present subsections (c) and (d), and added references to the Bingo Enabling Act.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179d, which provide the comptroller with the authority to prescribe, adopt, and enforce rules relating to the ad-



ministration and enforcement of the Bingo Enabling 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 July 8, 1988.

TRD-8807018 Bob Bullock  
Comptroller of Public  
Accounts

Effective date: July 29, 1988

Proposal publication date: June 7, 1988

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

◆ ◆ ◆  
• 34 TAC §3.550

The Comptroller of Public Accounts adopts an amendment to §3.550, without changes to the proposed text as published in the June 7, 1988, issue of the *Texas Register* (13 TexReg 2825).

The amendment deleted the present subsections (b), (d), and (f), which duplicate provisions in the Bingo Enabling Act, and reletters other subsections.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179d, which provide the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the Bingo Enabling 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 July 8, 1988.

TRD-8807015 Bob Bullock  
Comptroller of Public  
Accounts

Effective date: July 29, 1988

Proposal publication date: June 7, 1988

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

◆ ◆ ◆  
• 34 TAC §3.551

The Comptroller of Public Accounts adopts the repeal of §3.551, without changes to the proposed text as published in the June 7, 1988, issue of the *Texas Register* (13 TexReg 2825).

The repeal of the section was proposed because the section duplicates provisions in the Bingo Enabling Act, Texas Civil Statutes.

No comments were received regarding adoption of the amendment.

The repeal is adopted under Texas Civil Statutes, Article 179d, which provide the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the Bingo Enabling 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 July 8, 1988.

TRD-8807020 Bob Bullock  
Comptroller of Public  
Accounts

Effective date: July 29, 1988

Proposal publication date: June 7, 1988

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

◆ ◆ ◆  
• 34 TAC §3.552

The Comptroller of Public Accounts adopts an amendment to §3.552, without changes to the proposed text as published in the June 7, 1988, issue of the *Texas Register* (13 TexReg 2826).

The amendment deleted sections (b)(1)(C) and (D), (b)(5), (e), and (f), which duplicate provisions in the Bingo Enabling Act, Texas Civil Statutes, Article 179d.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179d, which provide the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the Bingo Enabling 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 July 8, 1988.

TRD-8807021 Bob Bullock  
Comptroller of Public  
Accounts

Effective date: July 29, 1988

Proposal publication date: June 7, 1988

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

◆ ◆ ◆  
• 34 TAC §3.554

The Comptroller of Public Accounts adopts an amendment to §3.554, without changes to the proposed text as published in the June 7, 1988, issue of the *Texas Register* (13 TexReg 2826).

The amendment to section (d)(3) allows the sale of instant bingo cards prior to a licensee's authorized playing times and that redemption may be made during licensed times, during the time cards are being sold, or during a 30-minute intermission between occasions; when regular bingo is played; repealed the present subsections (d)(5) and (d)(9) restricting prize amounts and sales percentages for instant bingo since the Bingo Enabling Act sets a separate prize limit for instant bingo effective September 21, 1987; amended subsection (a)(2) (D) to eliminate the requirement that every instant bingo card be no less than 12 square inches in area when opened; amended subsection (c)(4) to require use of pattern gluing on all instant bingo cards offered for sale by licensees on or after February 1, 1988; amended subsec-

tion (g) to simplify record keeping requirements; and renumbers the subsections necessary. The amendment was intended to clearly inform manufacturers, distributors, licensees, and their employees and agents of the rules relating to the conduct of instant bingo as permitted under the Bingo Enabling Act, Texas Civil Statutes, Article 179d.

The amendment was intended to clarify certain requirements in connection with the conduct of instant bingo pursuant to §3.554 concerning instant bingo and the Bingo Enabling Act. The amendment implements the statement of legislative purposes expressed in the Bingo Enabling Act, §16(a) and §13(f), of requiring the Comptroller of Public Accounts to exercise strict control and close supervision over all games of bingo conducted in this state to the end that the games are fairly conducted, and of discouraging the commercialization of bingo and maximizing the availability of bingo proceeds for charitable purposes, respectively.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179d, which provide the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the Bingo Enabling 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 July 8, 1988.

TRD-8807022 Bob Bullock  
Comptroller of Public  
Accounts

Effective date: July 29, 1988

Proposal publication date: June 7, 1988

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

◆ ◆ ◆  
• 34 TAC §3.558

The Comptroller of Public Accounts adopts an amendment to §3.558, without changes to the proposed text as published in the June 7, 1988, issue of the *Texas Register* (13 TexReg 2828).

The amendment subsections (b) and (e) to delete an implementation schedule which has already been completed.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179d, which provide the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the Bingo Enabling 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 July 8, 1988.

TRD-8807023 Bob Bullock  
Comptroller of Public  
Accounts

Effective date: July 29, 1988

Proposal publication date: June 7, 1988

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

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Services

#### Chapter 16. ICF/SNF

##### Support Services

###### • 40 TAC §16.9801

The Texas Department of Human Services adopts an amendment to §16.9801, with changes to the proposed text as published in the January 29, 1988, issue of the *Texas Register* (13 TexReg 533).

This amendment is necessary to implement the ICF/SNF Case Mix Reimbursement Demonstration Project. The demonstration will be conducted in nine counties for a period of two years.

The amendment defines the experimental rate class and the case mix procedures for the nine counties involved in the demonstration.

Because of a delay in Health Care Financing Administration (HCFA) approval for the department's demonstration waiver request, the proposed start-up date for the demonstration has been changed to the beginning of the first calendar-year quarter after receipt of waiver approval. The two-year duration of the project remains the same.

The department received one written comment and one oral comment, both from the Texas Health Care Association. The comments received were generally in favor of the proposed amendment but expressed concern about certain aspects.

The commenters expressed concern that the 50-cent per diem administrative rate supplement is not sufficient to cover the actual additional expenses a provider will incur because of participation in the demonstration.

The department contends that Table 2-1 in the demonstration waiver cost estimate, submitted to HCFA by the department in December 1987, presents a detailed justification for this 50-cent supplement. The supplement is intended to cover the costs of all additional assessments of Medicaid patients; all necessary training (for both licensed staff and administrators); the costs of performing the annual 24-hour time studies; and additional accounting, clerical, and administrative costs associated with the demonstration. In deriving the 50-cent value, liberal assumptions have been made concerning the wages and salaries of facility staff, the level of staff turnover and the need to train new staff members, the amount of time required to complete a case mix assessment, the number of assessments per patient per year, and the amount of time required for the time studies. The department made two recent decisions that further enhance the liberality of the 50-cent estimate.

First, the department has decided to implement a revised patient assessment instrument in October 1988, allowing case mix and level-of-care assessments with a single instrument. Second, the department has decided to withdraw the patient spending floor requirement and the associated quarterly payroll surveys.

The commenters also expressed concern about a reference to assessment limitations, noting that the proposal omitted reference to off-cycle assessments as part of the rate-determination process. The commenters also expressed uncertainty about how the additional cost of participation should be reported on the cost report.

If the off-cycle assessment demonstrates that the patient has changed to a different one of the four clinical groups in the TILE patient classification systems, off-cycle assessments will lead to a rate change for a patient. The confusion on this point arose because of typographical errors that have been corrected.

Additional participation costs would be reported as patient care costs and as administration costs. Costs involved in performing case mix assessments, attending case mix assessment training, performing staff time studies, and attending staff time study training are all patient care activities and should be reported as patient care expenses. If these activities are performed by staff members, whose wages and salaries are normally reported in a cost center other than patient care, then the appropriate wage and salary costs should be allocated to the patient care cost center on a pro rata basis. Allocation to the patient care cost center must be documented to indicate the breakdown of the total functions of each staff member involved and the proportion of total time devoted to each function. Additional demonstration costs involving correspondence, accounting, clerical work, and other efforts not directly related to patient care should be considered administration expenses and reported in the administration cost center.

The commenters were also concerned about references to the average patient care price. The commenters prefer the cost (the latter having been used in earlier documents).

The department disagrees with this comment. The comment resulted mainly from some confusion concerning the use of the terms "price" and "pricing" in §16.9801(g)(3)(G)(iii). The alternative rate setting method that the comment suggested would lead to an inappropriate rate reduction for nursing facilities in the experimental case mix group; that is, the average case mix rate in the experimental case mix group would be below the average uniform class rate currently paid to that group. In a letter to the department, the commenter withdrew this comment.

The commenters expressed concern about the completion of the initial case mix assessment forms. They wanted assurance that the department would provide adequate time to complete the initial assessment forms. They also urged the department to integrate the current level-of-care form with the case mix assessment form and asked that data gathering for non-Medicaid patients be reconsidered.

The department plans to offer initial training sessions for nursing facilities in the Austin

catchment area (experimental case mix group) during the first two weeks after the start of the demonstration. During the second month of the demonstration, the department will offer initial training sessions in the Waco catchment area. Subsequent training sessions will be offered quarterly in both catchment areas to allow training of nursing facility staff hired after the initial training sessions. If a nursing facility loses all its trained case mix assessors, case mix project staff will conduct special on-demand training for that facility. Also, the department is now working on a single assessment form that can be used for both level-of-care determination and for case mix classification. The department intends to have this form ready for use on October 1, 1988. On that date, the new form will replace the level-of-care assessment form used statewide.

If the case mix data collection is made mandatory for non-Medicaid patients, then nursing facilities with a low percentage of Medicaid may be subject to losses. For this reason, the proposed amendment has been modified to make case mix data collection voluntary for non-Medicaid patients. These modifications have been made to §16.9801(g)(3)(E) with regard to case mix assessment data and §16.9801(g)(3)(I) with regard to time study data.

The department encourages nursing facilities to perform voluntary case mix assessments on non-Medicaid patients if feasible. The department provides each participating nursing facility with periodic reports detailing the case mix for each assessed patient, the average case mix by bed type (SNF versus ICF certified wing), and the average case mix for the entire facility. If all or most of a nursing facility's patients have been assessed, then these reports aid the facility in determining reasonable staffing levels and appropriate staffing changes on the basis of case mix.

The commenters stated that the rules seemed to indicate that providers are responsible for determining the amount of the HEP and SLIP adjustments. The commenters requested that the department be responsible for notifying the provider about eligibility.

The automated case mix payment system being developed by the department for use in the case mix demonstration includes special case mix reports that are produced and sent to each participating nursing facility on a monthly basis. These case mix reports include the historical expenditure rates necessary for determination of HEP and SLIP rate adjustments, as well as all other data necessary for the determination of these rate adjustments. Qualification for HEP or SLIP rate adjustment and the amount of the adjustment is automatically determined by the case mix payment system. The HEP or SLIP rate adjustment for a particular month is automatically paid to qualifying facilities after sufficient time has passed to allow the payment history for that month to be reasonably complete.

The commenters contend that the quarterly per diem formula for determining the retroactive adjustment is so complex that it is beyond most providers' ability to compute. The commenters also felt that the patient care spending requirement could be financially difficult for some providers; particularly those whose occupancy had increased substantially since the last cost report data was submitted.

The department recognizes that the patient care spending requirement in the proposed amendment could prove to be a financial burden to some facilities. This spending requirement would also prove to be quite complex for the department to implement and monitor. After careful consideration of these points, the department has withdrawn the patient care spending requirement and dropped the proposed subparagraph defining that requirement. The department will continue to monitor patient care expenditures on the basis of the annual cost reports submitted by nursing facilities. The department strongly encourages nursing facilities receiving increased revenues under the case mix payment system to direct those increased revenues to patient care.

The commenters expressed concern about the definitions for two of the patient indicators in the TILE case mix classification model. The commenters felt that the definitions for these two indicators, rehabilitation services and bedfast, should be relaxed.

The department disagrees with this comment. Redefining rehabilitation in the TILE classification system on the basis of a minimum of two therapy sessions per week would have undesirable effects upon that classification and payment system. Analysis of 1987 case mix research data indicates that the nursing staff effort required for the care of rehabilitation patients receiving three or more therapy sessions a week is about twice that for rehabilitation patients receiving only two therapy sessions per week. It is ill-advised to include patients with such different levels of effort in the same case mix group. Furthermore, 1986 and 1987 research data indicate that about 96% of the patients receiving rehabilitation have a minimum of three therapy sessions per week and about 82% of the rehabilitation patients have a minimum of five sessions per week. Two therapy sessions per week do not reflect standard practice.

For the past year and a half, the case mix research project's clinical workgroup has vacillated between including and excluding bedfast as a case mix indicator in the TILE classification system and between alternative definitions for bedfast. The conclusion reached by most workgroup members was that if bedfast were included, then the definitions used should be quite limited, applying only to those patients who could not be transferred. Caution concerning the bedfast definition resulted from the high bedfast rate currently in Texas as compared to other states. Workgroup members felt that the high bedfast rate in Texas might indicate potential quality-of-care problems. Associating a less restrictive bedfast definition with an increased payment rate may increase quality-of-care concerns by creating an incentive for the high bedfast rate to be maintained or increased. After careful review of the possible definitions of bedfast and after discussion with members of the clinical workgroup, the department has decided to drop the bedfast indicator from the TILE classification system. Most of the patients qualifying for the bedfast group fall into the highest medically stable group. On average, the rates paid for the bedfast patients are not adversely affected by this change and the rates for the clinically unstable group are somewhat higher.

The department also initiated several clarify-

ing editorial changes.

Subsection (g)(3)(E) has been reworded to clarify that completion of the case mix assessments for non-Medicaid patients is voluntary.

Typographical errors in the labeling of clauses and subclauses in subsection (g)(3)(E) have been corrected. Also, the subsection (g)(3)(E)(iv) has been changed so that it references the preceding clause (iii), in addition to the preceding clauses (i) and (ii). The changes clarify the off-cycle case mix assessment procedures.

Subsection (g)(3)(G)(iii)(VI) has been reworded to clarify that both a patient's case mix classification and the associated per diem payment rate remain in effect until the end of the continued stay review period or until a new assessment is submitted because of a new admission or an off-cycle case mix assessment.

Subsection (g)(3)(G)(iv) has been reworded to clarify that qualification for a special rate adjustment (the historical expenditure provision or the stop loss insolvency provision) and the amount of such an adjustment will automatically be determined by DHS.

Subsection (g)(3)(H) has been deleted. The department will not implement the patient care spending requirement previously defined in this subparagraph. The department will continue to monitor patient care expenditures on the basis of the annual cost reports submitted by nursing facilities. The department strongly encourages nursing facilities receiving increased revenues under the case mix payment system to direct those increased revenues to patient care.

Subsection (g)(3)(H) has been reworded to clarify that patient TILE assessments and special rate adjustment disallowances will be reviewed by the department on request. To assure more timely reviews, the time frame for requesting reviews has been shortened to 10 days following notification to the nursing facility of patient TILE classification assignments or of determinations concerning special rate adjustments. The time frame for scheduling a review has been specified as within 30 days following the request for a review. Finally, the time frame for the department's written decision following a review has been shortened to 20 days.

Subsection (g)(3)(I) has been reworded to clarify that the collection of time study data on non-Medicaid patients is voluntary.

Subsection (g)(3)(K)(ii) has been reworded to clarify that the supplemental SNF reimbursement rate will not be applied to Medicaid recipient-clients in the experimental group.

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

*§16.9801. Reimbursement Methodology for Intermediate Care Facilities and Skilled Nursing Facilities.*

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

(g) Rate setting methodology.

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

(3) Experimental class. TDHS

may define experimental classes of service to be used in research and demonstration projects on new reimbursement methods. Demonstration or pilot projects based on experimental classes may be implemented on a statewide basis or may be limited to a specific region of the state or to a selected group of providers. Reimbursement for an experimental class is not implemented, however, unless the Texas Board of Human Services and the Health Care Financing Administration (HCFA) approve the experimental methodology.

(A) Demonstration project.

This case mix payment demonstration project is conducted in two limited geographical areas for a period of two years.

(B) Catchment areas. Each of the two geographical areas included in the demonstration project is called a catchment area. One catchment area serves as the experimental case mix group, and the other catchment area serves as the control group.

(i) Experimental case mix group. This catchment area includes Travis, Bastrop, Caldwell, Hays, and Lee counties.

(ii) Control group. This catchment area includes McLennan, Bosque, Falls, and Limestone counties.

(C) Required participation.

All nursing facilities that contract with the Medicaid program in the catchment areas described in subparagraph (B)(i) and (ii) of this paragraph are required to participate in the demonstration project.

(i) New facilities. Any new nursing facility in the referenced catchment areas that accepts a Medicaid contract during the period of the demonstration project must participate in the demonstration.

(ii) Contract cancellation. A nursing facility must not participate during a period in which its Medicaid contract is cancelled. A nursing facility must participate in the demonstration project when re-contracting for Medicaid.

(iii) Nursing facility on vendor hold. A nursing facility placed on vendor hold during the demonstration must continue to participate in the demonstration project.

(iv) Failure to participate. A nursing facility's failure to comply with project rules in paragraph (3) of this subsection may result in the application of sanctions against that facility, as described in §16.1510(c)(2) of this title (relating to Sanction Provisions for Violations of Title XIX Nursing Facility Contractual Agreements).

(D) Administrative payment supplement. A \$.50 add-on to the per diem Medicaid rate is made to nursing facilities

in both the experimental and control groups. This supplemental payment is intended to cover any additional administrative costs because of participation in the demonstration project. If a nursing facility is placed on vendor hold during the demonstration, the \$.50 per diem add-on is deferred until the vendor hold is removed.

(E) Case mix assessment of patients. Each nursing facility in the control and experimental groups must complete case mix assessment forms for each Medicaid patient living in the facility. Nursing facilities can collect case mix data on non-Medicaid patients on a voluntary basis. If a nursing facility wants to have case mix determined for a non-Medicaid patient, the facility must obtain the patient's signed consent or the signed consent of the patient's guardian to participation in the demonstration project. This consent form must be attached to a completed case mix assessment form and sent to the Case Mix Project, Economic Analysis Division 142-E, Department of Human Services, P.O. Box 2960, Austin, Texas. The case mix assessment forms are completed and signed by trained registered or licensed nurses on the staff of each nursing facility in the demonstration project. Each nursing facility designates one RN or LVN as a case mix assessor for approximately every 50 patients. A minimum of two case mix assessors must be designated by each nursing facility. Department staff train all designated case mix assessors. Case mix assessment forms are completed and submitted at the following times during the demonstration project.

(i) Initial case mix assessment. An initial case mix assessment is completed for all Medicaid recipient-patients and all other consenting patients during the first six weeks after the start of the demonstration.

(ii) Subsequent case mix assessments. Subsequent case mix assessments are completed and submitted to the nursing facility's local long-term care unit at the following times during the demonstration project:

(I) within seven days of admission, for each newly admitted Medicaid recipient-patient or Medicaid applicant-patient. With regard to this requirement, a newly admitted patient is defined as a patient who:

(-a-) is eligible for an initial admission level-of-care assessment;

(-b-) returns to the nursing facility after a hospital inpatient stay of 72 hours or longer;

(-c-) is transferred to the nursing facility from another nursing facility;

(-d-) resides in a

nursing facility that had its Medicaid contract renewed after being cancelled for more than 30 days; or

(-e-) returns from a therapeutic visit outside the nursing facility, that extends beyond three days;

(II) at the required continued-stay review for each recipient-patient as specified in §16.7103(d)(1)-(10) of this title (relating to Utilization Review Plan).

(iii) Off-cycle case mix assessments. A provider may request an off-cycle assessment for a Medicaid recipient-patient if the patient's condition deteriorates to the extent that he now qualifies for a different one of the four clinical groups in the case mix classification system described in subparagraph (G)(ii) of this paragraph. Only two off-cycle assessments may be requested for any one patient per year: once between January and June, and once between July and December. A request for an off-cycle assessment must be received by the Case Mix Project, Economic Analysis Division 142-E, Texas Department of Human Services, P.O. Box 2960, Austin, Texas 78769, seven days before submitting the assessment form to the nursing facility's local long-term-care unit. Each off-cycle assessment is reviewed by a case mix nurse reviewer or by a long-term-care-unit nurse.

(iv) Assessment limitation. Case mix assessments for rate setting purposes in the experimental area are limited to the assessment periods described in clauses (i), (ii), and (iii) of this subparagraph.

(F) Review of case mix assessment forms. A 100% desk review and an in-depth review of a selected sample of the case mix assessment forms are conducted to determine the accuracy of the assessments and adherence to case mix assessment completion guidelines. The case mix assessment review is conducted by a case mix nurse reviewer. If the error rate for a nursing facility appears to be high, according to review guidelines, additional in-depth reviews may be performed by the reviewer. Any errors detected during the case mix assessment review are corrected to reflect the true conditions of the patients.

(G) Case mix payment methodology. The case mix payment methodology is used in the experimental area, and the uniform class rate payment methodology is used in the control area. The features of the case mix payment system are as follows.

(i) Cost centers affected. The case mix payment methodology applies only to the patient care cost center. The statewide reimbursement methodology is used for the other three cost centers.

(ii) Case mix classification system. Medicaid patients assessed in the experimental group facilities are classified according to the Texas Index for Level of Effort (TILE) classification system. The TILE classification system includes four clinical categories, which are further subdivided on the basis of an Activity of Daily Living (ADL) scale for a total of 11 case mix groups. Each of the case mix groups are associated with a case mix weight (effort index) indicating the relative amount of care required by patients in that group. The case mix weights for each of the TILE groups are determined through statistical and clinical analyses of patient resource utilization data previously collected in samples of Texas nursing facilities. The group weights represent the average direct-care staff times required to care for patients in each group.

(iii) Case mix rate setting methods. Per diem rates are determined for each of the 11 TILE groups according to the following procedures.

(I) Average case mix. Determine the average case mix weight in the experimental area using case mix assessment data collected in the experimental area.

(II) Average patient care price. Estimate the average price for the patient care cost center in all Texas nursing facilities for the current statewide rate period using the current statewide uniform class rates (including the supplemental/reimbursement for heavy care skilled patients) and ICF/SNF caseload projections for the current statewide rate period.

(III) Case mix pricing factor. Divide the average patient care price from subclause II of this clause by the average case mix weight from subclause (I) of this clause, yielding the case mix pricing factor.

(IV) Case mix patient care per diem rate components. Calculate the patient care per diem rate component for each of the 11 TILE groups by multiplying the case mix pricing factor from subclause (III) of this clause by the case mix weights for each group.

(V) Total case mix per diem rates. The total per diem rate for each of the 11 TILE groups is the sum of the case mix patient care per diem rate component for each group, from subclause (IV) of this clause, plus the dietary, facility, and administration per diem rate components from the statewide uniform class rate methodology.

(VI) Case mix rate period. A recipient-patient case mix classifi-

ation and associated per diem rate remain in effect until the next required continued-stay review for that patient, unless the patient qualifies for a new admission assessment or an off-cycle assessment as specified in subparagraph (E) (ii) and (iii) of this paragraph.

(iv) Special rate adjustments. Two special case mix rate adjustments are automatically applied to qualifying nursing facilities. Nursing facilities considered for these adjustments are those that would receive case mix revenues lower than what they would have received under the statewide uniform class rates. If a nursing facility qualifies for both of these adjustments, then the larger of the two is applied.

(I) Historical expenditure provision (HEP). This upward rate adjustment is based on comparison of the patient care component of the case mix payment rates, the statewide patient care uniform class payment rates, and an estimate of the nursing facility's per diem historical expenditure rate in the patient care cost center.

(-a-) Definition of the per diem historical expenditure rate in the patient care cost center for HEP. This historical expenditure rate is a per diem rate calculated on the basis of a valid cost report in the current Medicaid nursing facility cost report data base. The current statewide Medicaid reimbursement methodology is applied to this cost report to arrive at a per diem cost for the patient care cost center and then to inflate that cost to the midpoint of the current statewide rate period.

(-b-) Qualification for HEP. To qualify for a HEP adjustment, a nursing facility must have a valid cost report in the current Medicaid nursing facility cost report data base and must meet the two additional conditions: the monthly patient care payment to the nursing facility would be higher under the statewide uniform class rates than under the case mix rates, and the monthly patient care payment to the nursing facility would be higher under the HEP historical expenditure rate than under the case mix rates.

(-c-) Amount of the HEP adjustment. The HEP adjustment bases the monthly payment to the nursing facility on the current statewide uniform class rates or the nursing facility's HEP historical expenditure rate, whichever results in the lower payment.

(-d-) Monthly determination of eligibility for and amount of HEP adjustment. Eligibility for and amount of a HEP adjustment are automatically determined for each month after sufficient time for that month's billing information to be complete. If a nursing facility qualifies for a HEP adjustment for a particular month, then the appropriate adjustment

amount is included in the nursing facility's next payment following determination.

(-e-) Nursing facilities without valid cost reports. A new nursing facility, not having had a Medicaid contract long enough to have a valid cost report in the current Medicaid nursing facility cost report data base, is not considered for a HEP adjustment. Once a nursing facility has been established long enough to have a valid cost report in the current data base, then that nursing facility is automatically considered for a HEP adjustment. A nursing facility without a valid cost report in the current Medicaid nursing facility cost report data base is not considered for a HEP adjustment.

(-f-) Nursing facilities with management or ownership changes. A special option is given to any nursing facility that meets two conditions: the nursing facility has changed management or ownership, and a valid cost report in the current Medicaid nursing facility cost report data base was submitted by the previous management or owner. This type of a nursing facility may choose to be treated as a new facility without a valid cost report and not to be considered for a HEP adjustment, or to be considered for a HEP adjustment on the basis of the valid cost report submitted by the previous management or owner. This nursing facility is treated as a new nursing facility, unless written notification is received by the Case Mix Project, Economic Analysis Division 142-E, Texas Department of Human Services, P.O. Box 2960, Austin, Texas 78769, within 60 days of the ownership or management change. If this nursing facility chooses to be considered for a HEP adjustment, then that nursing facility cannot reverse that option (and be treated as a new nursing facility) during the course of the demonstration.

(II) Stop loss insolvency provision (SLIP). This upward rate adjustment is based on comparison of the case mix payment rates, the statewide uniform class payment rates, and an estimate of the nursing facility's per diem historical expenditure rate across all cost centers.

(-a-) Definition of the per diem historical expenditure rate for SLIP. This historical expenditure rate is a per diem rate calculated on the basis of a valid cost report in the current Medicaid nursing facility cost report data base. The current statewide Medicaid reimbursement methodology is applied to this cost report to arrive at a per diem total cost across all cost centers and then to inflate that cost to the midpoint of the current statewide rate period. This inflated per diem total cost serves as the per diem historical expenditure rate for the application of SLIP.

(-b-) Qualification for SLIP. To qualify for a SLIP adjustment, a nursing facility must have a valid cost report in the current Medicaid nursing facility

cost report data base and must meet two conditions: the monthly payment to the nursing facility would be higher under the statewide uniform class rates than under the case mix rates, and the monthly payment to the nursing facility would be higher under the SLIP historical expenditure rate than under the case mix rates.

(-c-) Amount of SLIP adjustment. The SLIP adjustment bases the monthly payment to the nursing facility on the current statewide uniform class rates or the nursing facility's SLIP historical expenditure rate, whichever results in the lower payment.

(-d-) Monthly determination of eligibility for and amount of SLIP adjustment. Eligibility for and amount of a SLIP adjustment are automatically determined for each month after sufficient time for that month's billing information to be completed. If a nursing facility qualifies for a SLIP adjustment for a given month, then the appropriate adjustment amount is included in the nursing facility's next payment following determination.

(-e-) Nursing facilities without valid cost reports. A new nursing facility, not having had a Medicaid contract long enough to have a valid cost report in the current Medicaid nursing facility cost report data base, is not considered for a SLIP adjustment. Once a nursing facility has been established long enough to have a valid cost report in the current data base, then that nursing facility is automatically considered for a SLIP adjustment. A nursing facility without a valid cost report in the current Medicaid nursing facility cost report data base is not considered for a SLIP adjustment.

(-f-) Nursing facilities with management or ownership changes. A special option is given to any nursing facility that meets two conditions: the facility has changed management or ownership, and a valid cost report in the current Medicaid nursing facility cost report data base was submitted by the previous management or owner. This nursing facility may choose to be treated as a new nursing facility without a valid cost report and not be considered for a SLIP adjustment or to be considered for a SLIP adjustment on the basis of the valid cost report submitted by the previous management or owner. This nursing facility is treated as a new nursing facility unless written notification is received by the Case Mix Project, Economic Analysis Division 142-E, Texas Department of Human Services, P.O. Box 2960, Austin, Texas 78769, within 60 days of the management or ownership change. If this nursing facility chooses to be considered for a SLIP adjustment, then that nursing facility cannot reverse that option (and thus be treated as a new nursing facility) during the course of the demonstration.

(v) Phase-in of case mix payment system. The case mix payment

system is phased-in for facilities in the experimental group over the first 12 months of the demonstration project. The phase-in involves per diem payments based on a blending of the current statewide uniform class rates and the total case mix rates. The schedule for the phase-in is the following.

(I) First quarter payments to facilities are based entirely on the statewide uniform class rates.

(II) Second quarter payments to facilities are based 75% on the statewide uniform class rates and 25% on the case mix rates.

(III) Third quarter payments to facilities are based 50% on the statewide uniform class rates and 50% on the case mix rates.

(IV) Fourth quarter payments to facilities are based 25% on the statewide uniform class rates and 75% on the case mix rates.

(V) During the second year of the demonstration, nursing facilities in the experimental catchment area are paid 100% on the basis of the case mix payment methodology.

(H) Reviews of patient TILE assessments and special rate adjustment disallowances. A provider who disagrees with decisions made by the department regarding assignment of a patient into a particular TILE category or the disallowance of a special rate adjustment may request a review of the decisions according to the following procedure. Within 10 calendar days following notification of the decision, the provider must contact, in writing, the Economic Analysis Division 142-E, Texas Department of Human Services, P.O. Box 2960, Austin, Texas 78769, and request a review. Within 30 days of receiving the request for a review, case mix project staff in the economic analysis division arrange a review at which the provider may present all pertinent information supporting his disagreement with the decisions in question. Three staff members consider the provider's case and give a written decision within 20 days of the review.

(I) Additional reporting requirements. Each provider in the experimental and control groups conducts a 24-hour staff time study during the first quarter of both project years. The case mix project staff notifies providers of the exact day the nursing facility is to conduct the time study. Each nursing facility designates a staff person to serve as time study coordinator. Case mix staff train time study coordinators and provide materials used during the two time

studies. The nursing facility must collect time study data on all Medicaid patients. Time study data for non-Medicaid patients may be collected on a voluntary basis.

(J) Allowable cost. Expenses incurred by the facility related to the extra staff effort required to conduct the case mix demonstration project are allowable costs. The allowable and unallowable cost rules from subsection (c) of this section apply to expenses incurred as a result of the demonstration project.

(K) Waivers for providers.

(i) Waiver of customary charge. The department waives, for the duration of the demonstration project, the rule described in subsection (g)(4) of this section, which lowers a provider's Medicaid reimbursement if the provider's customary charge is less than the Medicaid reimbursement rate.

(ii) Waiver of supplemental reimbursement rate determination. The department waives, for the duration of the demonstration project, the supplemental reimbursement rate described in paragraph (5)(A)(B) of this subsection for skilled nursing facility (SNF) patients whose needs require a significantly greater than normal amount of care. The supplement reimbursement is not added to the case mix rates for providers in the experimental group.

(iii) Waiver of Medicare bed requirement. The department waives, for the duration of the demonstration project, the participation requirement described in §16.1503(b) of this title (relating to Participation Requirements), which specifies the minimum required Medicare beds in an SNF nursing facility.

(h) (No change.)

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

Issued in Austin, Texas, on July 7, 1988.

TRD-880684 Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: July 29, 1988.

Proposal publication date: January 29, 1988.

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

◆ ◆ ◆  
• 40 TAC §29.502

The Texas Department of Human Services (DHS) adopts an amendment to §29. 502, without changes to the proposed text as published in the May 27, 1988, issue of the *Texas Register* (13 TexReg 2604).

The justification for the amendment is to allow as a covered expense services of a physician's assistant when the services are appro-

priately delegated and performed in intermediate care and skilled nursing facilities.

The section as amended will result in greater availability of medical services to Medicaid recipients in intermediate care and skilled nursing facilities.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

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

Issued in Austin, Texas, on July 7, 1988.

TRD-880696 Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: August 1, 1988.

Proposal publication date: May 27, 1988.

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

◆ ◆ ◆  
Subchapter L. General  
Administration

• 40 TAC §29.1101

The Texas Department of Human Services (DHS) adopts an amendment to §29. 1101 without changes to the proposed text as published in the May 27, 1988, issue of the *Texas Register* (13 TexReg 2604).

The justification for the amendment is to add a specific statement of liability that providers need to get from recipients if the provider is to bill them. If the department, or its designee, determines that a service is not reasonable and medically necessary, the provider may not charge the recipient for the service unless the recipient requested the service and the provider obtained this signed statement.

The section will function by eliminating confusion about billing for services not covered by Medicaid because they are not considered reasonable and medically necessary.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

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

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

TRD-8807065 Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: August 1, 1988.

Proposal publication date: May 27, 1988.

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

## Chapter 49. Child Protective Services

### Subchapter C. Eligibility for Child Protective Services

#### • 40 TAC §49.316, §49.317

The Texas Department of Human Services (DHS) adopts amendments to §49.316 and §49.317, without changes to the proposed text as published in the April 19, 1988, issue of the *Texas Register* (13 TexReg 1907).

The amendments are justified to give alien children in the department's conservatorship access to foster care assistance. The amendments will function by extending eligibility for foster care assistance to alien children legally residing in the United States. These children currently receive county-paid assistance. The amendments will shift the source of payment to the state. Approximately 60 children will become eligible for AFDC or state-paid foster care.

No comments were received regarding adoption of the amendments.

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

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

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

TRD-8807066 Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: August 1, 1988.

Proposal publication date: April 19, 1988.

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

## Chapter 56. Family Planning Subchapter C. Provider Program Requirements

The Texas Department of Human Services (TDHS) adopts amendments to §56.306 and §56.501 without changes to the proposed text as published in the May 6, 1988 issue of the *Texas Register* (13 TexReg 2153).

The amendments are justified to increase the amount of family planning assistance available to eligible clients.

The amendments will function by permitting providers to assess copayments for family planning services to eligible adolescent clients as long as the clients are able to pay and the providers' requests for copayment do not jeopardize client rights to confidentiality.

The department received one comment from the Texas Family Planning Association. The commenter supported the amendments.

#### • 40 TAC §56.306

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

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

Issued in Austin, Texas, on July 7, 1988.

TRD-8806965 Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: August 1, 1988.

Proposal publication date: May 6, 1988.

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

## Subchapter E. Joint TDH/DHS Family Planning Agency Provider Standards

#### • 40 TAC §56.501

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

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

Issued in Austin, Texas, on July 7, 1988.

TRD-8806963 Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: August 1, 1988.

Proposal publication date: May 6, 1988.

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

## Chapter 69. Contracted Services

### Subchapter L. Contract Administration

#### • 40 TAC §69.227

The Texas Department of Human Services (DHS) adopts an amendment to §69.227 without changes to the proposed text as published in the May 31, 1988, issue of the *Texas Register* (13 TexReg 2687).

The justification for the section is to comply with the provisions of House Bill 175, 70th Legislature, 1987. The amendment requires that before corporations enter into a contract with DHS they must certify that they do not owe delinquent franchise taxes to the state of Texas. The amendment also states that a contract may be cancelled based on false certification.

The section will function by requiring that, as a condition for contract renewal, corporate contractors must comply with Texas franchise tax laws.

No comments were received regarding adoption of the amendment.

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

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

Issued in Austin, Texas, on July 7, 1988.

TRD-8806967 Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: August 1, 1988.

Proposal publication date: May 31, 1988.

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

## Chapter 72. Memoranda of Understanding with Other State Agencies

### Memorandum of Understanding for Family Planning Programs

#### • 40 TAC §72.401

The Texas Department of Human Services (DHS) adopts new §72.401, without changes to the proposed text as published in the May 6, 1988, issue of the *Texas Register* (13 TexReg 2154).

The section is justified to improve the prevention of out-of-wedlock, unintended, and teen pregnancies, to promote maternal health, to reduce infant mortality, and to expend funds more cost effectively.

The section will function by establishing a memorandum of understanding between DHS and the Texas Department of Health (TDH) regarding the development and implementation of statewide, coordinated family planning programs, as required by legislation passed by the 70th Texas Legislature, 1987.

The department received no comments regarding the adoption of the new section.

The new section is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

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 July 11, 1988.

TRD-8807068 Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: August 8, 1988.

Proposal publication date: May 6, 1988.

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

◆ ◆ ◆  
Chapter 79. Legal Services

Subchapter V. Fraud or Abuse Involving Medical Providers

• 40 TAC §79.2111, §79.2114

The Texas Department of Human Services (DHS) adopts amendments to §79.2111 and §79.2114, without changes to the proposed text as published in the May 31, 1988, issue of the *Texas Register* (13 TexReg 2690).

The justification for the amendments is to allow the agency's deputy commissioners to make decisions about fraud referrals.

The sections will function by enabling the agency to make more timely referrals of fraud cases to the Attorney General's Office.

No comments were received regarding adoption of the amendments.

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

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

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

TRD-8807067

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: August 1, 1988.

Proposal publication date: May 31, 1988.

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

◆ ◆ ◆  
**State Board of Insurance Exempt Filing**

Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L

*(Editor's note: As required by the Insurance Code, Article 5.96 and Article 5.97, the Register publishes notices of actions taken by the State Board of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure and Texas Register Act, and the final actions printed in this section have not been previously published as proposals.*

*These actions become effective 15 days after the date of publication or on a later specified date.*

*The text of the material being adopted will not be published, but may be examined in the offices of the State Board of Insurance, 1110 San Jacinto Street, Austin.)*

The State Board of Insurance has considered a filing by Western Surety Company, Sioux Falls, South Dakota, proposing an amendment to the Standard Employers Comprehensive Notary Public Errors and Omissions Policy. This revision amends the program to conform to the Insurance Code, Article 21.49-2A, regarding the rules of Cancellation and Non-Renewal of Certain Liability Policies.

This filing was approved to become effective September 1, 1988.

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

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

Issued in Austin, Texas on July 5, 1988.

TRD-8806886 Nicholas Murphy  
Chief Clerk  
State Board of Insurance

Effective date: September 1, 1988

Proposal publication date: July 15, 1988

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

Company of Pittsburgh, Pennsylvania, proposing an amendment to the Standard Trust Department Errors and Omissions Program. This revision amends the program to conform to the Insurance Code, Article 21.49-2A, regarding the rules of Cancellation and Non-Renewal of Certain Liability Policies.

This filing was approved to become effective September 1, 1988.

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

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

Issued in Austin, Texas on July 5, 1988.

TRD-8806887 Nicholas Murphy  
Chief Clerk  
State Board of Insurance

Effective date: September 1, 1988

Proposal publication date: July 15, 1988

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

◆ ◆ ◆  
The State Board of Insurance has considered a request by Granite State Insurance Company to withdraw the standard Educators Professional Liability Program.

This filing was approved to become effective September 1, 1988.

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

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

Issued in Austin, Texas on July 8, 1988.

TRD-8807072 Nicholas Murphy  
Chief Clerk  
State Board of Insurance

Effective date: September 1, 1988

Proposal publication date: July 15, 1988

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

◆ ◆ ◆  
The State Board of Insurance has adopted amendments to the Texas Automobile Manuals II and III Rule 38., Section G. and Rule 74., Section E. of the Texas Automobile Manuals II and III have been amended to include new subsections reading as follows:

a. An auto afforded personal auto coverage shall be subject to a credit of 10% applied to the rate otherwise applicable, provided satisfactory evidence (certificate of completion or photostat thereof issued by Austin Driving School) is presented to the company that the principal operator of such auto has successfully completed the Austin Driving School Defensive Driving Course.

b. If the policy insures two or more autos, the credit shall apply only to the autos principally operated by the person awarded the Austin Driving School Defensive Driving Certificate of Completion.

c. The credit shall apply for a period of 36 months subsequent to the date of issuance of the certificate of completion. Following such 36 month period in order to again qualify for such credit, the course must be successfully completed and evidence again presented to the company. The credit shall only apply if the certificate of completion is issued on or after August 15, 1988.

(32) Austin Driving School Defensive Driving Course requires certification issued on or after August 15, 1988, by Austin Driving School.

This amendment is effective August 15, 1988.

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

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

Issued in Austin, Texas on July 8, 1988.

TRD-8807071 Nicholas Murphy  
Chief Clerk  
State Board of Insurance

Effective date: September 1, 1988

Proposal publication date: July 15, 1988

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

◆ ◆ ◆  
The State Board of Insurance has considered a filing by National Union Fire Insurance



# 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 Council on Alzheimer's Disease and Related Disorders

Monday, July 25, 1988, 10 a.m. The Texas Council on Alzheimer's Disease and Related Disorders will meet in Room T-610, Texas Department of Health, 1100 West 49th Street, Austin. According to the agenda, the council will consider final deliberation and adoption of the recommendations for the council's report to state policymakers.

Contact: Morris H. Craig, West 49th Street, Austin, Texas 78756, (512) 458-7534.

Filed: July 7, 1988, 4:16 p.m.

TRD-8806988

## Texas Antiquities Committee

Friday, July 22, 1988, 9:30 a.m. The Texas Antiquities Committee will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the committee will approve minutes of previous TAC meeting of May 27, 1988; hear presentation of citation for distinguished service to Dr. William G. Reeder; elect a chairman; approve fiscal year 1989 operating budget; approve fiscal year 1990-1991 budget submission; approve designation of three state archaeological landmarks (SALs) located in Gillespie, Kimble, and Williamson Counties; hear a report on status of Chapter 43, TAC Rules of Procedure, proposed amendments; accept 17 nominations to SAL status located in Brewster, Burnet, and Chambers Counties; hear status report on Pilot Building, located in Harris County; discuss joint TAC/THC (Texas Historical Commission) subcommittee; and hear staff report.

Contact: Molly Godwin, P.O. Box 12276, Austin, Texas 78711, (512) 463-6098.

Filed: July 8, 1988, 9:29 a.m.

TRD-8807003

## Automated Information and Telecommunications Council

Friday, July 8, 1988, 10 a.m. The AITC Meeting for the Automated Information and Telecommunications Council met in Room 109, John H. Reagan Building, 105 West 15th Street, Austin, for an emergency agenda revision. According to the agenda, the council discussed personnel matters in executive session. The emergency status was necessary as the agenda posted on June 29 was revised to clarify that the council would meet in executive session.

Contact: Tina Turner, (512) 463-5530.

Filed: July 7, 1988, 6:02 p.m.

TRD-8806996

## Banking Section of the Finance Commission

Tuesday, July 19, 1988, 10 a.m. The Banking Section of the Finance Commission will meet at the State Banking Department, 2601 North Lamar Boulevard, Austin. According to the agenda, the commission will approve minutes of the June 16, 1988, meeting; consider of proposed rules (7 TAC §§3.101-3.105, relating to insurance sales activities; consider proposed rules relating to the establishment of bank branches (7 TAC §3.91 and §3.92; review of departmental operations; and meet in executive session to discuss personnel matters and contemplated litigation.

Contact: Ann Graham, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

Filed: July 11, 1988, 3:30 p.m.

TRD-8807099

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

Monday, July 18, 1988, 1:30 p.m. The Pricing Subcommittee for the Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons will meet at the State Purchasing and General Services Commission, 300 A Central Services Building, 1711 San Jacinto, Austin. According to the agenda, the subcommittee will call order and introduce guests; accept minutes from the April 25, 1988, meeting; discuss and recommend action on new services, renewal services, new products, and on product changes and revisions.

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

Filed: July 8, 1988, 9:53 a.m.

TRD-8807005

## Texas Bond Review

Friday, July 8, 1988, 10 a.m. The Staff Planning Session for the Texas Bond Review Board met for an emergency agenda revision in the Sergeant's Committee Room, State Capitol, Austin. According to the agenda, the staff will consider lease purchase of a computer system for the Industrial Accident Board. The emergency session was necessary to allow timely consideration of an unexpected application for lease purchase prior to the regular monthly meeting of the Bond Review Board.

Contact: Tom K. Pollard, Room 700, Sam Houston Building, Austin, Texas 78711, (512) 463-1741.

Filed: July 7, 1988, 3:19 p.m.

TRD-8806982

Tuesday, July 19, 1988, 10 a.m. The Texas Bond Review Board will meet at the Senate Building, Capitol Building, Austin. According to the agenda, the board will approve minutes previous meeting; consider

UT Health Sciences Center, Houston, installment purchase of printing equipment; Texas Air Control Board, installment purchase of computer system; State Board of Insurance, installment purchase of computer system; Texas Industrial Accident Board, installment purchase of computer system; Texas Housing Agency, multi family housing revenue refunding bonds, series 1988 (Westborough Crossing Development); and West Texas State University, combined fee revenue bonds, series 1988; adoption of bond review board rules; and discuss other business.

**Contact:** Tom K. Pollard, Room 700, Sam Houston Building, Austin, Texas 78711, (512) 463-1741.

**Filed:** July 7, 1988, 3:19 p.m.

TRD-8807053

## Texas Department of Commerce

**Tuesday, July 12, 1988, 2 p.m.** The Board of Directors of the Texas Department of Commerce submitted an emergency revised agenda for a meeting held in Room 103, Reagan Building, 105 West 15th Street, Austin. According to the agenda summary, the board discussed enterprise zone program; approved minutes of the previous meeting; considered extension of tourism advertising contract for fiscal year 1989, public relations contract, formation of the loan administration board for the purpose of approval loans under the Rural Industrial Development Act, approval of enterprise zone and projects and rural loans for remainder of state fiscal year, and 1990-1991 biennium budget submission. The emergency status was necessary due to an omission inadvertently left off earlier agenda.

**Contact:** Mary Lane, (512) 472-5059.

**Filed:** July 12, 1988, 9:22 a.m.

TRD-8807120

**Thursday, July 21, 1988, 10 a.m.** The State Job Training Coordinating Council of the Texas Department of Commerce will meet in the Conference Room, 16th Floor, Tenneco Building, 1010 Milam, Houston. According to the agenda, the council will hold a workshop to initiate development of an SJTCC Action Plan for implementing the governor's goals and objectives for programs under the Job Training Partnership Act. In developing the plan, the committee will consider the preliminary recommendations of the Strategic Economic Policy Commission. The members will also consider the council committee structure necessary to implement the plan.

**Contact:** Brenda Lovett, 8317 Cross Park Drive, Austin, Texas 78754, (512) 834-6312.

**Filed:** July 12, 1988, 9:21 a.m.

TRD-8807119

## Texas Department of Corrections

**Monday, July 11, 1988, 1 p.m.** The Board of Corrections for the Texas Department of Corrections met for an emergency agenda revision in the Courtroom of the 52nd District Court, Coryell County Courthouse, Gatesville. According to the agenda, the board considered updates on Windham School, and recovery dynamics; discussed monitoring report; approved pending real estate transactions, purchase of Baker-Hughes facility, landsale of Fort Bend County; approved request for proposals construction management; and approved Prairie View A&M nursing contract. The emergency status was necessary as additional necessary topics presented were too late to be announced in first notice.

**Contact:** James A. Lynaugh, P.O. Box 99, Huntsville, Texas 77342-0099, (409) 294-2101.

**Filed:** July 8, 1988, 11:27 a.m.

TRD-8807013

## Texas Education Agency

The Texas Education Agency will meet in the William B. Travis Building, 1701 North Congress Avenue, Austin. Dates, times, rooms, and agendas follow.

**Tuesday, July 12, 1988, 10 a.m.** The Accountable Cost Advisory Committee met in emergency session in Room 1-110, to consider progress and preliminary data on minimum basic program costs, cost of the long range plan, and facilities and asbestos removal cost; consider update on Coopers and Lybrand study of compensatory, bilingual and gifted/talented programs costs; discuss report format and drafting process. The emergency status was necessary to enable the committee to complete designated tasks according to approved timelines.

**Contact:** Joe Wisnoski, 1701 North Congress, Austin, Texas (512) 463-9704.

**Filed:** July 7, 1988, 4:02 p.m.

TRD-8806986

**Monday, July 18, 1988, 9:30 a.m.** The Price Differential Index Advisory Committee will meet in Room 2-115, to review regression models of teachers salaries, administrative salary component, and utilities and other cost component; discuss options for simplification, hold harmless and tax effort requirements.

**Contact:** Joe Wisnoski, 1701 North Congress, Austin, Texas (512) 463-9704.

**Filed:** July 7, 1988, 4:02 p.m.

TRD-8807024

## Governor's Office

**Tuesday, July 19, 1988, 9 a.m.** The Governor's Task Force on Agriculture Development of the Governor's Office will meet in Room 246, 223, GA, GB, 102, and Senate Chambers in the Reagan Building and State Capitol, in Austin. According to the agenda, the task force will hold an Executive Committee meeting in Room GA; review draft reports and modify taxation and finance in Room 245, rural development in Room 223, state planning in Room GA, federal issues in Room GB and research and technology in Room 102; hear report on drought condition in Texas in Senate Chambers and report to full committee in Room GA.

**Contact:** Margaret Spearman, Sam Houston Building, Room 201, Austin, Texas 78701, (512) 463-1814.

**Filed:** July 7, 1988, 4:38 p.m.

TRD-8806995

## Texas Department of Health

**Wednesday, July 20, 1988, 2:30 p.m.** The Advisory Board of Athletic Trainers of the Texas Department of Health will meet in the Masters Boardroom, Sheraton Centre Park Hotel, Arlington. According to the agenda summary, the board will approve minutes of the February 7, 1988; consider Advisory Board of Athletic Trainers meeting, request for extension of continuing education period, individual appeals regarding applications, and changing of licensees; review and action of expired licenses and insufficient continuing education; hear reporting of continuing education by roster; review of legal opinions; hear reports to the board concerning expired licenses within two year cycle, survey, HCR-36, setting early dates for examinations, school catalogs (course descriptions), unfinished business, and announcements and comments (no board action required); and consider meeting date for next board meeting.

**Contact:** Becky Berryhill, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7512.

**Filed:** July 7, 1988, 4:16 p.m.

TRD-8806991

**Thursday, July 21, 1988, 10 a.m.** The Advisory Committee on Nursing Home Affairs will meet in Room G-107, 1100 West 49th Street, Austin. According to the agenda summary, the committee will approve minutes of the previous meeting; hear subcommittee reports concerning social services, pharmacy services, paperwork reduction, alzheimer's certification standards, and administrative penalties-status report only;

hear bureau of long term care reports on memorandums of understanding with Texas Department of Human Services and Texas Department of Mental Health and Mental Retardation-status report only; consider deaf residents' needs and committee reorganization; review personal care home standards; and consider separate staffing for Medicaid certified and non-certified distinct parts and next scheduled meeting.

**Contact:** Richard Butler, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7706.

**Filed:** July 7, 1988, 4:16 p.m.

TRD-8806990

**Friday, July 22, 1988, 10 a.m.** The Sanitarian Advisory Committee will meet in Room T-803, 1100 West 49th Street, Austin. According to the agenda summary, the committee will approve minutes of the January 29, 1988, meeting; consider update on House Bill 1875 (onsite sewage disposal system program) hear budget and activity report; review pending applications; consider construction of fiscal year 1988 sanitarian registration examination, other business, and signing of travel vouchers.

**Contact:** Charles McEntire, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7536.

**Filed:** July 7, 1988, 4:16 p.m.

TRD-8806989

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**Texas Health and Human  
Services Coordinating  
Council**

**Friday, July 8, 1988, 1:30 p.m.** The Administration/Management Task Force of the Texas Health and Human Services Coordinating Council Technical Advisory Group submitted an emergency revised agenda for a meeting held in the Seventh Floor Conference Room, Sam Houston Building, 201 East 14th Street, Austin. According to the agenda, the task force considered organization of working groups. The emergency status was necessary because the item needed to be added to existing agenda.

**Contact:** Greg Olsson, 311-A East 14th Street, Austin, Texas, (512) 463-2195.

**Filed:** July 8, 1988, 8:50 a.m.

TRD-8806999

**Monday, July 18, 1988, 10 a.m.** The Public/Private Policy Group will meet in the Senate Reception Room, Second Floor, State Capitol, Austin. According to the agenda, the group will approve minutes of the previous meeting; consider overview of the levels of care committee; hear report of the Monitoring Subcommittee and technical workshop; consider update on cost reporting process; discuss standard contract; and consider old and new business.

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

**Filed:** July 8, 1988, 8:50 a.m.

TRD-8807000

**Wednesday, July 20, 1988, 9 a.m.** The Children and Youth Services State Coordinating Committee will meet at 701 West 51st Street, Austin. According to the agenda, the committee will approve minutes of the previous meeting; discuss family participation issue; hear report of the Joint Funding Subcommittee, Needs and Resources Subcommittee, Local Level Cooperative Subcommittee, Tracking Subcommittee, and Senate Select Committee on Juvenile Justice; discuss advisory reports to the council; and consider old and new business.

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

**Filed:** July 8, 1988, 8:50 a.m.

TRD-8807001

**Wednesday, July 20, 1988, 3 p.m.** The Youth Committee will meet in the Public Hearing Room, 701 West 51st Street, Austin. According to the agenda, the committee will approve minutes of the previous meeting; hear the Children and Youth Services State Coordinating Committee report, Public Private Policy Group report, and staff report on single youth agency draft (Senate Bill 298); and consider old and new business.

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

**Filed:** July 8, 1988, 8:50 a.m.

TRD-8806998

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**Texas Heroes Monument  
Commission**

**Friday, July 15, 1988, 2 p.m.** The Regular Meeting number 6 for the Texas Heroes Monument Commission will be held in the Caduceus Room, UTMB Administration Building, 301 University, Galveston. According to the agenda, the commission will hear secretary and treasurers reports; discuss and act on items; and set the date and site of the next meeting.

**Contact:** Cindy Sullivan, 51 Colony Park Circle, Galveston, Texas 77551, (409) 744-5632.

**Filed:** July 7, 1988, 11:54 a.m.

TRD-8806969

◆ ◆ ◆  
**State Department of  
Highways and Public  
Transportation**

**Friday, July 15, 1988, 10 a.m.** The State Highway and Public Transportation Commission of the State Department of High-

ways and Public Transportation will meet in Room 101 and 101-A, First Floor, Auditorium, Dewitt C. Greer Highway Building, 11th and Brazos Streets, Austin. According to the agenda summary, the department will hear presentations by the public for various highway, bridge and F.M. road requests; consider various counties regarding improvements to U.S. Highway 87 from Texline to Comfort, Howard County and Dallas County. Docket is available in second floor of commission office. Upon completion of hearings commission will execute contract awards and routine minute orders; consider decision on presentation from public hearing dockets; and review staff reports relative to planning and construction programs and projects.

**Contact:** Lois Jean Turner, 11th and Brazos Streets, Austin, Texas, (512) 463-8616.

**Filed:** July 7, 1988, 2:11 p.m.

TRD-8806976

◆ ◆ ◆  
**Texas Historical Commission**

**Friday, July 29, 1988, 8:30 a.m.** The Archaeological Planning and Review Department for the Texas Historical Commission will meet in the First Floor Conference Room, 108 West 16th Street, Austin. According to the agenda, the department will hear summary of significant projects-All American Pipeline, Lewisville Lake, Justiceburg Reservoir, and Lignite Mines, and Texas award for historical preservation to Northwestern Resources.

**Contact:** Curtis Tunnell, 1511 Colorado, Austin, Texas 78701, (512) 463-6100.

**Filed:** June 11, 1988, 9:49 a.m.

TRD-8807080

◆ ◆ ◆  
**Texas Department of Human  
Services**

**Thursday, July 21, 1988, 9:30 a.m.** The Family Self-Support Services Advisory Council of the Texas Department of Human Services will meet in Conference Room 1W, First Floor, West Tower, 701 West 51st Street, Austin. According to the agenda, the department will approve minutes of the previous meeting; consider vote on by-laws amendment; hear report on July 7 board meeting, July 14 board meeting, and Day Care Committee; consider day care lapsed money and program updates; and hear closing remarks.

**Contact:** Delores Ablowich, P.O. Box 2960, Austin, Texas 78769, (512) 450-4140.

**Filed:** July 11, 1988, 3:59 p.m.

TRD-8807110

## State Board of Insurance

The State Board of Insurance will meet in the Insurance Building, 1110 San Jacinto Street, Austin. Dates, times, rooms, and agendas follow.

**Tuesday, July 19, 1988, 9 a.m.** The Commissioner's Hearing Section will meet in Room 353, to consider Docket 9967-Application for amendment to the Articles of Incorporation of Titan Indemnity Company, San Antonio, increasing the authorized capital.

**Contact:** O.A. Cassity, III, 1110 San Jacinto Street, Austin, Texas, 78701-1998, (512) 463-6526.

**Filed:** July 11, 1988, 3:46 p.m.

TRD-8807101

**Tuesday, July 19, 1988, 10 a.m.** The board will meet in Room 414 to consider extension of emergency effectiveness of 28 TAC §1.303; consider personnel matters regarding Fire Marshal, Statistical and Rate Development, Information Services, and Commissioner; consider litigation matters concerning Fire Marshal and Commissioner; and consider proposed 28 TAC §§3.401-3.407.

**Contact:** Pat Wagner, 1110 San Jacinto Street, Austin, Texas, 78701-1998, (512) 463-6526.

**Filed:** July 11, 1988, 3:14 p.m.

TRD-8807095

**Tuesday, July 19, 1988, 1:30 p.m.** Commissioner's Hearing Section will meet in Room 353, to consider Docket 9917-Whether disciplinary action should be taken against Cleophus Ray Samuels, Jr., Houston, who holds a group I, legal reserve life insurance agent's license and a local recording agent's license issued by the board.

**Contact:** J.C. Thomas, 1110 San Jacinto Street, Austin, Texas, 78701-1998, (512) 463-6526.

**Filed:** July 11, 1988, 3:46 p.m.

TRD-8807102

**Tuesday, July 19, 1988, 2 p.m.** The board will meet in Room 414, to meet with attorney general's office to discuss spending and contemplated litigation: Christian Brotherhood v. State Board of Insurance; State v. Dyna-Span; State v. Norman Cowart and Nassau Life, et al; State v. Lloyd's, Texas; State v. Landis; State v. Capital Title Company; State v. Fran Gordon, doing business as Southwestern Surplus and Southwestern Surplus, Inc.; State v. Bluff Farmers; State v. American National Warranty; and other pending and contemplated litigation.

**Contact:** Pat Wagner, 1110 San Jacinto Street, Austin, Texas, 78701-1998, (512) 463-6526.

**Filed:** July 11, 1988, 3:15 p.m.

TRD-8807096

**Wednesday, July 20, 1988, 1:30 p.m.** The Commissioner's Hearing Section will meet in Room 353 to consider Docket 9969-Whether disciplinary action should be taken against David Farow, Lake Dallas, who holds a group I, legal reserve life insurance agent's license and a group II, health and accident insurance agent's license issued by the board.

**Contact:** Lisa Lyons, 1110 San Jacinto Street, Austin, Texas, 78701-1998, (512) 463-6526.

**Filed:** July 11, 1988, 3:46 p.m.

TRD-8807103

**Friday, July 22, 1988, 9 a.m.** The Commissioner's Hearing Section will meet in Room 342, to consider Docket 9972-Application for amendment to the Articles of Incorporation of Hill Country Life Insurance Company, Austin, increasing the authorized capital.

**Contact:** J.C. Thomas, 1110 San Jacinto Street, Austin, Texas, 78701-1998, (512) 463-6526.

**Filed:** July 11, 1988, 3:47 p.m.

TRD-8807104

**Friday, July 22, 1988, 1:30 p.m.** The Commissioner's Hearing Section will meet in Conference Room to consider Docket 9988-Proposed change of control of Share Health Plan of Texas, Inc., Austin.

**Contact:** J.C. Thomas, 1110 San Jacinto Street, Austin, Texas, 78701-1998, (512) 463-6526.

**Filed:** July 11, 1988, 3:47 p.m.

TRD-8807105

**Friday, July 22, 1988, 1:30 p.m.** The Commissioner's Hearing Section will meet in Room 342, to consider Docket 9984-Proposed plan of merger of Texas Life Insurance Company, Waco, with MetLife Insurance Company of Texas, Austin.

**Contact:** Lisa Lyons, 1110 San Jacinto Street, Austin, Texas, 78701-1998, (512) 463-6526.

**Filed:** July 11, 1988, 3:47 p.m.

TRD-8807106

**Monday, July 25, 1988, 9 a.m.** The Commissioner's Hearing Section will meet in Room 353, to consider Docket 9981-Whether disciplinary action should be taken against Freed Insurance Agency, Galveston, which holds a local recording agent's license issued by the board.

**Contact:** O.A. Cassity, III, 1110 San Jacinto Street, Austin, Texas, 78701-1998, (512) 463-6526.

**Filed:** July 11, 1988, 3:47 p.m.

TRD-8807107

**Monday, July 25, 1988, 1:30 p.m.** The Commissioner's Hearing Section will meet in Room 353, to consider Docket 9973-

Whether disciplinary action should be taken against Jose Luis Velez, San Antonio, who holds a group I, legal reserve life insurance agent's license issued by the board and to consider the application of Jose Luis Velez, San Antonio, for a group II, health and accident insurance agent's license.

**Contact:** Lisa Lyons, 1110 San Jacinto Street, Austin, Texas, 78701-1998, (512) 463-6526.

**Filed:** July 11, 1988, 3:47 p.m.

TRD-8807108

**Tuesday, July 26, 1988, 1:30 p.m.** The board will meet in Room 414, to consider adoption of 28 TAC §§7.1701-7.1711, published 13 TexReg 944, 964, concerning taxation of administrative services.

**Contact:** Pat Wagner, 1110 San Jacinto Street, Austin, Texas, 78701-1998, (512) 463-6526.

**Filed:** July 11, 1988, 9:40 a.m.

TRD-8807082

## Interagency Council for Genetic Services

**Friday, July 15, 1988, 1 p.m.** The Interagency Council for Genetic Services will meet in the Commissioner's Conference Room G-107, Texas Department of Health, 1100 West 49th Street, Austin. According to the agenda, the council will adopt minutes of the June 3, 1988, meeting; review of sunset process and report format; update on cost/benefit analysis; report on survey of current resources; review genetic services for development of comparable database; report on development of advocacy group director and contracts made; report on consumer costs of genetic disorders; update on changes to proposed birth certificate; report on TEXGENE activities; division of interagency agency contract projects, among members; and set next meeting date.

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

**Filed:** July 7, 1988, 4:15 p.m.

TRD-8806992

## Lamar University System Board of Regents

**Thursday, July 14, 1988, 11:30 a.m.** The Executive Committee for Lamar University System Board of Regents met in the Boardroom, John Gray Institute, 855 East Florida, Beaumont. According to the agenda, the committee met in executive session to consider an update on student personnel recruitment; pending and potential litigation on specific cases and discussion of Friends Lamar System; discussed selection of archi-

pects and engineers; and club level donations and recognition.

Contact: George McLaughlin, P.O. Box 11900, Beaumont, Texas 77710, (409) 880-2304.

Filed: July 11, 1988, 11:07 a.m.

TRD-8807084

### Board of Nurse Examiners

Tuesday-Thursday, July 26-18, 1988, 8 a.m. dally. The Board of Nurse Examiners will meet in the Austin Room, Doubletree Hotel, 6505 IH 35 North, Austin. According to the agenda, the board will consider possible action on disciplinary hearings and other action as recommended by the executive secretary in relation to hearings; consider three reinstatement requests; consider revision of bylaws and select education rules; consider education matters, such as the request for a curriculum change by the University of Texas at Austin and an extended campus for Grayson County College in Denison; and consider requests from individuals wishing to be recognized as advanced nurse practitioners, and receive reports from various conventions and meetings staff have attended.

Contact: Louise Waddill, 1300 East Anderson Lane, Suite C-225, Austin, Texas 78752.

Filed: July 11, 1988, 2:11 p.m.

TRD-8807089

### Texas Board of Pardons and Paroles

Wednesday, July 13, 1988, 9:30 a.m. The Board of Pardons and Paroles met in emergency session at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board discussed the legislative six-point plan to alleviate county jail overcrowding. The emergency status was necessary because of the need to implement a program to alleviate county jail overcrowding.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2749.

Filed: July 11, 1988, 4:26 p.m.

TRD-8807111

Monday-Friday, July 18-22, 1988, 1:30 p.m. dally, except 11 a.m. on Friday. A three-member panel for the Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the panel will receive, review, and consider information and reports concerning prisoners, inmates, and administrative releases subject to the boards jurisdiction and initiate and carry through with appropriate action.

Contact: Mike Roach, 8610 Shoal Creek Boulevard, Austin, Texas, (512) 459-2713.

Filed: July 8, 1988, 10:43 a.m.

TRD-8807010

Tuesday, July 19, 1988, 9:30 a.m. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the board will approve minutes of the June 7 and June 20, 1988, meetings; consider organizational charts, memos of understanding, parole officer qualifications, promotional procedures, administrative reviews, ratification of memo regarding special case reviews/cases in disciplinary status, media contact, parole eligibility/time credit calculations, internal affairs investigator, and hearing report format; hear conference attendance and trip reports, public input and comments, and executive director's report.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2749.

Filed: July 11, 1988, 4:25 p.m.

TRD-8807112

Tuesday, July 19, 1988, 1:30 p.m. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will consider executive clemency recommendations and related actions (other than out of county conditional pardons), including full pardons and restoration of civil rights of citizenship; emergency medical reprieves; commutations of sentence; and other reprieves, remissions, and executive clemency actions.

Contact: Mike Roach, 8610 Shoal Creek Boulevard, Austin, Texas, (512) 459-2713.

Filed: July 8, 1988, 10:43 a.m.

TRD-8807009

### Polygraph Examiners Board

Thursday-Friday, July 14-15, 1988, 9 a.m. The Polygraph Examiners Board met in emergency session in the Fourth Floor Conference Room, Lamar Crest Towers, 7701 North Lamar Boulevard, Austin. According to the agenda, the board began upon completion of Phase III of the licensing examination; approved April meeting minutes; considered applications for licensure; discussed Employee Polygraph Protection Act of 1988 as enacted by the 100th U.S. Congress, discussed correspondence from G.B. Simpson, Wichita Falls Police Department; and considered any other polygraph related business that came before the board. The emergency status was necessary because Phase III of the licensing examination was set for July 14, 1988, and could not be rescheduled.

Contact: Debbie Speicher, P.O. Box 4087, Austin, Texas 78773, (512) 465-2058.

Filed: July 8, 1988, 2:39 p.m.

TRD-8807048

### Texas Board of Private Investigators and Private Security Agencies

Tuesday, July 19, 1988, 9:30 a.m. The Board of the Texas Board of Private Investigators and Private Security Agencies will meet in Room 105, John H. Reagan Building, Austin. According to the agenda, the board will approve minutes; approve staff action of new licenses, suspensions orders, reinstatement orders, certificates for replacement managers, license terminations, revocation, denials, reprimands, requests for waiver of board rule, requests for rehearings and other proposals for decision; discuss and possibly adopt emergency and proposed board rules regarding alarm monitoring and commissioned security officer training program; and discuss and possibly act on adoption of enforcement policies.

Contact: Clema D. Sanders, 313 East Anderson Lane, Austin, Texas.

Filed: July 8, 1988, 3:35 p.m.

TRD-8807055

### Texas State Board of Professional Counselors

Friday and Saturday, July 29 and 30, 1988, 1 p.m. and 9 a.m., respectively. The Texas State Board of Examiners of Professional Counselors will meet in The Hemphill Room, 6000 Middle Fiskville Road, Austin Airport Hilton and Towers, Austin. According to the agenda summary, the board will approve minutes of the May 14, 1988, meeting; hear committee reports concerning applications, complaints, revocations, suspensions, fees and budget, testing and continuing education, licensing, renewals, ethics, license certificates, supervisors, rules and specialties, professional relations, and public relations; consider reciprocity, cancellation of licenses due to nonrenewal, and licensure applications and procedures; review disapproved files (applicants with disapproved files may appear for review of their applications); and consider other matters relating to the licensure and regulation of professional counselors (not involving board action) and set next meeting date. The board will also meet in executive session to discuss personnel matters.

Contact: Marilyn J. Preusse, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7511.

Filed: July 7, 1988, 4:17 p.m.

TRD-8806987

## Texas State Board of Registration for Professional Engineers

Wednesday-Thursday, July 20-21, 1988, 8:30 a.m. The Texas State Board of Registration for Professional Engineers will meet in the Boardroom, 1917 IH 35 South, Austin. According to the agenda, the board will receive reports from board members and staff; interview applicants; take action on applications for registration; reading of communications; and discuss any other business which comes before the board.

Contact: Kenneth J. Bartosh, 1917 IH 35 South, Austin, Texas 78741, (512) 440-7723.

Filed: July 11, 1988, 2:11 p.m.

TRD-8807088

## Texas Public Finance Authority

Thursday, July 21, 1988, 10:30 a.m. The Texas Public Finance Authority will meet in Room G-A, John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda, the authority will approve minutes; discuss resolution authorizing Texas Public Finance Authority State of Texas general obligation bonds, series 1988B; a financing agreement with the Texas Department of Corrections; a first amendment to funds management agreement with the state treasurer; an official statement; a letter of representation to the depository trusts company; and other matters; receive bid opening for Texas Public Finance Authority State of Texas general obligation bonds, series 1988B; and approve payment of bond counsel fees and expenses.

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

Filed: July 8, 1988, 9:26 a.m.

TRD-8807002

## 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.

Tuesday, July 19, 1988, 10 a.m. The Hearings Division will consider Docket 8030-Application of Southwestern Bell Telephone Company for revisions to 976 tariff.

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

Filed: July 11, 1988, 3:14 p.m.

TRD-8807097

Tuesday, July 19, 1988, 10:30 a.m. The Hearings Division will consider Docket 8235-Application of Taylor Telephone Cooperative Inc. to offer private pay telephone service.

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

Filed: July 7, 1988, 3:36 p.m.

TRD-8806984

Wednesday, July 20, 1988, 10 a.m. The Hearings Division will consider Docket 8236-Application of South Plains Telephone Cooperative, Inc. to offer private pay telephone service.

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

Filed: July 7, 1988, 3:36 p.m.

TRD-8806983

Friday, July 22, 1988, 2 p.m. The Hearings Division will consider Docket 8230-Petition of Houston Lighting and Power Company for approval of deferred accounting treatment of Limestone Unit 2 and South Texas Project Unit 1.

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

Filed: July 11, 1988, 3:14 p.m.

TRD-8807098

Thursday, July 28, 1988, 1:30 p.m. The Hearings Division will consider Docket 8232-Joint petition of Houston Lighting and Power Company for declaration of South Texas Project Unit 1 commercial operation date.

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

Filed: July 8, 1988, 2:41 p.m.

TRD-8807051

Thursday, August 4, 1988, 10 a.m. The Hearings Division will consider Docket 8218-Inquiry of the commission into the WATS prorate credit.

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

Filed: July 8, 1988, 2:41 p.m.

TRD-8807049

Monday, November 7, 1988, 10 a.m. The Hearings Division will consider Docket 8042-Complaint of International Telecharge, Inc. against AT&T Communications of the Southwest, Inc.

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

Filed: July 8, 1988, 2:40 p.m.

TRD-8807052

## Railroad Commission of Texas

Monday, July 18, 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 12970, Austin, Texas 78711, (512) 463-7527.

Filed: July 8, 2:01 p.m.

TRD-8807028

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 12970, Austin, Texas 78711, (512) 463-7251.

Filed: July 8, 2:01 p.m.

TRD-8807033

The commission will consider and act on the executive director's report on commission budget and fiscal matters, administrative and procedural matters, personnel and staffing, state and federal legislation, and contracts and grants. Consider reorganization of various commission divisions; consolidation of positions; and appointment, reassignment and/or termination of various positions, including division directors.

Contact: C. Tom Clowe, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7274.

Filed: July 8, 1988, 1:58 p.m.

TRD-8807046

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 12970, Austin, Texas 78711, (512) 463-7087.

Filed: July 8, 2:01 p.m.

TRD-8807032

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 various 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 12970, Austin, Texas 78711, (512) 463-7009.

**Filed:** July 8, 2:01 p.m.

TRD-8807037

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 12970, Austin, Texas 78704, (512) 463-7010.

**Filed:** July 8, 2:01 p.m.

TRD-8807030

The Investigation Division will consider and act on the division director's report on division administration, investigations, budget, and personnel matters.

**Contact:** Mary Anne Wiley, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6828.

**Filed:** July 8, 2:01 p.m.

TRD-8807029

The Legal Division will 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, 500 A-C, and related litigation in the D.C., Fifth, Third, and Seventh Circuits, and consideration of rulemaking project concerning general-rules of practice and procedure.

**Contact:** G. Gail Watkins, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6921.

**Filed:** July 8, 1988, 1:59 a.m.

TRD-8807035

The Legal Division will consider intervention in Federal Energy Regulatory Commission Docket RP-88-182 relating to Gas Research Institute's annual application and consideration of rulemaking petition to Federal Energy Regulatory Commission relating to qualification of research, development, and demonstration programs for FERC approval.

**Contact:** Mark Foster, P.O. Box 12512, Austin, Texas 78711, (512) 463-6921.

**Filed:** July 8, 1988, 1:57 p.m.

TRD-8807041

LP-Gas Division will consider and act on division director's report on division administration, budget, procedures, and personnel matters.

**Contact:** Thomas D. Petru, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6931.

**Filed:** July 8, 2:01 p.m.

TRD-8807036

The Oil and Gas Division will consider whether to plug with use of state funds: Petroleum Group; Carroll C. Mills Lease (61267); well #1-SWD; Sharon Ridge (1700) Field; Mitchell County and Paul C. Teas; E.T. Strain Lease; Well #1; Sharon Ridge (1700') Field; Mitchell County.

**Contact:** Willis C. Steed, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6830.

**Filed:** July 8, 2:01 p.m.

TRD-8807042

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 or date.

**Contact:** Sonia O'Neal, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7325.

**Filed:** July 8, 2:01 p.m.

TRD-8807040

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 12970, Austin, Texas 78711, (512) 463-7055.

**Filed:** July 8, 2:01 p.m.

TRD-8807031

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 12970, Austin, Texas 78711, (512) 463-6981.

**Filed:** July 8, 2:01 p.m.

TRD-8807027

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 12970, Austin, Texas 78711, (512) 463-6976.

**Filed:** July 8, 2:01 p.m.

TRD-8807034

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 or date.

**Contact:** Jerry Hill, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6900.

**Filed:** July 8, 2:01 p.m.

TRD-8807038

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 12970, Austin, Texas 78711, (512) 463-7122.

**Filed:** July 8, 2:01 p.m.

TRD-8807039

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**Texas Real Estate  
Commission**

**Monday, July 18, 1988, 9:30 a.m.** The Texas Real Estate Commission will meet in the Conference Room, TREC Headquarters Office, 1101 Camino La Costa, Austin. According to the agenda, the commission will hear minutes of the June 14, 1988, meeting; staff reports for the month of May, 1988; audit report: consideration of final action on proposed new 22 TAC §§531.10-531.17, concerning minimum standards for real estate appraisals by licensees; executive session to discuss pending litigation pursuant to Texas Civil Statutes, Article 6252-17, §2(c); consider claims against the real estate recovery fund; consider motions for rehearing and probation; and entry of orders in contested cases.

**Contact:** Camilla S. Shannon, P.O. Box 12188, Austin, Texas 78711, (512) 463-3900.

**Filed:** July 7, 1988, 4:20 p.m.

TRD-8806993

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**Texas Rehabilitation  
Commission**

**Monday, July 18, 1988, 8 a.m.** The Governor's Committee for Disabled Persons for the Texas Rehabilitation Commission will meet at the Hyatt Regency Hotel Austin, 208 Barton Springs Road, Austin. According to the agenda, the committee will sub-committee meetings; introduce and approve minutes; hear chairperson's remarks and director's remarks; report from PCEH Em-

ployment Commission liaison; report from San Antonio Mayor's Committee; report from Coalition for Texans with Disabilities; hear subcommittee reports; vote on bylaws revisions; and bid to host president's committee on employment of people with disabilities 1991 annual meeting.

Contact: Virginia Roberts, 118 East Riverside, Austin, Texas, (512) 445-8376.

Filed: July 7, 1988, 2:23 p.m.

TRD-8806977

### Special Task Force on Rural Health Care Delivery in Texas

Wednesday, July 20, 1988, 10 a.m. The Special Task Force on Rural Health Care Delivery in Texas will meet at 1025 East North 10th Street, Judge Ely Boulevard, West Central Texas Council of Governments, Abilene. According to the agenda, the task force will introduce members, hear presentations and public testimony, and consider other business.

Contact: Sam Gorena, Sam Houston Building, Room 510, Austin, Texas, 78701, (512) 463-0809.

Filed: July 11, 1988, 4:29 p.m.

TRD-8807113

### School Land Board

Tuesday, July 12, 1988, 10 a.m. The School Land Board met for an emergency agenda revision in Room 831, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board considered upgrading the permanent school fund inventory. The emergency status was necessary to meet the deadline for inclusion in annual report.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, (512) 463-5016.

Filed: July 7, 1988, 4 p.m.

TRD-8806985

Tuesday, July 12, 1988, 10 a.m. The School Land Board met for an emergency agenda revision in Room 831, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board considered compensatory royalty application, Mobile Exploration and Producing U.S., Inc., State Lease M-93050, Galveston County. The emergency status was necessary because applicant will spud well before next board meeting.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, (512) 463-5016.

Filed: July 7, 1988, 4 p.m.

TRD-8806984

### Texas State Soil and Water Conservation Board

Wednesday, July 20, 1988, 8 a.m. The Texas State Soil and Water Conservation Board will meet in the Conference Room, 311 North Fifth Street, Temple. According to the agenda, the board will approve minutes of the May 25, 1988, meeting; consider district director appointments, nonpoint source management program, watershed activities, request for reimbursement of 1987 technical assistance funds, 1988 and 1989 fiscal year operating budgets, 1988 and 1989 fiscal year conservation assistance allocations, 1988 and 1989 fiscal year technical assistance allocations, 1990-1991 budget request, information and education activities, and 1988 annual statewide meeting of SWCD directors; hear report on Interim Committee meetings; consider Dupont soil manager award program; hear comments from agencies and guests; and consider board member travel and next regular board meeting of September 21, 1988.

Contact: Harvey Davis, P.O. Box 658, Temple, Texas, (817) 773-2250.

Filed: July 7, 1988, 2:18 p.m.

TRD-8806979

### Texas Southern University

Friday and Saturday, July 15 and 16, 1988, 10 a.m. dally. The Board of Regents of Texas Southern University will meet in the University Library, Fifth Floor, Texas Southern University, Houston. According to the agenda, the board will approve minutes of the previous meeting; consider matters relating to financial report systems; hear fiscal reports from the administration, consider investments, biennium budget request, 1989 fiscal year budget, information items, construction change orders, payment to architects, contractors, and engineers, and authorization and ratification of contracts and awards; review on going construction and current contractual relations; consider personnel action; and hear report on progress of academic activities and programs. The board will also meet in executive session.

Contact: Everett O. Bell, Houston, Texas 77004, (713) 529-8911.

Filed: July 8, 1988, 11:32 a.m.

TRD-8807014

### Texas State University System

Wednesday, July 13, 1988, 5 p.m. The Selection Advisory Committee for the

Texas State University System met in emergency session in the Old Fish Hatchery Building, behind the police building on C.M. Parkway, San Marcos. According to the agenda, the committee discussed any and all matters relating to the employment of a president for Southwest Texas State University. The emergency status was necessary as the location of this meeting changed; and all other information remained as posted on July 8, 1988.

Contact: Lamar Urbanovsky, 201 East 14th Street, Austin, Texas 78701, (512) 463-1808.

Filed: July 11, 1988, 12:26 p.m.

TRD-8807084

### Task Force on Waste Management Policy

Monday, July 18, 1988, 10 a.m. The Subcommittee on Hazardous and Industrial Waste for the Task Force on Waste Management Policy will meet on the 25th Floor, Greater Houston Chamber of Commerce, 1100 Milam Building, Houston. According to the agenda, the subcommittee will review suggestions and recommendations regarding management of hazardous waste made in public testimony at the several public hearings of the task force, and discuss possible recommendations to be included in the final report of the task force.

Contact: Linda Christofilis, P.O. Box 12068, Austin, Texas 78711, (512) 463-0360.

Filed: July 11, 1988, 10:51 a.m.

TRD-8807083

### Texas Water Commission

Tuesday, July 12, 1988, 9 a.m. The commission submitted an emergency revised agenda for a meeting held in Room 118, Stephen F. Austin Office Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission considered Texas Winery Products, Inc.'s request for an emergency order to allow construction of a portion of the wastewater treatment facilities and no-discharge disposal facilities, Lamar County. The emergency status was necessary because the issuance of this requested emergency order will allow start-up of the winery in 1988 instead of 1989 if the order is not issued, and would therefore prevent great economic loss.

Contact: Beverly De La Zerda, P.O. Box 13087, Austin, Texas 78711, (512) 463-7899.

Filed: July 11, 1988, 4:17 p.m.

TRD-8807114

Tuesday, July 19, 1988, 10 a.m. The Office of Hearings Examiner will meet in



Room 5-103, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda summary, the examiner will consider Docket 7652-G-Rate increase of Ten West Ranches Utility Company.

Contact: John Vay, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: July 11, 1988, 4:18 p.m.

TRD-8807115

## Texas Water Resources Finance Authority

**Monday, July 18, 1988, 2 p.m.** The Texas Water Resources Finance Authority will meet at 99 Church Street, New York City. According to the agenda, the authority members will meet with members of Moody's Investors Services, Inc., to seek a rating on the upcoming sale of Texas Resources Finance Authority bonds.

Contact: M. Reginald Arnold, II, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: July 8, 1988, 1:45 p.m.

TRD-8807045

**Tuesday, July 19, 1988, 10 a.m.** The Texas Water Resources Finance Authority will meet at 25 Broadway, New York City. According to the agenda, the authority members will meet with members of Standard and Poors Corporation to seek a rating on the upcoming sale of Texas Resources Finance Authority bonds.

Contact: M. Reginald Arnold, II, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: July 8, 1988, 1:45 p.m.

TRD-8807044

## Regional Meetings

### Meetings Filed July 7, 1988

**The Central Texas Economic Development District, Executive Committee** will meet in the T.S.T.I. Food Service Technology Building, Avenue D, T.S.T.I. Campus, Waco on July 21, 1988, at 2 p.m. Information may be obtained from Bruce Gaines, P.O. Box 4408, Waco, Texas 76705, (817) 799-258.

**The Dallas Area Rapid Transit, Planning and Development Committee of the Whole**, met in emergency session at 601 Pacific Avenue, Dallas, on July 8, 1988, at 2 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

**The Edwards Underground Water District, Ad-Hoc Committee on Medina Lake Study**, will meet at 1615 North St. Mary's, San Antonio, on July 12, 1988, at 9 a.m. The Board of Directors will meet at the

same location on the same date at 10 a.m. The Conservation Committee will meet at the same location on July 13, 1988, at 9 a.m. Information may be obtained from Thomas P. Fox, 1615 North St. Mary's, San Antonio, Texas 78215, (512) 222-2204.

**The Golden Crescent Service Delivery Area, Private Industry Council, Inc.**, met at 301 Colony Drive, Victoria, on July 13, 1988, at 7 p.m. Information may be obtained from Cleve Schoener, P.O. Box 2149, Victoria, Texas 77902.

**The Hunt County Tax Appraisal District, Board of Directors**, met at 4801 King Street, Greenville, on July 14, 1988, at 6 p.m. and 7:15 p.m. Information may be obtained from Joe Pat Davis or Linda S. Haynes, P.O. Box 1339, Greenville, Texas 75401, (214) 454-3510.

**The Lamar County Appraisal District, Appraisal Review Board**, met at the District Office, 1523 Lamar Avenue, Paris, on July 11, 1988, at 9 a.m. Information may be obtained from Rodney Andersen, 1523 Lamar Avenue, Paris, Texas 75460, (214) 785-7822.

**The Lampasas County Appraisal District, Board of Directors**, met at 109 East Fifth, Lampasas, on July 13, 1988, at 9:30 a.m. Information may be obtained from Dana Ripley, P.O. Box 175, Lampasas, Texas 76550, (512) 556-8058.

**The Texas Municipal League (Risk and Insurance Management Services), Board of Trustees, Insurance Trust Fund**, met and will meet at the Hilton Resort, South Padre, on July 14-16, 1988, at 8 a.m. Information may be obtained from Rhonda Ruekel, 211 East Seventh, Suite 1020, Austin, Texas 78701, (512) 320-1330.

**The Nueces-Jim Wells-Kleberg Soil and Water Conservation District, Board of Directors**, will meet at Roberto's Restaurant, Highway 77, Robstown, on July 19, 1988, at 7:30 a.m. Information may be obtained from Joan D. Rurnfield, 710 East Main Street, Robstown, Texas 78380.

**The Scurry County Appraisal District, Appraisal Review Board**, met at 2612 College Avenue, Snyder, on July 11-12, 1988, at 9 a.m. Information may be obtained from L.R. Peveler, 2612 College Avenue, Snyder, Texas 79549, (915) 573-8549.

**The South Plains Association of Governments, Executive Committee and Board of Directors**, met at 1323 58th Street, Lubbock, on July 12, 1988, at 9 a.m. and 10 a.m., respectively. Information may be obtained from Jerry D. Casstevens, P.O. Box 3730, Freedom Station, Lubbock, Texas 79452.

TRD-8806968

### Meetings Filed July 8, 1988

**The Archer County Appraisal District, Appraisal Review Board**, met at 211 South

Center, Archer City, on July 13, 1988, at 9 a.m. Information may be obtained from Edward Trigg, III, P.O. Box 1141, Archer City, Texas 76351, (817) 574-2172.

**The Austin-Travis County Mental Health and Mental Retardation Center, Board of Trustees**, met at Embassy Suites Hotel, 5901 North IH 35, Austin, on July 14, 1988, at noon. Information may be obtained from Sharon Taylor, (512) 447-4141.

**The Barton Springs-Edwards Aquifer Conservation District, Board of Directors**, met in Suite F, 909 North Loop 4, Buda, on July 11, 1988, at 7 p.m. Information may be obtained from Ralph Roming, 909 North Loop 4, Suite F, Buda, Texas 78610, (512) 282-8441.

**The Tax Appraisal District of Bell County, Board of Directors**, will meet at the District Building, 411 East Central, Belton, on July 20, 1988, at 7 a.m. Information may be obtained from Mike Watson, P.O. Box 390, Belton, Texas 76513-0390, (817) 939-5841, ext. 29.

**The Concho Valley Council of Governments, Executive Committee**, met at 5014 Knickerbocker Road, San Angelo, on July 13, 1988, at 7 p.m. Information may be obtained from Robert R. Weaver, P.O. Box 60050, San Angelo, Texas 76906, (915) 944-9666.

**The Dallas Area Rapid Transit, Planning and Development Committee-of-the-Whole and Board**, met at 601 Pacific Avenue, Dallas, on July 12, 1988, at 4 p.m. and 6:30 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

**The Grand Parkway Association**, met at 140 East Wing, 5757 Woodway, Houston, on July 13, 1988, at 8:15 a.m. Information may be obtained from Larry W. Nettles, 2823 First City Tower, 1001 Fannin, Houston, Texas 77002-6760, (713) 654-4586.

**The Grayson Appraisal District, Board of Directors**, met at 205 North Travis, Sherman, on July 13, 1988, at noon. Information may be obtained from Deborah Reneau, (214) 893-9673.

**The Hays County Appraisal District, Board of Directors**, met at Municipal Building, 632 "A" East Hopkins, San Marcos, on July 14, 1988, at 4:30 p.m. Information may be obtained from Lynnell Sedlar, 632 "A" East Hopkins, San Marcos, Texas 78666, (512) 754-7400.

**The Hood County Appraisal District, Appraisal Review Board**, met at the District Office, 1902 West Pearl, Granbury, on July 11-16, 1988, at 8:30 a.m. Information may be obtained from Harold Chesnut, Granbury, Texas 76048, (817) 573-2471.

**The Lamar County Appraisal District, Appraisal Review Board**, met at the District Office, 1523 Lamar Avenue, Paris, on July 12, 1988, 2 p.m. Information may be obtained from Rodney Anderson, 1523 Lamar

Avenue, Paris, Texas 75460, (214) 785-7822.

The Texas Municipal Power Agency, Board of Directors, met at the Administration Building, Gibbons Creek Steam Electric Station, two and one-half miles north of Carlos, on FM Road 244, on July 14, 1988, at 10 a.m. Information may be obtained from Jim Bailey, P.O. Box 7000, Bryan, Texas 77805, (409) 873-2013.

The Rio Grande Council of Governments, Board of Directors, will meet in the Second Floor Conference Room, The Center, 123 Pioneer Plaza, El Paso, on July 15, 1988, at 9:30 a.m. Information may be obtained from Cecile C. Gamez, 123 Pioneer Plaza, Suite 210, El Paso, Texas 79901, (915) 533-0998.

The Central Appraisal District of Rockwall County, Board of Directors, met at 206 North San Jacinto, Rockwall, on July 12, 1988, 7:30 p.m. Information may be obtained from Ray E. Helm, 106 North San Jacinto, Rockwall, Texas 75087, (214) 771-2034.

The Rockwall Appraisal District, Appraisal Review Board, will meet at the Appraisal Office, 106 North San Jacinto, Rockwall, on July 15, 1988, at 8:30 a.m., and again on July 20, 1988, at 8:30 a.m. Information may be obtained from Ray E. Helm, 106 North San Jacinto, Rockwall, Texas 75087, (214) 771-2034.

The Tarrant Appraisal District, Board of Directors, will meet at 2301 Gravel Road, Fort Worth, on July 15, 1988, at 9 a.m. Information may be obtained from Olive Miller, (817) 284-0024.

The Texas Political Subdivisions WC Joint Insurance Fund, Board of Trustees, will meet at the San Luis Hotel, 5222 Seawall Boulevard, Galveston, on July 22, 1988, at 3 p.m. Information may be obtained from Thomas P. Vick, P.O. Box 2759, Dallas, Texas 75221, (214) 760-3738.

The Upshur County Appraisal District, Appraisal Review Board, met at the District Office, Warren and Trinity Streets, Gilmer, on July 14, 1988, at 8 a.m. Information may be obtained from Louis Stracener, P.O. Box 280, Gilmer, Texas 75644, (214) 843-3041.

TRD-8806997

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Meetings Filed July 11, 1988

The Bastrop County Appraisal District, Appraisal Review Board, will meet at the Appraisal District, 1200 Cedar Street, Bastrop, on July 16, 1988, at 8:30 a.m. Information may be obtained from Lorraine Perry, 1200 Cedar Street, Bastrop, Texas 78602, (512) 321-3925.

The Brazos River Authority, Board of Directors, will meet at 4400 Cobbs Drive, Waco, on July 18, 1988, at 9 a.m. Information may be obtained from Mike Bukala,

P.O. Box 7555, Waco, Texas 76714-7555, (817) 776-1441.

The Dallas Area Rapid Transit, Budget and Finance Committee, met at 601 Pacific Avenue, Dallas, on July 14, 1988, at 4 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Deep East Texas Regional Mental Health and Mental Retardation Services, Board of Trustees, will meet in the Ward R. Burke Community Room, Administration Facility, 4101 South Medford Drive, Lufkin, on July 19, 1988, at 5:30 p.m. Information may be obtained from Jim McDermott, 4101 South Medford Drive, Lufkin, Texas 75901, (409) 639-1141.

The Denton Central Appraisal District, Board of Directors, will meet at 3911 Morse, Denton, on July 21, 1988, at 4 p.m. Information may be obtained from John D. Brown, 3911 Morse, Denton, Texas 76205, (817) 566-0904.

The Eastland County Appraisal District, Appraisal Review Board, will meet on the Second Floor, Eastland County Courthouse, Commissioner's Courtroom, Eastland, on July 21, 1988, at 10 a.m. Information may be obtained from Steve Thomas, P.O. Box 914, Eastland, Texas 76448, (817) 629-8597.

The East Texas Council of Governments, Executive Committee, met at ETCOG Offices, Kilgore, on July 14, 1988, at 2 p.m. Information may be obtained from Glynn J. Knight, 3800 Stone Road, Kilgore, Texas 75662, (214) 984-8641.

The Region One Education Service Center, Board of Directors, met in emergency session 1900 West Schunior, Edinburg, on July 12, 1988, at 6 p.m. Information may be obtained from Lauro R. Guerra, 1900 West Schunior, Edinburg, Texas 78539, (512) 383-5611.

The Ellis County Appraisal District, met at 406 Sycamore Street, Waxahachie, on July 14, 1988, at 7:30 p.m. Information may be obtained from Russell A. Garrison, P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552.

The Garza County Appraisal District, Appraisal Review Board, will meet in the Courthouse, Post, on July 18, 1988, at 2 p.m. Information may be obtained from Jean M. Westfall, P.O. Drawer F, Post, Texas 79356, (806) 495-3518.

The Jasper County Appraisal District, Appraisal Review Board, met in emergency session at the Courthouse Annex, 121 North Austin-Courthouse Annex, Jasper, on July 14, 1988, at 9 a.m. Information may be obtained from David W. Luther, County Courthouse Annex, Jasper, Texas 75951, (409) 384-2544.

The Appraisal District of Jones County, Board of Directors, will meet in the District's Office, 1137 East Court Plaza,

Anson, on July 21, 1988, at 8 a.m. Information may be obtained from John Steele, 1137 East Court Plaza, Anson, Texas 79501, (915) 823-2422.

The Lee County Appraisal District, Appraisal Review Board, met at 118 East Richmond Street, Giddings, on July 14, 1988, at 9 a.m. Information may be obtained from Delores Shaw, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618.

The Liberty County Central Appraisal District, Board of Directors, will meet at 1820 Sam Houston, Liberty, on July 27, 1988, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575, (409) 336-5722.

The Lower Neches Valley Authority, Board of Directors, will meet in the LNVA Office Building, 7850 Eastex Freeway, Beaumont, on July 19, 1988, at 10:30 a.m. Information may be obtained from A.T. Hebert, Jr., P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011.

The Nortex Regional Planning Commission, Executive Committee, will meet in the Bounty Room, Trade Winds Motor Hotel, 1212 Broad Street, Wichita Falls, on July 21, 1988, at noon. Information may be obtained from Edwin B. Daniel, 2101 Kemp Boulevard, Wichita Falls, Texas 76307, (817) 322-5281.

The Red River Authority of Texas, Board of Directors, will meet in Room 215, Wichita Falls Activity Center, 607 10th Street, Wichita Falls, on July 21, 1988, at 9:30 a.m. Information may be obtained from Ronald J. Glenn, 520 Hamilton Building, Wichita Falls, Texas 76301, (817) 723-8697.

The South East Texas Regional Planning Commission, Executive Committee, will meet at City of Beaumont, City Council Chambers, Beaumont, on July 20, 1988, at 7 p.m. Information may be obtained from Jackie Vice, P.O. Drawer 1387, Nederland, Texas 77627, (409) 727-2384.

The Trinity River Authority of Texas, Red Oak Creek Regional Wastewater System Right-of-Way, will meet at 5300 South Collins, Arlington, on July 15, 1988, at 10:30 a.m. Information may be obtained from Jack C. Worsham, P. O. Box 60, Arlington, Texas 76010, (817) 467-4343.

The Tyler County Tax Appraisal District, Appraisal Review Board, will meet at 806 West Bluff, Woodville, on July 20, 1988, at 10 a.m. Information may be obtained from Mary F. Mann, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736.

The Wheeler County Appraisal District, Board of Directors, will meet in the Commissioner's Courtroom, Courthouse, Wheeler, on July 22, 1988, at 2 p.m. Information may be obtained from Marilyn Copeland, P.O. Box 349, Wheeler, Texas 79096, (806) 826-5900.

TRD-8807081

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**Meetings Filed July 12, 1988**

The Capital Area Planning Council, Executive Committee, will meet in Suite 100, 2520 IH-35 South, Austin, on July 19, 1988, at 2 p.m. Information may be obtained from Richard G. Bean, (512) 443-7653.

TRD-887118





Name: Joel Kirkpatrick  
Grade: 12  
School: Richardson High, Richardson

# In Addition

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

## Texas Department of Commerce Weekly Report on the 1988 Allocation of the State Ceiling on Certain Private Activity Bonds

The Tax Reform Act of 1986 (the Tax Act) imposes a volume ceiling on the aggregate principal amount of private activity bonds that may be issued within the State of Texas during any calendar year. The state ceiling for Texas, imposed by the Tax Act for calendar year 1988 is \$834,100,000.

State legislation, Senate Bill 1382, Chapter 1092, Acts of the 70th Legislature, (the Act), established the allocation process for the State of Texas. The Act specifies that one-third of the state ceiling is to be made available to qualified mortgage bonds and of that one-third, one-third is available to the Texas Housing Agency. One-fourth of the state ceiling is available to state-voted issues, and the balance of the state ceiling is available for all other issuers of bonds requiring an allocation.

Pursuant to the Act, the aggregate amount for qualified mortgage bond subceiling is \$278,033,300, with \$185,355,500 available to the local housing authorities and \$92,677,800 available to the Texas Housing Agency. The aggregate amount for state-voted issues is \$208,525,000 and the amount for all other bonds requiring an allocation is \$347,541,700.

Generally, the state ceiling is allocated on a first-come, first-served basis, with the Texas Department of Commerce (the department) administering the allocation system.

The information that follows is a weekly report of the allocation activity for the period, June 27, 1988-July 1, 1988.

Weekly report on the 1988 allocation of the state ceiling on certain private activity bonds as pursuant to Senate Bill 1382.

Total amount of state ceiling remaining unreserved for the \$278,033,300 subceiling for qualified mortgage bonds under the Act as of July 1, 1988: \$212, 953,300

Total amount of state ceiling remaining unreserved for the \$208,525,000 subceiling for state-voted issues under the Act as of July 1, 1988: \$208,525,000

Total amount of state ceiling remaining unreserved for the \$347,541,700 subceiling for all other bonds under the Act as of July 1, 1988: \$226,700

Total amount of the \$834,100,000 state ceiling remaining unreserved as of July 1, 1988: \$421,705,000.

Comprehensive listing of bond issues which have received a reservation date pursuant to the Act from June 27, 1988-July 1, 1988: none

Comprehensive listing of bonds issued and delivered as pursuant to the Act from June 27, 1988-July 1, 1988: Corsicana Industrial Development Authority, The Kent Paper Company, Inc., Manufacturer of Paper Products, \$5,500,000.

\*Angelina and Neches River Authority (the issuer) for the Angelina and Neches River Authority-Lake Eastex (the project) reservation was cancelled.

Issued in Austin, Texas, on July 5, 1988.

TRD-8806873 J. William Lauderback  
Executive Director  
Texas Department of Commerce

Filed: July 6, 1988

For further information, please call (512) 472-5059

## Office of Consumer Credit Commissioner

### Notice of Rate Ceilings

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

<u>Type of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer<sup>(3)</sup>/Agri- cultural/Commercial<sup>(4)</sup> thru \$250,000</u>	<u>Commercial<sup>(4)</sup> over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	07/11/88-07/17/88	18.00%	18.00%
Monthly Rate Art. 1.04(c) <sup>(1)</sup>	07/01/88-07/31/88	18.00%	18.00%
Standard Quarterly Rate - Art. 1.04(a)(2)	07/01/88-09/30/88	18.00%	18.00%
Retail Credit Card Quarterly Rate - Art. 1.11 <sup>(3)</sup>	07/01/88-09/30/88	18.00%	N.A.
Lender Credit Card Quar- terly Rate - Art. 15.02(d) <sup>(3)</sup>	07/01/88-09/30/88	14.00%	N.A.
Standard Annual Rate - Art. 1.04(a)(2) <sup>(2)</sup>	07/01/88-09/30/88	18.00%	18.00%
Retail Credit Card Annual Rate - Art. 1.11 <sup>(3)</sup>	07/01/88-09/30/88	18.00%	N.A.
Annual Rate Applicable to Pre-July 1, 1983 Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from:	07/01/88-09/30/88	18.00%	N.A.
Judgment Rate - Art. 1.05, Section 2	07/01/88-07/31/88	10.00%	10.00%

- (1) For variable rate commercial transactions only.  
(2) Only for open-end credit as defined in Art. 5069-1.01(f) V.T.C.S.  
(3) Credit for personal, family or household use.  
(4) Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas, on July 5, 1988.

TRD-8806960 Al Endsley  
Consumer Credit Commissioner

Filed: July 7, 1988

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

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**Texas Department of Corrections**

**Correction of Error**

The Texas Department of Corrections submitted a request for proposal which contained an error as published in the June 24, 1988, issue of the *Texas Register* (13 TexReg 3243).

The final paragraph of the request for proposal was inadvertently omitted, the final paragraph should read: "Closing date: June 30, 1988."

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**Governor's Office**

**Budget Execution Proposal**

As authorized by Texas Government Code, §317.002(c) and §317.002(b)(2) (House Bill 7, 70th Legislature, Second Called Session), I propose to use budget execution authority to make available and distribute to the Texas Department of Mental Health and Mental Retardation (TDMHMR) during the fiscal year ending August 31, 1988, certain funds appropriated to TDMHMR by the Texas Legislature pursuant to Senate Bill 1, 70th Legislature, Second Called Session, for the fiscal year ending August 31, 1989, and to allow TDMHMR to use such appropriations for different or additional purposes. I find an emergency exists in that TDMHMR requires such funds in order to provide TDMHMR with the additional funds needed for compliance with the settlement agreements entered into by TDMHMR in *R.A.J. v. Miller*, Cause Number C-A-3-74-394-H in the United States District Court for the Northern District of Texas, and *Lelsz v. Kavanagh*, Cause Number C-A-3-85-2412-H in the United States District Court for the Northern District of Texas.

TDMHMR will need approximately \$31.7 million above current appropriations for the remainder of the fiscal year ending August 31, 1988, in order to comply with such settlement agreements. In order to make such funds available, I propose the following:

(1) I propose to make available and to distribute to TDMHMR for the fiscal year ending August 31, 1988, the following appropriations out of the General Revenue Fund Number 001 to TDMHMR for the fiscal year ending August 31, 1989:

- Department of Mental Health and Mental Retardation
- 2. State Mental Hospitals
  - a. Campus Based Residential Treatment and Habilitation .....\$2,171,870
  - c. Utilities .....\$473,270
- 9. State Schools for the Mentally Retarded
  - a. Campus Based Residential Treatment and Habilitation .....\$8,418,586
  - c. Utilities .....\$589,412

These funds shall be distributed in the following line items for TDMHMR for the fiscal year ending August 31, 1988,

and used for the different or additional purposes shown:

- 2. State Mental Hospitals
  - a. Campus Based Residential Treatment and Habilitation .....\$2,171,870
- 8. Program Administration (Mental Retardation).....\$ 393,622
- 9. State Schools for the Mentally Retarded
  - a. Campus Based Residential Treatment and Habilitation .....\$8,418,586
- 21. Central Administration
  - a. General Administration.....\$ 473,270
  - b. Program Standards and Quality Assurance .....\$138,620
  - c. Client Services and Rights Protection.....\$37,170
- 22. Field Support
  - a. Financial Support.....\$ 20,000

In the event all of the funds that are the subject of this proposal are not expended by TDMHMR during the fiscal year ending August 31, 1988, the balance of such funds will be restored to the respective TDMHMR appropriations for the fiscal year ending August 31, 1989.

(2) Part (b) of Rider 35 to the appropriations to TDMHMR in Senate Bill 1, 70th Legislature, Second Called Session, appropriates \$20 million of the funds generated by the sale of the Austin State School Annex and the Leander Rehabilitation Center Property to TDMHMR, contingent upon the occurrence of certain events. An implementation plan has been adopted by the United States District Court for the Northern District of Texas in *Lelsz v. Kavanagh* and has been certified by the Attorney General in a letter of June 2, 1988, to Governor Bill Clements to be feasible and to have resolved such litigation. Further, legislation authorizing sales of such properties has been adopted by the Texas Legislature (Senate Bill 52, 70th Legislature, Second Called Session) and such sales have been approved by the Board of TDMHMR and shall take place before August 31, 1988. The provisions of Rider 35 provide that no more than one-half of the funds authorized or appropriated thereby may be expended in the fiscal year ending August 31, 1988, however.

I propose to make available and distribute to TDMHMR for the fiscal year ending August 31, 1988, the \$10 million of such funds that otherwise would not be available until the fiscal year ending August 31, 1989. In accordance with the provisions of Rider 35, the Board of TDMHMR and the Legislative Budget Board must approve a plan for expenditure of these funds prior to their expenditure.

I hereby certify that this proposal has been reviewed by legal counsel and found to be within my authority.

Issued in Austin, Texas on July 8, 1988.

TRD-8807100 William P. Clements, Jr.  
Governor

Filed: July 11, 1988

For further information, please call (512) 463-1778

## Texas Department of Health Correction of Error

The Texas Department of Health submitted a request for public comments on fiscal year 1989, report on intended expenditures for the health block grants which contained errors as submitted by the department in the June 29, 1988, issue of the *Texas Register* (13 TexReg 3249).

The first sentence of the third paragraph should read: "These reports are available for public review and comment by any person (including any federal, state, local, or other public agency) and may be viewed at TDH and the following regional offices: Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7470, Public Health Region I, 2408 South 37th Street, Temple, Texas 76501, (817) 778-6744, Public Health Region II, 4709 66th Street, Lubbock, Texas 79414, (806) 797-4331, Public Health Region III, 6090 Surety Drive, Suite 115, El Paso, Texas 79903, (915) 779-7783, Public Health Region IV, 10500 Forum Place, Suite 200, Houston Texas 77036, Public Health Region V, 2561 Matlock Road, Arlington, Texas 76015, (817) 460-3032, Public Health Region VI, 1015 Jackson Keller Road, San Antonio, Texas 78213, (512) 342-3300, Public Health Region VII, 1517 West Front Street, Tyler, Texas 75702, (214) 595-3585, and Public Health Region VIII, 1401 South Rangerville Road, Harlingen, Texas 78552, (512) 423-0130."

## Proposed Radioactive Material License Amendment

Notice is hereby given by the Texas Department of Health that it proposes to amend the following radioactive material license: Radioactive Material License Number L03626, issued to Everest Exploration, Inc. (mailing address: Everest Exploration, Inc., P.O. Box 1339, Corpus Christi, Texas 78403) for the addition of subsite number 002, the Gruy-7B facility located in northern Jim Hogg County, three miles northwest of Hebbroville. This amendment would authorize uranium mining at that facility, and disposal of fluids containing byproduct materials via either the deep disposal well located at the McBryde facility located 2.7 miles north of Hebbroville, in Duval County, or irrigation at the Gruy-7B facility.

An environmental assessment (TBRC EA-18) titled, Environmental Assessment and Proposed License Conditions Related to the Everest Exploration, Inc. Gruy-7B Project Jim Hogg County, has been prepared and is available through this agency. The Division of Licensing, Registration, and Standards has determined that the applicant is qualified by reason of training and experience to use the material in question for the purpose requested in accordance with *TRCR* in such a manner as to minimize danger to public health and safety and the environment; the applicant's proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety and the environment; the applicant has demonstrated financial capability to conduct the proposed activity including all costs associated with decommissioning, decontamination, disposal, reclamation, and long-term care and maintenance; the applicant satisfies any applicable special requirements in *TRCR*, Part 43; and, therefore, the amendment to the license should not be inimical to public health and safety, or have a long-term detrimental impact on the environment. This notice affords the opportunity for a public hearing upon the proposed amendment to the license. The public hearing on the amendment of the

license will be held if the agency has received written request for hearing no later than 5 p.m. August 26, 1988, from a person affected. 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 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. A hearing may be requested 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 person considers himself affected, and state the relief sought. If the person is to be represented by an attorney, the name and address of the attorney also must be stated. Should no request for public hearing be timely filed, the license will be amended.

Should a timely request be made, a hearing shall be conducted pursuant to the provisions of the Radiation Control Act, §§6, 6A, 11, 11A, 12A, and 14 Texas Civil Statutes, Article 4590f; the Administrative Procedures and Texas Register Act, Texas Civil Statutes, Article 6252-13a; The Formal Hearing Procedures of the Texas Department of Health, §1.21 et seq.; the *Texas Regulations for Control of Radiation*, Parts 11, 13, 21, 41, and 43; and the conditions of the proposed Radioactive Material License L03626 and convened as follows: Jim Hogg County Courthouse, 102 East Tilly, District Courtroom, Hebbroville, Texas 78361, September 13, 1988, 9:30 a.m.

The purpose of the hearing, if requested, are as follows: to establish jurisdiction; to designate parties upon receipt of evidence that a person qualifies as a person affected. A person must be present in person or by representative at this hearing in order to be designated a party; to delineate issues; to set the discovery schedule, if any; and to hold a hearing on the merits or, if necessary, to recess to time and date certain for hearing on the merits.

All persons having an interest in this matter shall have the right to appear at the hearing, present evidence, and be represented by counsel. The cost of a written hearing transcript may be assessed against one or more of the designated parties. Failure to appear without prior notice in writing to the hearing examiner may be construed as a withdrawal of the request for hearing.

Copies of all relevant material are available for public inspection and copying at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin. Information relative to the amendment of this specific radioactive material license may be obtained by contacting David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3189, (512) 835-7000, or by visiting 1212 East Anderson Lane, Austin.

Issued in Austin, Texas on July 8, 1988.

TRD-8807062      Robert A. MacLean  
Deputy Commissioner for Professional  
Services  
Texas Department of Health

Filed: July 8, 1988

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



## Public Hearing Concerning Texas State Health Plan

In the May 31, 1988, issue of the *Texas Register* (13 TexReg 2671) the Statewide Health Coordinating Council proposed amendments to 25 TAC §571.1 concerning the state health plan for Texas. The amendments will update and modify the Texas State Health Plan which is adopted by reference in §571.1. The amendments cover statewide health problems, develop recommendations designed to resolve these problems, and propose needed implementation strategies. The health problems specifically addressed include AIDS, health care needs of the homeless, maternal and child health, medical liability insurance, school health, environmental health, mental health and mental retardation, health professions trauma-EMS, disabilities, and rehabilitation, long-term care and alternatives, short-term care, and alcohol and drug abuse. The amendment will also involve changes, modifications, and placement of titles of chapters in the state health plan.

Comments on the proposal may be submitted to Carol S. Daniels, Chief, Bureau of State Health Data and Policy Analysis, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199. Comments will be accepted for 60 days after publication of the proposed amendment in the *Texas Register*.

In addition, comments will be received at the following public hearings: on Wednesday, July 20, 1988, 2 p.m., offices of the North Central Texas Council of Governments, 616 Six Flags Drive, Center Point Two, Arlington; on Thursday, July 21, 1988, 2:30 p.m., offices of the Alamo Area Council of Governments, 118 Broadway, Room 420, San Antonio; on Friday, July 22, 1988, 2 p.m., offices of the South Texas Development Council, 600 South Sandman, Laredo. Copies of the plan are available for public review at the offices of the Councils of Government in Arlington and San Antonio and the South Texas Development Council in Laredo.

Issued in Austin, Texas on July 11, 1988.

TRD-8807075 Robert A. MacLean, M.D.,  
Deputy Commissioner for Professional  
Services  
Texas Department of Health

Filed: July 11, 1988.

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

## Texas Higher Education Coordinating Board

### Notice of Meeting

The Advisement and Placement Committee will meet on Friday, July 22, 1988, from 10 a.m.-3:30 p.m. The meeting will be held at the Embassy Suites Hotel, 300 South Congress Avenue, 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 July 5, 1988.

TRD-8806880 James McWhorter  
Assistant Commissioner for Planning and  
Administration  
Texas Higher Education Coordinating Board

Filed: July 6, 1988

For further information, please call (512) 462-6420

The Special Committee of Academic Officers will meet on Wednesday, July 20, 1988, from 10 a.m.-3:30 p.m. The meeting will be held at the Joe C. Thompson Center, 2405 East Campus 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 July 5, 1988.

TRD-8806881 James McWhorter  
Assistant Commissioner for Planning and  
Administration  
Texas Higher Education Coordinating Board

Filed: July 6, 1988

For further information, please call (512) 462-6420

## 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 a name change by Motor Club of America Insurance Company, a foreign casualty insurance company. The home office is in Newark, New Jersey. The proposed new name is MCA Insurance Company.
2. Application for a name change by Bankers Life Assurance Company of Nebraska, a foreign life insurance company. The home office is in Lincoln, Nebraska. The proposed new name is Ameritas Variable Life Insurance Company.
3. Application to do business in Texas of Essex Life Insurance Company, a foreign life insurance company. The home office is in West Orange, New Jersey.
4. Application for a name change by East Texas Funeral Service Life Insurance Company, a domestic life insurance company. The home office is in Woodville. The proposed new name is Texas Service Life Insurance Company.
5. Application for a name change by BSC Life Insurance Company, a domestic life insurance company. The home office is in Dallas. The proposed new name is USAble Life of Texas.
6. Application for a name change Yukon Indemnity Company, a foreign casualty insurance company. The home office is in McPherson, Kansas. The proposed new name is Alliance Indemnity Company.

Issued in Austin, Texas, on July 7, 1988.

TRD-8807073 Nicholas Murphy  
Chief Clerk  
State Board of Insurance

Filed: July 11, 1988

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

## Notice of Public Hearing

Notice is hereby given that a hearing under Docket Number 1594, will be held before the State Board of Insurance at 1:30 p.m. on Tuesday, July 26, 1988. The subject of the hearing will be consideration of possible adoption of new rules of the board as 28 TAC §§7.1701-7.1711 concerning taxation of administrative services and such other matters as may properly be brought before the board. Proposed language for these new sections, which are currently in effect on an emergency basis, was published in the February 26, 1988, issue of the *Texas Register* (13 TexReg 944,

964). The hearing will be in Room 414 of the State Board of Insurance Building at 1110 San Jacinto Boulevard in Austin.

The hearing will be held in accordance with the legal authority and jurisdiction provided in the Insurance Code, Article 4.11A, §11, which provides that the State Board of Insurance may establish any rules that are fair and reasonable as may be appropriate for the augmentation and implementation of that article concerning administrative services tax.

The hearing and procedure will be governed by the rulemaking provisions of the Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13a) and the rules of practice and procedure before the State Board of Insurance (28 TAC Chapter 1, Subchapter A).

Please direct inquiries to Nicholas Murphy, Chief Clerk, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998, (512) 463-6327.

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

TRD-8807074      Nicholas Murphy  
                         Chief Clerk  
                         State Board of Insurance

Filed: July 11, 1988

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

## Legislative Budget Board

### Joint Budget Hearing Schedule

The Joint Budget Hearing Schedule concerning appropriations requests for the 1990-1991 Biennium, for the period of July 18, 1988, to July 22, 1988, is as follows: The University of Texas System/Available University Fund, 9 a.m., July 18, Ashbel Smith Hall, Conference Room 208, 201 West Seventh Street, Austin; The University of Texas at Austin, 9:30 a.m., July 18, Ashbel Smith Hall, Conference Room 208, 201 West Seventh Street, Austin; The University of Texas of the Permian Basin, 11 a.m., July 18, Ashbel Smith Hall, Conference Room 208, 201 West Seventh Street, Austin; The University of Texas at El Paso 1:30 p.m., July 18, Ashbel Smith Hall, Conference Room 208, 201 West Seventh Street, Austin; The Commission on Jail Standards, 2 p.m., July 18, Room 102, John H. Reagan Building, Austin; The Texas Department of Labor and Standards, 9 a.m., July 19, Room 214, State Capitol Building, Austin; The Texas State Board of Public Accountancy, 9 a. m., July 19, Room 107, John H. Reagan Building Austin; The University of Texas at San Antonio, 10 a.m., July 19, Ashbel Smith Hall, Conference Room 208, 201 West Seventh Street, Austin; The University of Texas Health Science Center at San Antonio, 1:30 p.m., July 19, Ashbel Smith Hall, Conference Room 208, 201 West Seventh Street, Austin; The Board of Pharmacy, 9 a.m., July 20, Room 246, John H. Reagan Building, Austin; The Texas Advisory Commission on Intergovernmental Relations, 10 p.m., July 20, Room 101, John H. Reagan Building, Austin; Pan American University, 1:30 p.m., July 20, Bevington Reed Building Second Floor, Boardroom 255, 200 East Riverside Drive, Austin; The Texas Optometry Board, 2 p.m., July 20, Room 246, John H. Reagan Building, Austin; The Alcoholic Beverage Commission, 2 p.m., July 20, Room 101, John H. Reagan Building, Austin; Pan American University at Brownsville, 3 p.m., July 20, Bevington Reed Building, Second Floor Boardroom 255, 200 East Riverside Drive, Austin; and The Board of Psychologists, 10 a.m., July 21, Room 246, John H. Reagan Building, Austin.

Please confirm above dates, times, and locations in the event you plan to attend a hearing, since experience has shown that some rescheduling always occurs. Hearings schedule may be checked on PROFS.

Issued in Austin, Texas on July 8, 1988.

TRD-8807004      Larry Kopp  
                         Assistant Director for Budgets  
                         Legislative Budget Office

Filed: July 8, 1988

For further information, please call (512) 463-1200

## Texas State Library and Archives Commission

### Consultant Contract Reports

Senate Bill 737 of the 65th Texas Legislature (Texas Civil Statutes, Article 6252-11c) requires state agencies and regional councils of governments to file with the Office of Secretary of State invitations to bid and details on bidding on private consultant contracts expected to exceed \$10,000. Within 10 days of the award of the contract, the agency is required to file with the secretary of state a description of the study to be conducted, the name of the consultant, the amount of the contract, and the due dates of the reports. Additionally, the Act directs the contracting agencies to file copies of the resulting reports with the Texas State Library. The library is required to compile a list of the reports received and submit the list quarterly for publication in the *Texas Register*.

Following is a list of reports received for the second quarter of 1988. The reports may be examined in Room 300, Texas State Library, 1201 Brazos Street, Austin. Employees Retirement System, Peat, Marwick, Main and Company, Report on the Uniform Group Insurance Program 1987 FY; and the General Land Office, Post, Buckley, Schuh, and Jernigan, Inc., Submerged Land Appraisal Methodology.

Issued in Austin, Texas on July 7, 1988.

TRD-8807007      Raymond Hitt  
                         Assistant State Librarian  
                         Texas State Library and Archives  
                         Commission

Filed: July 8, 1988

For further information, please call (512) 463-5440

## State Occupational Information Coordinating Committee

### Consultant Contract Award

This notice is filed in accordance with provisions of Texas Civil Statutes, Article 6252-11c. After publication of a request for proposals in the May 6, 1988, issue of the *Texas Register* (13 TexReg 2191), for the development and pilot test of an integrated statewide education and training tracking system, the Texas State Occupational Information Coordinating Committee selected Arthur Andersen and Company, 816 Congress Avenue, Suite 1500, Austin, Texas 78701, for the conduct of the project. The contract will begin July 1, 1988, and be conducted for a period of 14 months, ending August 31, 1989, unless extended or terminated as otherwise provided in the contract. The contractor will provide progress reports as determined by the SOICC Technical Steering Group and a final project report, due August 31, 1989, detailing the pilot

test, system outcomes, cost feasibility, including a state implementation plan, as well as all other technical documents developed as part of this study. The contract amount awarded shall not exceed \$238,000.

Issued in Austin, Texas on July 6, 1988.

TRD-8806978 Michael R. Fernandez  
Executive Director  
State Occupational Information Coordinating  
Committee

Filed: July 7, 1988

For further information, please call 463-2399

◆ ◆ ◆  
**Public Utility Commission of Texas**  
**Superseding Request of Comments in**  
**Review of Substantive Rule 23.27**

Public Utility Commission Substantive Rule 23.27(r), Texas Administrative Code, Title 16, §23.27 (1988), requires a review of the provisions of that section. Interested parties are invited to file comments, documentation, and/or evidence addressing the effect of §23.27 on the general body of ratepayers, and the effectiveness of the rule in enabling local exchange companies to meet competitive challenges in the statewide market.

Persons wishing to comment upon this matter should file their comments (11 copies) in writing by September 1, 1988, with the Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757. Reply comments (11 copies) are due October 3, 1988.

This request for comments supersedes that published in the July 12, 1988, edition of the *Texas Register*.

Issued in Austin, Texas on July 8, 1988.

TRD-8807050 Phillip A. Holder  
Secretary  
Public Utility Commission

Filed: July 8, 1988

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

◆ ◆ ◆  
**Commission on Purchases of Products**  
**and Services of Blind and Severely**  
**Disabled Persons**

**List of Suitable Products**

The purpose of the Commission on Purchases of Products and Services of Blind and Severely Disabled Persons is to further the state's policy of encouraging and assisting handicapped citizens to achieve maximum personal independence. This purpose is carried out by engaging in useful and productive activities to furnish products and services to state and local governments and to reduce institutionalization. Pursuant to §189.14, the committee shall publish a list of suitable products selected by the committee for placement in a catalog at least semiannually. The catalog contains information as to the product, delivery schedule, freight, and packaging. This catalog is available for public inspection at the Texas Commission for the Blind, 4800 North Lamar Boulevard, Austin, Attention: Mike Phillips, and at the State Purchasing and General Services Commission, LBJ State Office Building, Room 905, Austin, Attention: Ron Arnett.

Issued in Austin, Texas on July 7, 1988.

TRD-8807043 Charles Schiesser  
Assistant Commissioner  
Texas Rehabilitation Commission

Filed: July 8, 1988

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

◆ ◆ ◆  
**Texas Savings and Loan Department**  
**Notice of Application for Change of**  
**Control of an Association**

Texas Civil Statutes, Article 852a, §11.20, requires 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 July 6, 1988, the savings and loan commissioner received an application for approval of the acquisition of control of CitiSavings and Loan Association, San Antonio, Bexar County, by Paul J. Tillman, San Antonio.

Any inquiries may be directed to the Texas Savings and Loan Department.

Issued in Austin, Texas on July 6, 1988.

TRD-8806994 Laura M. Hale  
General Counsel  
Texas Savings and Loan Department

Filed: July 7, 1988

For further information, please call (512) 479-1250

◆ ◆ ◆  
**Teacher Retirement System of Texas**  
**Consultant Contract Award**

This contract award is filed in accordance with Texas Civil Statutes, Article 6252-11c.

After publication of a consultant proposal request in the March 15, 1988, issue of the *Texas Register* (13 TexReg 1283), the Teacher Retirement System of Texas has contracted with Deloitte, Haskins, and Sells, 50 California Street, San Francisco, California 94111, to provide the system an analysis of performance, cost, and related benefits of the use of outside real estate advisors versus in-house personnel or other alternatives. The contract amount awarded is \$40,000.

The contract beginning date is June 30, 1988, and the contract ending date is January 1, 1989, unless terminated as otherwise provided in the contract. The finished final report is due on or before January 1, 1989.

Issued in Austin, Texas on July 7, 1988.

TRD-8807006 Bruce Hineman  
Executive Secretary  
Teacher Retirement System of Texas

Filed: July 8, 1988

For further information, please call (512) 397-6478

◆ ◆ ◆  
**Texas State University System Board**  
**of Regents**  
**Request for Proposal**

The Board of Regents, Texas State University System is requesting proposals from firms wishing to serve as bond counsel or financial advisor to the board and the system universities.

Proposals are due on July 29, 1988, at 3 p.m. The award will be based upon past experience, knowledge of Texas public university financing, and consideration of proposed fees.

The specific requirements and criteria to be addressed in the proposal can be obtained by writing or calling the office of the Board of Regents, Texas State University System, 505 Sam Houston Building, Austin, Texas 78701, (512) 463-1808.

The Texas State University System is an equal opportunity employer and encourages the participation of women and minorities.

Issued in Austin, Texas on July 5, 1988.

TRD-8807064      Lamar G. Urbanovsky  
Executive Director  
Texas State University System Board of Regents

Filed: July 8, 1988

For further information, please call (512) 463-1808

◆            ◆            ◆  
**United States Department of Energy**  
**Environmental Impact Draft Review**

On January 22, 1988, the Department of Energy (DOE) issued a Notice of Intent (53 FR 1821) to prepare an Environmental Impact Statement (EIS) for the Superconducting Super Collider (SSC) and to conduct scoping meetings in the vicinity of each of the seven sites identified on the best qualified list. Both oral comments and written comments on the scope of the EIS were received during the scoping period. These comments are being considered by DOE in preparing the draft EIS, which is scheduled to be available for public review and comment in August 1988.

A mailing list of over 11,000 individuals, organizations, and other agencies has been developed for the SSC EIS. The draft EIS, excluding appendices, will be approximately 350 pages long. Appendices to the draft EIS will be included in a separate volume expected to be in excess of 4,000 pages. In order to provide the pertinent environmental information to as many persons as reasonably possible, it is the DOE's intent to distribute the draft EIS and appendices to other federal agencies with jurisdiction by law or with special expertise and to any appropriate federal, state, or local environmental regulatory agency. The DOE also will provide multiple copies of the draft EIS and appendices to each of the DOE public reading rooms and community libraries identified in the January 22, 1988, Notice of Intent. A copy of the draft EIS without the appendices will be provided to all other parties on the mailing list.

In accordance with the National Environmental Policy Act, Council on Environmental Quality Regulations, §1502.18(d), for implementing the department will furnish a copy of the appendices to any person, organization, or agency submitting a written request for the additional document. Such requests should be submitted as soon as possible after receipt and consideration of the information contained in the EIS. Requests for the appendices should be submitted to: Dr. Wilmot Hess, Chairman, SSC Site Task Force, ER-65, GTN, Office of Energy Research, United States Department of Energy, Washington, DC 20545.

Issued in Austin, Texas on June 10, 1988.

TRD-8806876      Ernest C. Baynard, III  
Assistant Secretary  
United States Department of Energy

Filed: July 6, 1988

◆            ◆            ◆

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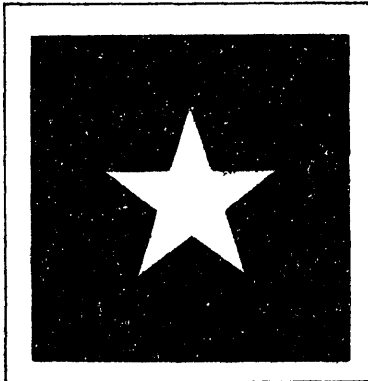
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