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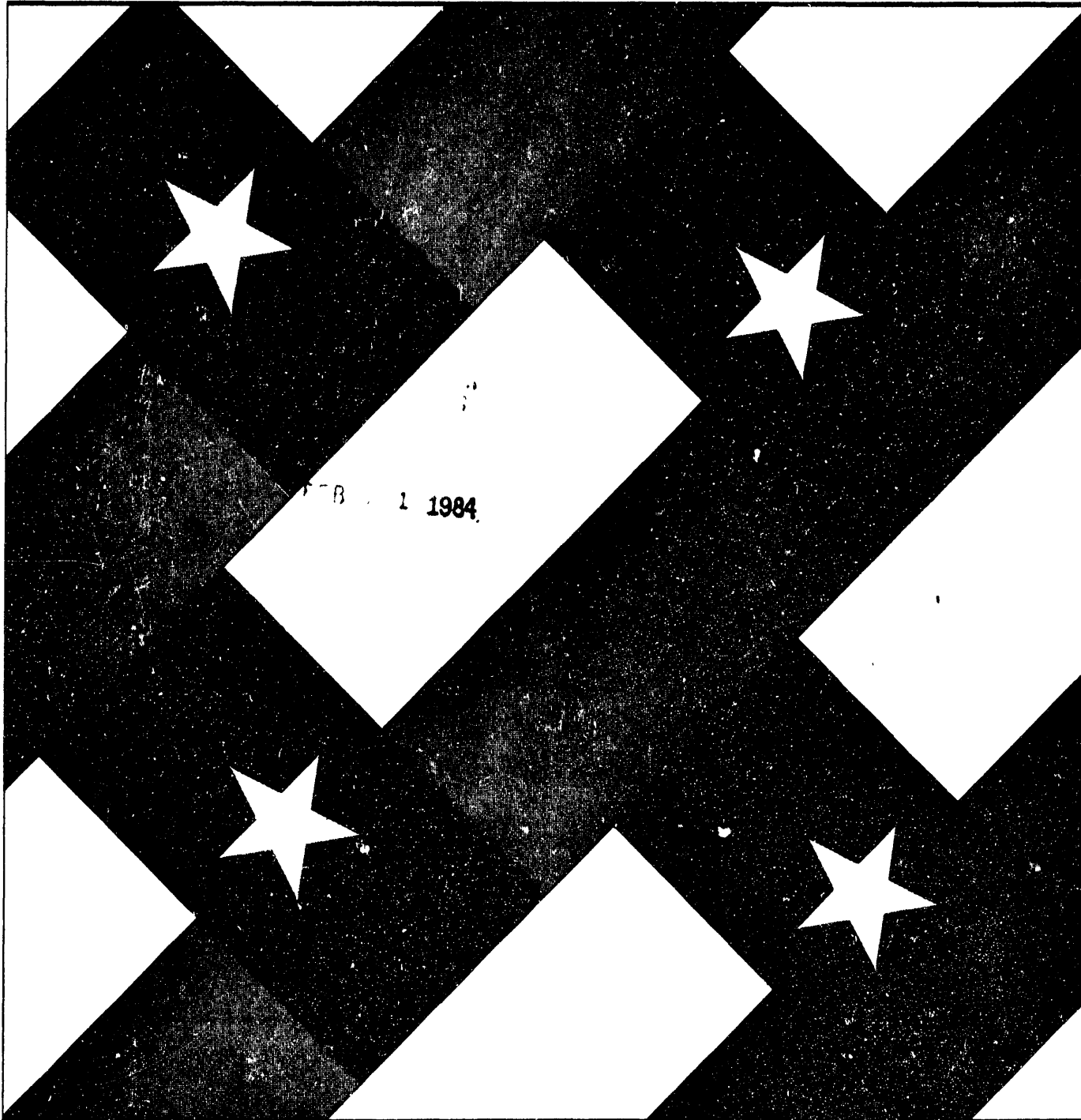
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# Texas Register

Volume 9, Number 12, February 17, 1984

Pages 953 - 1066



## Highlights

The Comptroller of Public Accounts adopts on an emergency basis amendments concerning due dates for assessment  
 Effective date - February 10 page 960

The Texas Education Agency proposes for permanent adoption new sections in a chapter concerning teacher certification  
 Proposed date of adoption - April 14 page 961

The State Board of Insurance proposes new sections concerning agents' licensing. Earliest possible date of adoption - March 19 page 972

**Office of  
 the Secretary  
 of State**

# How To Use the Texas Register

## Texas Register

The *Texas Register* (ISN 0362-4781) is published twice a week at least 100 times a year. Issues will be published on every Tuesday and Friday in 1984 with the exception of January 28, July 10, November 27, and December 28, by the Office of the Secretary of State, 201 East 14th Street, P.O. Box 13824, Austin, Texas 78711-3824, (512) 475-7886.

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

- Governor—appointments, executive orders, and proclamations
- Secretary of State—summaries of opinions based on election laws
- State Ethics Advisory Commission—summaries of requests for opinions and opinions
- Attorney General—summaries of requests for opinions, opinions, and open records decisions
- Emergency Rules—rules adopted by state agencies on an emergency basis
- Proposed Rules—rules proposed for adoption
- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date
- Adopted Rules—rules 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 explanations on the contents of each section can be found on the beginning page of the section. The division also publishes monthly, 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 "9 Tex-Reg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 9 Tex-Reg 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 by using *Register* indexes, the *Texas Administrative Code* (explained below), rule 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 rule 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* (a listing of all the titles appears below).

TAC stands for the *Texas Administrative Code*.

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

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Latest Texas Code Reporter  
(Master Transmittal Sheet) No. 10, December 1982

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As required by Texas Civil Statutes, Article 6252-13a, §6, the *Register* publishes executive orders issued by the Governor of Texas. Appointments made and proclamations issued by the governor 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) 475-3021.

# The Governor

## Appointments Made February 6

### Texas Planning Council for Development Disabilities

For terms to expire February 1, 1989:

Patricia McCallum  
815 High School  
Seagoville, Texas 75159

Ms. McCallum is replacing Mrs. Leon Polzin of Cuero, whose term expired

Ward R. Burke  
109 Erwin  
Lufkin, Texas 75901

Mr. Burke is being appointed to a newly created position as a nongovernmental agency representative on the council pursuant to House Bill 1895, 68th Legislature, 1983.

Opal Hatch Washington  
1214 East Seventh Street  
Austin, Texas 78702

Ms. Washington is replacing Mary Farmer Brock of Dallas, whose term expired.

Diana Fricke  
617 Seventh Avenue  
Fort Worth, Texas 76104

Ms. Fricke is being appointed to a newly created position as a citizen group representative on the council pursuant to House Bill 1985, 68th Legislature, 1983.

Issued in Austin, Texas, on February 6, 1984

TRD-841778-      Mark White  
841781            Governor of Texas

### Texas Employment Commission

For a term to expire November 21, 1986:

Ronald E. Luna  
1383 Old Lockhart Road  
Buda, Texas 78610

Mr. Luna is replacing Richard Mellado of El Paso, who resigned.

Issued in Austin, Texas, on February 6, 1984

TRD-841782      Mark White  
                      Governor of Texas

# The Attorney General

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 may be held from public disclosure.

Requests for opinions, opinions, and open record decisions are summarized for publication in the *Register*.

Questions on particular submissions, or requests for copies of opinion requests should be addressed to Susan L. Garrison, Opinion Committee chairwoman, Office of the Attorney General, Supreme Court Building, Austin, Texas 78711, (512) 475-5445. Published opinions and open records decisions may be obtained by addressing a letter to the file room, fourth floor, P.O. Box 12548, Austin, Texas 78711-2548, or by telephoning (512) 475-3744. A single opinion is free, additional opinions are \$1.00 a copy.

## Requests for Opinions

**RQ-276.** Request from Henry Wade, district attorney, Dallas, concerning competitive bidding requirements under Texas Civil Statutes, Article 2367.  
TRD-841656

**RQ-277.** Charles E. Nemir, executive director, Texas Department of Water Resources, Austin, concerning the validity of the agreement between the City of Denison and the Greater Texoma Utility Authority.  
TRD-841657

**RQ-278.** Request from Henry Wade, district attorney, Dallas, concerning whether a county auditor may review expense statements of a presiding probate judge.  
TRD-841658

**RQ-279.** Request from Senator Oscar H. Mauzy, chairman, Senate Committee on Jurisprudence, Austin, concerning whether a county commissioner may be appointed to the Texas Sesquicentennial Commission.  
TRD-841659

**RQ-280.** Request from Mark White, governor of Texas, State Capitol, Austin, concerning the state's authority to destroy privately-owned starving or diseased animals.  
TRD-841660

**RQ-281.** Request from James Warren Smith, Jr., Pearsall, concerning whether charging excessive fees for copies of public documents constitutes an offense under the Open Records Act.  
TRD-841661

**RQ-282.** Request from Charles D. Travis, Texas Parks and Wildlife Department, Austin, concerning the validity of an award of a construction contract by a home rule city to the second lowest bidder.  
TRD-841662

**RQ-283.** Request from Floyd Criss, chairman, Committee on Labor and Employment Relations, House of Representatives, Austin, concerning the authority of the administrator of the Texas Employment Commission with regard to contracts and expenditure of funds.  
TRD-841663

**RQ-284.** Request from Troy Salmas, chairman, State, Federal, and Internal Relations Committee, Texas House of Representatives, Austin, concerning collective bargaining by state employees.  
TRD-841756

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

An agency must submit written reasons, published in the *Register*, for emergency action on a rule. The submission must also include a statement of the legal authority under which the emergency action is promulgated and the text of the emergency adoption. Following each published emergency document is certification information containing the effective and expiration dates of the action and a telephone number from which further information may be obtained.

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

# Emergency Rules

## TITLE 10. COMMUNITY DEVELOPMENT

### Part I. Texas Department of Community Affairs

### Chapter 11. Economic Opportunity

#### 10 TAC §11.1

The Texas Department of Community Affairs (TDCA) adopts on an emergency basis new §11.1, concerning the administration of contracts awarded under the State Emergency Food and Shelter Program. The new section governs monthly reporting requirements, audit procedures, and certain ineligible costs under such contracts.

The section is adopted on an emergency basis because TDCA is providing funds, awarded by the Federal Emergency Management Agency (FEMA), for contracts to provide emergency food and shelter to needy individuals in areas of high unemployment. The Federal Emergency Management Agency requires that all such funds must be expended prior to March 31, 1984. It is essential that the TDCA adopt this rule on an emergency basis to coincide with FEMA requirements for the expenditure of funds. Adoption of this rule will temporarily alleviate or reduce the imminent peril to public health, safety, and welfare due to hunger and the lack of adequate shelter.

This section will establish certain variations from the Uniform Grant and Contract Management Standards adopted by the Office of the Governor in 1 TAC §§5.141-5.167. The variations are required so that the administration of contracts under the State Emergency Food and Shelter Program will comply with federal regulations published by the FEMA at 48 FedReg 21830 (May 13, 1983), pursuant to the Emergency Job Appropriations Act of 1983 (Public Law 98-8, Title 1, March 24, 1983).

This new section is adopted on an emergency basis under the authority of Texas Civil Statutes, Article 4413(32g), §6, which require the TDCA to establish variations from the Uniform Grant and Contract Management Standards through rule making, if such variations are required or specifically authorized by federal statute or regulation or by state statute.

#### §11.1. *Contracts Administration.*

(a) **Purpose.** The purpose of this rule is to establish variations from the Uniform Grant and Contract Management Standards (UGCMS) adopted by the Office of the Governor in 1 TAC §§5.141-5.167.

(b) **Applicability.** This rule applies to entities which are awarded a contract under the State Emergency Food and Shelter Program.

#### (c) **Variations.**

(1) Federal program regulations at 48 FedReg 21830 (May 13, 1983), concerning monthly reporting requirements, supersede §5.159 and §5.160 of the UGCMS.

(2) Federal program regulations at 48 FedReg 21835 (May 13, 1983), concerning audit procedures, supersede §5.167 of the UGCMS.

(3) Federal program regulations at 48 FedReg 21831 (May 13, 1983), concerning ineligible costs, supersede §5.150 of the UGCMS, but only to the extent that Office of Management and Budget Circular A-87, as adopted by reference in §5.150 of the UGCMS, would allow such costs to be incurred.

Issued in Austin, Texas, on February 9, 1984

TRD-841712

Douglas C. Brown  
General Counsel  
Texas Department of Community  
Affairs

Effective date: February 9, 1984

Expiration date: June 8, 1984

For further information, please call (512) 443-4100,  
ext. 210.

**TITLE 34. PUBLIC FINANCE  
Part I. Comptroller of Public  
Accounts**

**Chapter 3. Tax Administration  
Subchapter U. Miscellaneous Tax  
Division—Public Utility Gross Receipts  
Tax**

**34 TAC §3.511**

The Comptroller of Public Accounts adopts on an emergency basis amendments to §3.511, concerning due dates for assessment. The amendments change the due date for reports and payments of the public utility gross receipts assessment to reflect the change made in the statute by Senate Bill 986, 68th Legislature, 1983. The amendments also change the period of assessment for quarterly taxpayers to calendar quarters and for annual filers to July 1 through June 30. The interest rate for delinquent taxes is increased from 6.0% to 10%. The amendments are adopted on an emergency basis so that the affected utility companies will have notice of the change prior to the first payment due date of February 15, 1984

These amendments are adopted under the authority of Texas Civil Statutes, Article 1446C, which provide that the comptroller will collect and administer the Public Utility Gross Receipts Tax

**§3.511. Due Date For Assessment [Reports, Due Dates].**

(a) The tax assessment imposed by Texas Civil Statutes, Article 1446c, §78, is due and payable on August 15 [31] of each year. The payment and the report on the form prescribed by the comptroller of public accounts will be considered timely if received by the comptroller or postmarked no later than midnight on August 15 [31]. The report due on August 15 [31] of each year is for the reporting period July [June] 1 of the prior year through June 30 [May 31] of the current year

(b) A taxpayer subject to the tax assessment may elect to make payments of the tax on a quarterly basis. An election to do so must be in writing and be received by the comptroller at least 30 days prior to August 15 [31]. If an election is made, the tax for the applicable quarters is due and payable as follows

Report Due Date	Reporting Period
August 15 [31]	April [March] 1 through June 30 [May 31]
November 15 [30]	July [June] 1 through September 30 [August 31]
February 15 [28]	October [September] 1 through December 31 [November 30]
May 15 [31]	January [December] 1 through March 31 [February 28]

(c) All payments and reports postmarked, or received if not mailed, after the due date are late, and a penalty of 10% of the tax is due. Interest at a rate of 10% per year [one-half of 1.0% per month] is due if the payment and the report are more than [not postmarked within] 30 days delinquent [of the date due]

(d) In order to adjust to the new assessment periods, the annual report due August 15, 1984, must be based on gross receipts for the period from June 1, 1983, through June 30, 1984. The quarterly report due on February 15, 1984, must be based on gross receipts for the period from September 1, 1983, through November 30, 1983. The quarterly report due on May 15, 1984, must be based on gross receipts for the period from December 1, 1983, through March 31, 1984. Any taxpayer who includes receipts from December 1983 in the report due on February 15, 1984, may exclude those receipts from the report due on May 15, 1984.

Issued in Austin, Texas, on February 10, 1984

TRD-841791      Bob Bullock  
Comptroller of Public Accounts

Effective date February 10, 1984  
Expiration date June 9, 1984  
For further information, please call (512) 475-1932

**Subchapter V. Bingo Regulation Division  
34 TAC §3.541**

The Comptroller of Public Accounts is renewing the effectiveness of the emergency adoption of amendments to §3.541 for a 60-day period effective February 8, 1984. The amendments originally were adopted on an emergency basis in the October 25, 1983, issue of the *Texas Register* (8 TexReg 4392).

Issued in Austin, Texas, on February 8, 1984

TRD-841648      Mark Weiss  
Director of Hearings  
Comptroller of Public Accounts

Effective date February 8, 1984  
Expiration date April 8, 1984  
For further information, please call (512) 475-7000





Before an agency may permanently adopt a new or amended rule, or repeal an existing rule, a proposal detailing the action must be published in the *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 rule. A public hearing on the proposal may also be granted if such a procedure is requested by a governmental subdivision or agency, or by an association consisting of at least 25 members.

The proposal, as published in the *Register*, must include a brief explanation of the proposed action, a fiscal statement indicating effect on state or local government, a statement explaining anticipated public benefits and possible economic costs to individuals required to comply with the rule, a request for public comments; a statement of statutory authority under which the proposed rule is to be adopted (and the agency's interpretation of the statutory authority), the text of the proposed action, and a certification statement. The certification information, which includes legal authority, the proposed date of adoption or the earliest possible date that the agency may file notice to adopt the proposal, and a telephone number to call for further information, follows each submission.

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

# Proposed Rules

## TITLE 19. EDUCATION Part II. Texas Education Agency Chapter 141. Teacher Certification Subchapter T. 1984 Requirements for Provisional Certificates and Specialized Assignments or Programs

19 TAC §§141.451-141.455

The Texas Education Agency proposes new Chapter 141, Subchapter T, which contains the requirements for provisional teacher certificates and specialized assignments or programs. These requirements are recommended by the Commission on Standards for the Teaching Profession.

Section 141.451 contains general requirements applicable to all certificates issued under the subchapter. Section 141.452 describes specific requirements for provisional certificates and endorsements. To avoid duplication of information for those certificates based on an approved college program, the rules refer to the program requirements for the program leading to each certificate. Section 141.453 sets out specific requirements for provisional vocational certificates based on experience and preparation in the skill area, rather than on an approved college program. Section 141.454 sets out the eligibility requirements to teach in specialized assignments or programs. Section 141.455 specifies that the effective date of the rules in this new subchapter is September 1, 1985.

Section 141.451 concerns general provisions. Provisional certificates and endorsements based on com-

pletion of an approved teacher education program require completion of the baccalaureate degree (plus preparation and experience in a skill area for certain vocational certificates), recommendation by an approved teacher education institution, and submission of a passing score on a comprehensive examination prescribed by the State Board of Education.

Provisional vocational certificates based on experience and preparation in a skill area require completion of the required preparation and experience, submission of transcripts verifying that requirements have been completed, and a passing score on a comprehensive examination prescribed by the State Board of Education. The provisional certificate is valid for three years, renewable once.

Section 141.452, concerning specific requirements for provisional certificates and endorsements lists those provisional certificates for which persons must complete an approved teacher education program. These are provisional teacher certificate—elementary; provisional teacher certificate—secondary; provisional teacher certificate—all-level; provisional special education certificates, and provisional vocational agriculture certificate.

The rule then lists those vocational certificates which require either completion of an approved teacher education program or completion of requirements based on experience and preparation in the skill area. These are provisional vocational home economics certificate, and provisional vocational marketing and distributive education certificate.

All endorsements require completion of an approved program offered in accordance with § 137.559 of this title, concerning endorsements.

Section 141.453, concerning specific requirements for provisional vocational certificates based on experience and preparation in skill areas, sets out specific preparation and experience requirements for provisional vocational health occupations certificates, provisional vocational home economics—pre-employment laboratory certificates, provisional vocational marketing and distributive education certificates, provisional vocational office education certificates; provisional vocational occupational orientation certificates, provisional vocational trades and industry—cooperative training certificates, and provisional vocational trades and industry—pre-employment laboratory certificates.

In each instance, the rule specifies educational requirements, licensure requirements, and years of employment experience required. These requirements are generally summarized here, but readers are requested to refer to the text of the rule itself for the precise requirements for each certificate.

The vocational health occupations certificate requires a bachelor's degree or demonstrated teaching and coordinating ability, licensure in a health occupation in which instruction is offered, completion of requirements in the study of U.S. and Texas Constitutions, two years of approved employment, two years of teaching experience, and completion of the professional development component which is 14-18 semester hours covering specified topics.

The provisional vocational home economics pre-employment laboratory certificate requires a bachelor's degree, completion of study of the U.S. and Texas Constitutions, three years of approved work experience, completion of 24 semester hours of professional development as specified in the rule, two years of teaching experience, and completion of six semester hours or two Texas Education Agency-sponsored workshops as specified in the rule.

The provisional marketing and distributive education certificate based on preparation and experience in the skill area requires a bachelor's degree, U.S. and Texas Constitution, two years of approved work experience, 12 semester hours of professional development, and two years of teaching experience.

The provisional vocational office education certificate requires a bachelor's degree, U.S. and Texas Constitutions, and two years of approved work experience.

The provisional vocational office education certificate-coordinated vocational academic education/vocational education for the handicapped requires either a bachelor's degree and two years of work experience or a high school diploma or equivalent and five years of work experience.

The provisional vocational data processing certificate requires either a bachelor's degree and two years of experience or a high school diploma, two years of

postsecondary education, and three years of experience. All provisional vocational office certificates also require completion of the specified professional development sequence and U.S. and Texas Constitutions.

The provisional vocational occupational orientation certificate requires a bachelor's degree, Texas and U.S. Constitutions, work experience as specified, and professional development including two years of teaching experience.

The provisional vocational trades and industry cooperative training certificate requires a bachelor's degree, Texas and U.S. Constitutions, two years of teaching experience or other leadership experience, and three years of work experience. Requirements for provisional vocational trades and industry coordinated vocational academic education/co-op and vocational education for the handicapped/co-op are similar except for two years of work experience are required. All require completion of the professional development sequence, including two years of teaching experience.

Provisional vocational trades and industry—pre-employment laboratory certificates offer options based on either a bachelor's degree plus three years of work experience, or a high school diploma or equivalent plus five years of work experience. All require completion of the professional development sequence.

Section 141.454, concerning eligibility requirements for specialized assignments or programs, contains requirements which must be met for vocational adjustment coordinator, vocational agriculture—ornamental horticulture, vocational agriculture—cooperative training, vocational agriculture—pre-employment laboratory, vocational home economics—cooperative training, and vocational home economics—pre-employment laboratory.

Additional certificates or endorsements are not issued for the special assignments described in this section.

Section 141.455 concerns effective date. The effective date of this subchapter will be September 1, 1985. No new college plans or Texas Education Agency evaluations based on previous standards may be prepared after that date. Individuals pursuing requirements for provisional certificates or special assignments or programs must complete all requirements and apply for certification by September 1, 1987.

Richard Bennett, associate commissioner for finance, has determined that there will be no fiscal implications for state or local governments or small businesses as a result of enforcing or administering the rules.

Dr. Beverly J. Bardsley, director for policy development, and Mr. Bennett have determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed is clarification of requirements for certification for nondegreed vocational teachers. Reduction in the number of separate certificates issued, since some of what were previously

issued as separate certificates are treated in the new rules as additional requirements for special assignments. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed

Comments on the proposal may be submitted to Dr. Beverly J Bardsley, Director for Policy Development, 201 East 11th Street, Austin, Texas 78701, (512) 475-7077. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*

These new sections are proposed under the authority of the Texas Education Code, §13.032(a), which authorizes the State Board of Education to make rules concerning the issuance of teacher certificates and standards and procedures for the approval or disapproval of colleges and universities offering programs of teacher education

**§141.451 General Provisions.**

(a) Provisional teacher certificates, provisional special education certificates, provisional vocational certificates, and endorsement areas based on completion of an approved teacher education program shall require:

(1) completion of at least a baccalaureate degree and, for certain vocational certificates, preparation and experience in a skill area as specified;

(2) recommendation by an approved teacher education institution, and

(3) submission of a satisfactory passing score on a comprehensive examination prescribed by the State Board of Education under the provisions of §141.421 of this chapter (relating to Testing Requirements).

(b) Provisional vocational certificates based on experience and preparation in a skill area shall require:

(1) preparation and experience in a skill area and, for certain vocational certificates, completion of a baccalaureate degree;

(2) submission of official transcripts which verify completion of all State Board of Education requirements; and

(3) for each certificate requiring completion of an approved teacher education program, submission of a satisfactory passing score on a comprehensive examination prescribed by the State Board of Education under the provisions of §141.421 of this chapter (relating to Testing Requirements)

(c) In accordance with §141.2(b) of this chapter (relating to Classes of Certificates), the provisional certificate shall be valid for three years and renewable once for three additional years of validity. Renewal of provisional vocational certificates based on experience and preparation in a skill area shall require completion of two Central Education Agency-sponsored workshops or six semester hours from an approved institution or a combination. Workshops or courses completed to renew a provisional vocational certificate must be in the area of the certificate or assignment.

(d) The addition to a provisional certificate of a new certification area which requires completion of an approved teacher education program shall require submission of a satisfactory passing score on a comprehensive examination prescribed by the State Board of Education under the provisions of §141.421 of this chapter (relating to Testing Requirements). The expiration date for a certificate area added under this provision shall be the expiration date of the provisional certificate to which the area is added

**§141.452. Specific Requirements for Provisional Certificates and Endorsements.**

(a) The following certificates require completion of an approved teacher education program:

(1) Provisional teacher certificate—elementary. This certificate is based on completion of an approved program offered in accordance with §137.552 of this title (relating to Provisional Teacher Certificate—Elementary).

(2) Provisional teacher certificate—secondary. This certificate is based on completion of an approved program offered in accordance with §137.553 of this title (relating to Provisional Teacher Certificate—Secondary).

(3) Provisional teacher certificate—all-level. This certificate is based on completion of an approved program offered in accordance with §137.554 of this title (relating to Provisional Teacher Certificate—All-Level).

(4) Provisional special education certificates. This certificate is based on completion of an approved program offered in accordance with §137.555 of this title (relating to Provisional Special Education Certificates).

(5) Provisional vocational agriculture certificate. This certificate is based on completion of an approved program offered in accordance with §137.556 of this title (relating to Provisional Vocational Agriculture Certificate)

(b) The following certifications require either completion of an approved teacher education program or completion of requirements based on experience and preparation in the skill area:

(1) Provisional vocational home economics certificate. This certificate requires one of the following:

(A) completion of an approved program offered in accordance with §137.557 of this title (relating to Provisional Vocational Home Economics Certificate); or

(B) completion of requirements in §141.453(b) of this title (relating to Specific Requirements for Provisional Vocational Certificates Based on Experience and Preparation in Skill Areas).

(2) Provisional vocational marketing and distributive education certificate. This certificate requires one of the following:

(A) completion of an approved program offered in accordance with §137.558 of this title (relating to Provisional Vocational Marketing and Distributive Education Certificate); or

(B) completion of requirements in §141.453(b) of this title (relating to Specific Requirements for Provisional Vocational Certificates Based on Experience and Preparation in Skill Areas).

(c) All endorsements require completion of an approved program offered in accordance with §137.559 of this title (relating to Endorsements).

**§141.453. Specific Requirements for Provisional Vocational Certificates Based on Experience and Preparation in Skill Areas.**

(a) Provisional vocational health occupations certificates.

(1) Provisional vocational health occupations certificates shall be based on preparation and experience in the skill area. There shall be two types of vocational health occupations certificates.

(A) provisional vocational health occupations/cooperative training; and

(B) provisional vocational health occupations/pre-employment laboratory

(2) Certification shall be based on experience and academic preparation in the skill area and shall require all of the following:

(A) Bachelor's degree from an accredited institution or demonstrated ability to teach, coordinate, and manage student learning experiences

(B) Licensure or certification by a state authorized or nationally recognized accrediting agency as a professional practitioner in one or more health occupations for which instruction is offered. The preparation program for licensure or certification must require at least 24 months of formal education.

(C) Completion of State Board of Education requirements in United States and Texas constitutions

(D) Two years of employment experience approved by the Central Education Agency in a licensed hospital or health agency, in addition to that required to be registered or certified

(3) The professional development component for each certification area shall consist of 14-18 semester hours completed in an approved institution and two years of teaching experience on emergency teaching permits in the area of health occupations

(A) The provisional vocational health occupations/cooperative training certificate shall require a professional development sequence which shall include, but need not be limited to, the following

(i) development, organization, and use of instructional materials,

(ii) methods of teaching vocational subjects;

(iii) human relations for vocational industrial instructors,

(iv) aims and objectives of vocational education;

(v) organization and coordination of vocational industrial cooperative programs, and

(vi) problems in industrial cooperative education.

(B) The provisional vocational health occupations/pre-employment laboratory certificate shall require a professional development sequence which shall include, but need not be limited to, the following

(i) development, organization, and use of instructional materials;

(ii) methods of teaching vocational subjects;

(iii) human relations for vocational industrial instructors,

(iv) aims and objectives of vocational education;

(v) organization and management of instructional environment; and

(vi) analysis and course making

(b) Provisional vocational home economics—pre-employment laboratory certificate

(1) The provisional vocational home economics—pre-employment laboratory certificate shall be based on preparation and experience in the skill area and shall require

(A) bachelor's degree from an accredited institution;

(B) completion of State Board of Education requirements in United States and Texas Constitutions;

(C) three years of wage-earning experience approved by the Central Education Agency in one of the occupations for which instruction is offered,

(D) completion of the 24 semester hour professional development sequence required for the provisional vocational home economics certificate from an institution with an approved program in vocational home economics;

(E) two years of teaching experience on emergency teaching permits issued by the Central Education Agency, and

(F) completion of two Central Education Agency-sponsored workshops for teachers assigned to pre-employment laboratory, coordinated vocational-academic education (CVAE), or vocational education for the handicapped (VEH) in vocational home economics or completion of six semester hours of specified upper-division technical home economics education courses from an approved institution in the area of occupational home economics, including working with students with special needs. The six semester hours shall be in addition to the specified 24 semester hours of professional development

(2) Assignments based on this certificate shall be limited to pre-employment laboratory, coordinated vocational-academic education, and vocational education for the handicapped programs in vocational home economics

(c) Provisional vocational marketing and distributive education certificate

(1) The provisional vocational marketing and distributive education certificate may be based on the program requirements described in §137.558 of this title (relating to Provisional Vocational Marketing and Distributive Education Certificate) or preparation and experience in the skill area

(2) Certification based on preparation and experience in the skill area shall require

(A) completion of a bachelor's degree from an accredited institution with evidence of six semester hours of courses in retailing and marketing,

(B) completion of State Board of Education requirements in United States and Texas Constitutions;

(C) two years of wage-earning experience approved by the Central Education Agency in one or more of the distributive occupations;

(D) completion of 12 semester hours of professional development from an institution with an approved program in marketing and distributive education

which must include, but need not be limited to, the following:

- (i) history and philosophy of education;
  - (ii) methods of teaching marketing and distributive education,
  - (iii) organization and management of marketing and distributive education programs; and
  - (iv) techniques for coordination of marketing and distributive education programs; and
- (E) two years of teaching experience on emergency teaching permits in the area of marketing and distributive education.

(3) The provisional vocational marketing and distributive education certificate shall establish eligibility to teach cooperative training, pre-employment laboratory, and vocational educational for the handicapped in marketing and distributive education.

(d) Provisional vocational office education certificates.

(1) Certificates issued Provisional vocational office education certificates shall be based on preparation and experience in the skill area and professional development. There shall be three certificates issued:

(A) provisional vocational office education certificate, which shall be required to teach cooperative training and pre-employment laboratory programs;

(B) provisional vocational office education—CVAE/VEH certificate, which shall be required to teach CVAE and VEH programs; and

(C) provisional vocational data processing certificate, which shall be required to teach cooperative training and pre-employment laboratory programs in data processing.

(2) Academic specialization.

(A) Provisional vocational office education certificate. This certificate requires the following:

(i) bachelor's degree with the equivalent of a major or minor in business from an accredited institution;

(ii) completion of State Board of Education requirements in United States and Texas Constitutions; and

(iii) two years of wage-earning experience approved by the Central Education Agency in office occupations

(B) Provisional vocational office education—CVAE/VEH certificate.

(i) Option I Option I requires the following:

(I) bachelor's degree from an accredited institution;

(II) completion of State Board of Education requirements in United States and Texas Constitutions; and

(III) two years of wage-earning experience approved by the Central Education Agency in office occupations.

(ii) Option II. Option II requires the following:

(I) high school diploma or equivalent;

(II) completion of State Board of Education requirements in United States and Texas Constitutions; and

(III) five years of approvable and successful wage-earning experience approved by the Central Education Agency in office occupations.

(C) Provisional vocational data processing certificate.

(i) Option I. Option I requires the following:

(I) bachelor's degree from an accredited institution;

(II) completion of State Board of Education requirements in United States and Texas Constitutions; and

(III) two years of wage-earning experience approved by the Central Education Agency in data processing, one of which must be continuous and full-time.

(ii) Option II. Option II requires the following:

(I) high school diploma or equivalent;

(II) completion of State Board of Education requirements in United States and Texas Constitutions;

(III) two years of post-high school education or training in technical, scientific, or mathematical fields; and

(IV) three years of wage-earning experience approved by the Central Education Agency in data processing, one of which must be continuous and full-time

(3) Professional development. The professional development component for each certification area shall be completed in an approved institution and shall include the following:

(A) Provisional vocational office education certificate. This certificate requires the following:

(i) completion of a minimum of 12 semester hours of professional development, which must include, but need not be limited to:

(I) instructional strategies;

(II) history and philosophy of vocational education;

(III) occupational analysis, and

(IV) organization and implementation of cooperative office education;

(ii) completion of Central Education Agency-sponsored workshop in management of vocational office education programs, and

(iii) two years of successful teaching experience on emergency teaching permits in the area of vocational office education.

(B) Provisional vocational office education—CVAE/VEH certificate. This certificate requires the following.

(i) completion of a minimum of nine semester hours of professional development, which must include, but need not be limited to:

(I) instructional strategies,

(II) history and philosophy of vocational education; and

(III) occupational analysis;

(ii) completion of two Central Education Agency-sponsored workshops in the following:

(I) management of vocational office education; and

(II) teaching procedures and machines;  
and

(iii) two years of successful teaching experience on emergency teaching permits in the area of vocational office education.

(C) Provisional vocational data processing certificate. This certificate requires the following:

(i) completion of a minimum of nine semester hours of professional development, which must include, but need not be limited to:

(I) instructional strategies;

(II) history and philosophy of vocational education; and

(III) occupational analysis;

(ii) completion of Central Education Agency-sponsored workshop in management of vocational office education programs; and

(iii) two years of successful teaching experience on emergency teaching permits in vocational data processing

(e) Provisional vocational occupational orientation certificate.

(1) General provisions. The provisional vocational occupational orientation certificate shall be based on preparation and experience in occupational fields for which vocational education is offered and professional development.

(2) Academic specialization.

(A) bachelor's degree from an accredited institution;

(B) completion of State Board of Education requirements in United States and Texas Constitutions; and

(C) work experience as indicated for approval to teach the following:

(i) occupational investigation—two years of wage-earning experience, other than teaching, approved by the Central Education Agency in one or more occupations for which occupational education may be conducted

(ii) occupational exploration—two years of wage-earning experience, other than teaching, approved by the Central Education Agency in the occupational field or cluster for which instruction is offered.

(3) Professional development. The professional development component shall be completed in an approved institution and shall require:

(A) completion of 15 semester hours, which must include, but need not be limited to:

(i) history and principles of vocational education;

(ii) methods and media for teaching vocational subjects;

(iii) occupational and vocational education information;

(iv) planning and organizing programs of vocational guidance; and

(v) class and laboratory organization and management; and

(B) two years of successful teaching experience on emergency teaching permits in the area of vocational occupational orientation.

(f) Provisional vocational trades and industry—cooperative training certificates.

(1) Types of certificates. Provisional vocational trades and industry certificates shall be based on preparation and experience in the skill area or areas and professional development. There shall be three certificates issued for vocational trades and industry cooperative training programs:

(A) provisional vocational trades and industry—cooperative training.

(B) provisional vocational trades and industry—CVAE/co-op; and

(C) provisional vocational trades and industry—VEH/co-op.

(2) Academic specialization.

(A) Provisional vocational trades and industry—cooperative training. This certificate requires the following:

(i) bachelor's degree from an accredited institution;

(ii) completion of State Board of Education requirements in United States and Texas Constitutions;

(iii) two years of teaching experience in a secondary school or other leadership experience and training, together with the maturity needed to perform satisfactorily as a teacher-coordinator; and

(iv) three years of full-time wage-earning experience approved by the Central Education Agency in one or more industrial occupations or skilled trades. One year must be continuous employment in a single occupation or trade.

(B) Provisional vocational trades and industry—CVAE/co-op and provisional vocational trades and industry—VEH/co-op. This certificate requires the following:

(i) bachelor's degree from an accredited institution;

(ii) completion of State Board of Education requirements in United States and Texas Constitutions;

(iii) two years of teaching experience in a secondary school or other leadership experience and training, together with the maturity needed to perform satisfactorily as a teacher-coordinator; and

(iv) two years of full-time wage-earning experience approved by the Central Education Agency in two or more occupations to be taught.

(3) Professional development. The professional development component shall be completed in an approved institution and shall consist of:

(A) completion of 14-18 semester hours of professional development, which must include, but shall not be limited to:

(i) development, organization, and use of instructional materials;

(ii) methods of teaching vocational subjects;

(iii) organization and coordination of vocational industrial cooperative education programs;

(iv) human relations for vocational industrial instructors;

(v) aims and objectives of vocational education; and

(vi) problems in industrial cooperative education; and

(B) two years of successful experience teaching cooperative training programs on emergency teaching permits in the area of the certification sought.

(g) Provisional vocational trades and industry—pre-employment laboratory certificates.

(1) Types of certificates. Provisional vocational trades and industry certificates shall be based on preparation and experience in the skill area or areas and professional development. There shall be three certificates issued for vocational trades and industry pre-employment laboratory program teachers:

(A) provisional vocational trades and industry—pre-employment laboratory.

(B) provisional vocational trades and industry—CVAE/pre-employment laboratory; and

(C) provisional vocational trades and industry—VEH/pre-employment laboratory.

(2) Academic specialization.

(A) Provisional vocational trades and industry—pre-employment laboratory.

(i) Option I. Option I requires the following:

(I) bachelor's degree from an accredited institution;

(II) completion of State Board of Education requirements in United States and Texas Constitutions; and

(III) three years of full-time wage-earning experience approved by the Central Education Agency in the occupation or skilled trade to be taught.

(ii) Option II. Option II requires the following:

(I) high school diploma or equivalent;

(II) completion of State Board of Education requirements in United States and Texas Constitutions; and

(III) five years of full-time wage-earning experience approved by the Central Education Agency in the occupation or skilled trade to be taught.

(iii) Cosmetology teachers. Cosmetology teachers approved under Options I or II must satisfy the following additional requirements:

(I) three years of full-time wage-earning experience as a licensed cosmetologist; and

(II) current cosmetology instructor's license issued by the Texas Cosmetology Commission.

(B) Provisional vocational trades and industry—CVAE/pre-employment laboratory and provisional vocational trades and industry—VEH/pre-employment laboratory.

(i) Option I. Option I requires the following:

(I) bachelor's degree from an accredited institution;

(II) completion of State Board of Education requirements in United States and Texas Constitutions; and

(III) two years of full-time wage-earning experience approved by the Central Education Agency in one or more areas of the occupational cluster to be taught. One year must be in the prominent area to be taught in the occupational cluster.

(ii) Option II. Option II requires the following:

(I) high school diploma or equivalent;

(II) completion of State Board of Education requirements in United States and Texas Constitutions; and

(III) five years of wage-earning experience approved by the Central Education Agency in one or more areas of the occupational cluster to be taught. Two years must be in the predominant area to be taught in the occupational cluster.

(3) Professional development. The professional development component shall be completed in an approved institution and shall consist of:

(A) completion of 14-18 semester hours of professional development, which must include, but need not be limited to:

(i) development, organization, and use of instructional materials;

(ii) methods of teaching vocational subjects;

(iii) organization and management of instructional environment;

(iv) human relations for vocational industrial instructors;

(v) aims and objectives of vocational education; and

(vi) analysis and course making; and

(B) two years of successful experience teaching CVAE/pre-employment laboratory or VEH/pre-employment laboratory programs on emergency teaching permits in the area of the certificate sought.

**§141.454. Eligibility Requirements for Specialized Assignments or Programs.**

(a) Eligibility for assignment to teach in specialized assignments or programs shall be determined by completion of appropriate requirements stated in this section.

(b) No additional certificate or endorsement shall be issued beyond the required certificate for eligibility to teach specialized assignments or programs identified in this section.

(c) Courses taken to satisfy eligibility requirements stated in this section may be taken concurrently with, but must be in addition to, courses required for the provisional certificate.

(d) Requirements for eligibility to teach in specialized assignments or programs shall be as follows:

(1) Vocational adjustment coordinator.

(A) valid provisional teacher certificate with a delivery system in generic special education; and

(B) completion of six semester hours of vocational education.

(2) Vocational agriculture.

(A) Ornamental horticulture. Eligibility to teach shall require a valid provisional vocational agriculture certificate for ornamental horticulture. No additional course or workshop shall be required for assignment to cooperative training, pre-employment laboratory, coordinated-vocational academic education, or vocational education for the handicapped programs in horticulture.

(B) Cooperative training programs. Eligibility to teach shall require a valid provisional vocational agriculture certificate for production agriculture and one of the following:

(i) Central Education Agency-sponsored workshop designed to provide specialized training for

teachers assigned to implement and conduct cooperative training programs; or

(ii) three semester hours of agriculture education in the area of the special vocational agriculture program.

(C) Pre-employment laboratory education (PELE), coordinated vocational-academic education (CVAE), and vocational education for the handicapped (VEH). Eligibility to teach shall require a valid Texas vocational agriculture certificate for production agriculture and one of the following:

(i) Central Education Agency-sponsored workshop designed to provide specialized training for teachers assigned to teach pre-employment; or

(ii) six semester hours of technical agriculture in the area of the special vocational agriculture program.

(D) Central Education Agency-sponsored workshops shall be conducted by institutions approved for the preparation of vocational agriculture teachers.

(3) Vocational home economics.

(A) Cooperative training. Eligibility to teach cooperative training shall require a valid provisional vocational home economics certificate and one of the following:

(i) Option I. Option I requires the following:

(I) completion of one Central Education Agency-sponsored workshop for teachers assigned to implement and conduct home economics cooperative training; or

(II) completion of six semester hours of upper-division home economics education courses from an approved institution in the area of occupational home economics related to teaching secondary students, including students with special needs.

(ii) Option II. Option II requires the following:

(I) two years of wage-earning experience approved by the Central Education Agency in one of the occupations for which instruction is offered; and

(II) completion of one Central Education Agency-sponsored workshop for teachers assigned to implement and conduct home economics cooperative training, or completion of three semester hours of an upper-division home economics course from an approved institution in the area of occupational home economics related to teaching secondary students, including students with special needs

(B) Pre-employment laboratory education (PELE), coordinated vocational-academic education (CVAE), and vocational education for the handicapped (VEH). Eligibility to teach PELE, CVAE, and VEH in vocational home economics shall require a valid provisional vocational home economics certificate and one of the following:

(i) Option I. Option I requires the following:

(I) completion of two Central Education Agency-sponsored workshops for teachers assigned to teach PELE, CVAE, and VEH in vocational home economics; or

(II) completion of six semester hours of upper-division home economics education courses from an approved institution in the area of occupational home

economics related to teaching secondary students, including students with special needs.

(ii) Option II. Option II requires the following:

(I) two years of wage-earning experience approved by the Central Education Agency in one of the occupations for which instruction is offered; and

(II) completion of two Central Education Agency-sponsored workshops for teachers assigned to teach PELE, CVAE, and VEH in vocational home economics, or completion of three semester hours of an upper-division technical home economics education course from an approved institution related to teaching secondary students, including students with special needs.

(C) Workshops conducted by approved institutions. Central Education Agency-sponsored workshops shall be conducted by institutions approved for the preparation of vocational home economics teachers.

§141.455. *Effective Date.*

(a) The requirements in this subchapter shall become effective September 1, 1985.

(b) Effective September 1, 1985, no new Central Education Agency evaluations or college or university plans based on previous standards may be prepared.

(c) Individuals pursuing requirements for provisional certificates or specialized assignments or programs based on Central Education Agency evaluations or college or university plans issued under previous standards must complete all requirements and apply for certification on or before September 1, 1987.

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

Issued in Austin, Texas, on February 7, 1984.

TRD-841634 Raymon L. Bynum  
Commissioner of Education

Proposed date of adoption

April 14, 1984

For further information, please call (512) 475-7077.

## TITLE 22. EXAMINING BOARDS Part IV. Texas Cosmetology Commission

### Chapter 89. General Provisions

22 TAC §§89.6, 89.11, 89.21, 89.23, 89.26,  
89.36, 89.40

The Texas Cosmetology Commission proposes amendments to §§89.6, 89.11, 89.21, 89.23, 89.26, 89.36, and 89.40, concerning the operation of beauty culture schools. The sections address specific guidelines a cosmetology school must follow to maintain licensure and avoid violation.

Herbert E. Cohen, executive director, has determined that for the first five-year period the rules 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 rules.

Mr. Cohen also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed is clarification of the language of the statutes, thereby avoiding confusion. There is no anticipated economic cost to the individuals who are required to comply with the rules as proposed, with the exception of §89.11, where a minimal cost may be required for the sign. The cost cannot be determined at this time.

Comments on the proposal may be submitted to Herbert E. Cohen, Executive Director, Texas Cosmetology Commission, 1111 Rio Grande Street, Austin, Texas 78701.

The amendments are proposed under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to promulgate rules.

**§89.6. New Location or Change in Floor Plan of School.** To be approved for continued operation on a current license, a private beauty school moving to a new location or altering the floor plan will submit the following:

- (1) detailed floor plan of building showing not less than 3,500 square feet, separate restrooms for male and female, divided into three areas, classrooms, junior department, and senior department;
- (2)-(3) (No change.)
- (4) facilities shall be inspected and approved prior to a student's hours being accepted for credit.

**§89.11. Daily Attendance Register.**

(a) Each cosmetology school or program shall maintain a daily record of attendance with each student personally punching the time clock. [In instances where a student forgets to punch in or out, limited initialing will be accepted.] Attendance records will be maintained in the school and available to authorized personnel of the Texas Cosmetology Commission for a period of 24 months after the student completes or terminates attendance. All schools will be required to use a time clock to track student hours. **All schools shall be required to post, at the time clock, a sign which states:**

- (1) the Texas Cosmetology Commission statutes prohibit the clocking in or out of students by anyone other than that individual;
- (2) no credit shall be given for any times written in except in documented cases of time clock failure;
- (3) initialing will be accepted in limited occurrences, i.e., no more than two times per month per student; and
- (4) any student leaving the facility for any reason must clock out.

(b) Documentation of time clock failure must be submitted to the Texas Cosmetology Commission office, and a copy attached to the hour report and include a work order for repair indicating dates of failure.

**§89.21. Thirty-Six-Month Valid Hours.** Record of hours completed in a school in this state will be retained by the commission for a period of 36 months from date of entry in school, after which time said records will be destroyed. If a student withdraws from school prior to completion of the required course of instruction, and does not reenroll so as to finish the training within the 36-month period, hours accrued will be lost. Exceptions may be made to the 36-month requirement by the Texas Cosmetology Commission in cases of extreme hardship. **Hours will be lost for any student not taking the exam after 36 months from date of completion.**

**§89.23. Transfer of Hours between Courses.** A student enrolled for a manicuring or specialty course may withdraw and transfer hours acquired to the operator course not to exceed the amount of hours of that subject in the operator curriculum. Students dropping from the operator course may take the examination for manicuring or one of the specialty tests provided that the school will certify that the student has completed required [sufficient] hours in the particular course in which the person seeks certification or licensure. A minimum of 600 hours of training in the operator course will be required to qualify for a specialty examination. **If a student takes a specialty examination using hours accrued in the operator course, the remaining hours are no longer valid.**

**§89.26. Reentry Students.** When [After] a dropped student is reenrolled, [has dropped for 12 weeks or more,] a new student registration must be submitted to the Texas Cosmetology Commission [permit and a new health certificate will be required].

**§89.36. Postmark.** The postmark will be considered the filing date for any completed application or transaction required to meet a deadline. **Failure to meet the deadline as specified in rules speaking to registration, withdrawal, application for examination or graduation of a student will be sufficient cause for the issuance of a violation to the filing school.**

**§89.40. Cosmetology Establishment [Shop] Transfer.** Whenever a cosmetology establishment [shop] shall be officially closed and the new owner shall apply for an original license and meet all necessary requirements. **In the case of school ownership transfers, all facilities must be inspected and approved prior to a student's hours being accepted for credit.** Notwithstanding the provisions of this section, the next of kin of a cosmetology establishment [salon] owner who is deceased may operate that salon or school without further licensing requirements until that license is up for renewal.

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 February 7, 1984.

TRD-841664                      Herbert E. Cohen  
Executive Director  
Texas Cosmetology Commission

Earliest possible date of adoption

March 19, 1984

For further information, please call (512) 475-3304.



Ms. Rowland also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed is that these definitions help interpret proposed §215.14, regarding clinical preceptorships. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Margaret L. Rowland, R.N., Executive Secretary, Board of Nurse Examiners, 1300 East Anderson Lane, Building C, Suite 225, Austin, Texas 78752, (512) 835-4880.

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

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

**Clinical preceptor**—An experienced registered nurse who is employed by an agency as a health care provider and also assumes the responsibility for facilitating the learning of a student nurse in a specified clinical area.

**Clinical preceptorship**—An organized system of clinical laboratory assignment which allows senior students in a baccalaureate degree nursing program to be paired with a preceptor for a period of time for the purpose of attaining specific learning objectives.

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 February 6, 1984

TRD-841679      Margaret L. Rowland, R.N.  
Executive Secretary  
Board of Nurse Examiners

Earliest possible date of adoption  
March 19, 1984

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

## 22 TAC §215.14

The Board of Nurse Examiners proposes amendments to §215.14, concerning clinical preceptorships. The rationale for these amendments is to allow baccalaureate degree nursing programs flexibility in arranging for meaningful clinical learning experiences of their senior students.

It is intended that preceptorships be used only in the senior year of baccalaureate degree nursing programs. Experiences such as leadership and management, independent study courses, or clinical elective courses may utilize the clinical preceptors.

The setting could include specialty areas such as medical and surgical intensive care units, coronary care units, neonatal intensive care units, the operating room, community health or similar type agencies, and other settings where students might be assigned.

Margaret L. Rowland, R.N., executive secretary, has determined that for the first five-year period the rule 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 rule.

Ms. Rowland also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed is that baccalaureate degree nursing programs will be allowed some flexibility in arranging for meaningful clinical learning experiences for their senior students. Some advantages to be gained from using clinical preceptors include the enhancement of student learning by providing a one-to-one interaction with a role model who is an active nurse practitioner and has a variety of professional and continuing education experiences; facilitate transition from the student role to the graduate role; and create a closer working relationship between nursing service and nursing education. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Margaret L. Rowland, Executive Secretary, Board of Nurse Examiners, 1300 East Anderson Lane, Building C, Suite 225, Austin, Texas 78752, (512) 835-4880.

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

### **§215.14. Curriculum.**

(a)-(g) (No change.)

(h) **Clinical preceptorships. If clinical preceptors are used, the following conditions must be met.**

(1) **Criteria for selecting clinical preceptors shall be developed in writing; their qualifications shall include, but not be limited to, the following:**

(A) **current licensure as a registered nurse in the State of Texas;**

(B) **competency as a health care provider in a specialty area;**

(C) a minimum of a bachelor's degree in nursing or its equivalent;

(D) a philosophy of health care congruent with that of the educational program;

(E) an interest in teaching and supervising nursing students; and

(F) current nursing knowledge and skills.

(2) Written agreement(s) between the agency and school shall delineate functions and responsibilities of the school, the agency, the clinical preceptor, the faculty member, and the student.

(3) The agreement(s) shall include method of selecting preceptors; plans for orientation of preceptors, faculty, and students; and a system for monitoring and evaluating student's learning experiences.

(4) Faculty members shall be ultimately responsible for the students' learning experiences and shall meet regularly with the preceptor and student for the purpose of monitoring and evaluating learning experiences.

(5) Specific clinical objectives shall be developed.

(6) A faculty member shall be responsible for coordinating no more than 10 students in the clinical experience with preceptors.

(7) The faculty member shall make regularly scheduled visits to the clinical agency and shall be readily available by phone to the students and preceptors at all times when students are in the clinical area.

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 February 6, 1984

TRD-841680            Margaret L. Rowland, R.N.  
   Executive Secretary  
   Board of Nurse Examiners

Earliest possible date of adoption  
March 19, 1984

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

## **TITLE 28. INSURANCE**

### **Part I. State Board of Insurance**

*(Editor's note Because the State Board of Insurance's rules have not yet been published in the Texas Administrative Code, (TAC), they do not have designated TAC numbers. For the time being, the rules will continue to be published under their Texas Register numbers. However, the rules will be published under the agency's correct title and part.)*

#### **General Provisions**

##### **Agents' Licensing**

**059.21.01.041-.052**

The State Board of Insurance proposes new Rules 059.21.01.041-.052, concerning the scope, type, conduct, and additionally incidental administrative and

procedural considerations of the written examination required for the licensure of insurance agents who desire to write insurance upon any one life in excess of \$5,000. These rules, now proposed for adoption on a permanent basis, were adopted on an emergency basis on November 16, 1983 (8 TexReg 4883).

Melvin Clanton, Agents License Division assistant director, has determined that for the first five-year period the rules 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 rules

Mr. Clanton also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed is full compliance by the State Board of Insurance with recent statutory provisions. The anticipated economic cost to individuals who are required to comply with the rules as proposed is the examination fee and cost of study materials.

Comments on the proposal may be submitted to Melvin Clanton, Assistant Director, Agents License Division, Business Practices Group, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

These new rules are proposed in accordance with the recent statutory amendment to the Insurance Code, Article 21.07, as amended by Senate Bill 1094, 68th Legislature, 1983, which added §4A, to provide that within 60 days of the effective date of the Act, the State Board of Insurance should establish reasonable rules and regulations with respect to the scope, type, and conduct of the written examination required for the licensure of those individuals who desire to write life insurance upon any one life in excess of \$5,000. The Act also provides discretionary authority to the State Board of Insurance to establish reasonable rules and regulations where-upon any insurance carrier might be permitted to conduct written examinations for its agents.

**.041. Purpose.** The proposed rules are designed to establish the parameters, including the administration, scope, type, and conduct of written examinations and the times and places within this state when and where such examinations shall be held, concerning those written examinations required for the licensure of those individuals who desire to write life insurance upon any one life in excess of \$5,000. The rules also establish the parameters under which any insurance carrier may conduct written examinations for its own agents.

**.042. Fees for Examination.**

(a) Any person wishing to take the examination required for licensure of individuals desiring to write life insurance in excess of \$5,000 upon any one life must submit a \$10 examination fee with the application in advance of taking the examination.

(b) The fee shall not be returned under any circumstances other than for failure to appear and take the examination after the applicant has given at least 24 hours

notice of an emergency situation to the State Board of Insurance and received agency approval.

(c) A new examination fee shall be paid for each and every examination.

*.043. Schedules.*

(a) Written examinations for those persons desiring to write life insurance in excess of \$5,000 upon any one life will be administered by delegated representatives of the State Board of Insurance. The examinations will be conducted at different locations throughout the state, including Austin, Texas.

(b) Information regarding specific dates of such examinations, specific locations for administration of same, and formats will be announced in notices mailed to potential examinees upon receipt of license applications filed with the License Division, State Board of Insurance.

*.044. Applying and Qualifying for Examination.*

(a) Qualification for examination is based upon the submission, processing, and approval of the application submitted by a potential licensee. Applications must be submitted upon forms prepared, maintained, and obtainable from the State Board of Insurance.

(b) Applications must be properly completed before they can be approved for examination.

(c) After the application has been approved, the candidate for licensure will be sent a standard State Board of Insurance form requiring that the agency be provided with information concerning the selection of the specific examination date and time selected by the applicant involved. This form must be completed and returned to arrive at the State Board of Insurance at least 10 days prior to the examination date chosen.

*.045. Study Materials.*

(a) The qualifying examination for licensure in this particular instance is taken from material contained in *Life Basics/Fast-Track, a Programmed Instructional Text*, by Pictorial Publishers, Inc.

(b) This text, herein adopted by reference, may be obtained from the publisher at 8081 Zionsville, Indianapolis, Indiana 46268, or the Texas Association of Life Underwriters at 1920 IH 35 South, Austin, Texas 78704.

(c) The scope of the examination will cover the following subject areas: the principles of life insurance and how it functions, ordinary life insurance, juvenile life insurance, nonforfeiture values and options, policy loans, premiums and policy dividends, claims, settlement options, industrial life insurance, group life insurance, life insurance policies, the application, riders, annuities, special uses of life insurance, life insurance companies, legal and professional aspects, and government programs.

*.046. Admission to the Examination.*

(a) Candidates for examination may be required to produce their driver's license before being issued a test booklet.

(b) Once the examination has commenced no one will be admitted during the remainder of the test period.

*.047. Format.* All examinations will be in written format, utilizing multiple choice or true or false questions or both.

*.048. Grading.* Licensure examinations shall be graded by representatives of the State Board of Insurance.

*.049. Failures.* An applicant who fails the licensure examination may reapply and take a subsequent examination upon payment of an additional fee.

*.050. Notice of Results.*

(a) The State Board of Insurance shall notify each examinee of the examination results within 30 days of the date of the examination. If the notice of the examination results will be delayed for more than 90 days after the date of the examination, the board shall notify the applicant before the 90th day.

(b) Actual numerical results, rather than a "pass" or "fail" designation will be provided to each individual who has been examined. A grade of 75, or above, is a passing grade.

*.051. Examination Requirement Waived under Certain Circumstances.*

(a) Individuals who have a license held in good standing as a group I, legal reserve insurance agent under the Insurance Code, Article 21.07-1, must have a group II license and be properly appointed to write insurance upon any one life in excess of \$5,000. However, such group I agent shall be exempt from having to qualify by written examination for such group II license.

(b) Individuals who have a license held in good standing as a group II stipulated premium insurance agent as of the effective date of these rules shall be exempt from having to qualify by written examination for a group II license to write insurance upon any one life in excess of \$5,000 as provided for in these rules so long as such group II license is timely renewed and not suspended or revoked and so long as such group II agent is properly appointed by the issuing company.

*.052. Circumstances under Which Insurance Carriers May Be Permitted to Conduct Written Examinations of Their Own Agents.* Any insurance carrier may itself be permitted to conduct written examinations for its agents provided that the following conditions are met.

(1) Each insurance carrier desiring to administer written examinations must submit copies of the proposed examination questions to the State Board of Insurance for review and approval.

(2) The study materials to be utilized in preparing for the examination must be submitted to the State Board of Insurance for review and approval.

(3) A detailed plan for administering the examination and processing the results to include at least:

(A) when and where such examination will be conducted;

(B) what procedure will be adopted to secure the confidentiality of the examination booklets and answers;

(C) the procedures designed to control admission to the examination room, and to insure that examinees receive no assistance during the examinations;

(D) identification of exactly which company personnel will administer the examination. Only home office personnel may administer the examination and process the results; and

(E) how the examination will be graded and what constitutes a passing grade.

(4) The results of the examination must be filed with the State Board of Insurance within 10 days after the grades have been determined and in no case later than 30 days after the administration of the examination. Such results will be accompanied by a statement sworn to and signed by a notary public indicating:

(A) the plan of operation previously submitted for review was stringently adhered to during the administration of the examination and the processing of the results; and

(B) the test results submitted are a true, accurate, and unadulterated representation of the actual outcome of the examination process.

(5) The State Board of Insurance must be provided, on a quarterly basis, with a breakdown of those examinees passing and failing the written 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 February 9, 1984

TRD-841738

James W. Norman  
Chief Clerk  
State Board of Insurance

Earliest possible date of adoption:  
March 19, 1984

For further information, please call (512) 475-2950.

#### 059.21.01.091-.101

The State Board of Insurance proposes new Rules 059.21.01.091-.101, concerning the scope, type, conduct, and additionally incidental administrative and procedural considerations of the written examination required for the licensure of accident and health insurance agents. These rules were adopted on an emergency basis in the November 16, 1983, issue of the *Texas Register* (8 TexReg 4883).

Melvin Clanton, Agents License Division assistant director, has determined that for the first five-year period the rules as proposed 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 rules.

Mr. Clanton also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed is full compliance by the State Board of Insurance with recent statutory provisions. The anticipated economic cost to individuals who are required to comply with the rules as proposed will be the required examination fee.

Comments on the proposal may be submitted to Melvin Clanton, assistant director, Agents License Division, Business Practices Group, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The new rules are proposed under the Insurance Code, Article 21.07-1, amended by Senate Bill 706, 68th Legislature, 1983, which added §16 to Article 21.07-1, providing that within 60 days of the effective date of the Act the State Board of Insurance would establish reasonable rules and regulations with respect to the scope, type, and conduct of the written examination required for the licensure of those individuals who desire to become accident and health insurance agents.

*.091. Purpose.* The proposed rules are designed to establish the parameters, including the administration, scope, type, and conduct of written examinations and the times and places within this state when and where such examinations shall be held, for the written examinations required for the licensure of those individuals who desire to write accident and health insurance as provided in the Insurance Code, Article 21.07-1, §16.

#### *.092. Fees for Examination.*

(a) Any person wishing to take the examination required for licensure of individuals desiring to write accident and health insurance must submit a \$10 examination fee with the application in advance of taking the examination.

(b) The fee shall not be returned under any circumstances other than for failure to appear and take the examination after the applicant has given at least 24 hours notice of an emergency situation to the State Board of Insurance and received agency approval.

(c) A new examination fee shall be paid for each and every examination.

#### *.093. Schedules.*

(a) Written examinations for those persons desiring to write accident and health insurance will be administered by delegated representatives of the State Board of Insurance. The examinations will be conducted at different locations, including Austin, throughout the state.

(b) Information regarding specific dates of such examinations, specific locations for administration of same, and formats will be announced in notices mailed to potential examinees upon receipt of license applications filed with the License Division, State Board of Insurance.

#### *.094. Applying and Qualifying for Examination.*

(a) Qualification for examination is based upon the submission, processing, and approval of the application submitted by a potential licensee. Applications must be submitted upon forms prepared, maintained, and obtainable from the State Board of Insurance.

(b) After the application is received and processed by the State Board of Insurance it will be approved, provided it has been properly completed.

(c) After the application has been approved, the candidate for licensure will be sent a standard State Board of Insurance form requiring that the agency be provided with information concerning the selection of the specific examination date and time selected by the applicant involved. This form must be completed and returned to arrive at the State Board of Insurance at least 10 days prior to the examination date chosen.

**.095. Study Materials.**

(a) The qualifying examination for licensure will be composed of material contained in *Accident and Health Insurance Question and Answer Booklet*, a State Board of Insurance publication.

(b) This text, herein adopted by reference, will be provided to applicants upon receipt of license applications. There is no charge for the publication.

**.096. Admission to the Examination.**

(a) Candidates for examination may be required to produce their driver's license before being issued a test booklet.

(b) Once the examination has commenced no one will be admitted during the remainder of the test period.

**.097. Format.** All examinations will be in written format, utilizing multiple choice or true or false questions (or both).

**.098. Grading.** Licensure examinations shall be graded by representatives of the State Board of Insurance.

**.099. Failures.** An applicant who fails the licensure examination may reapply and take a subsequent examination upon payment of an additional fee.

**.100. Notice of Results.**

(a) The State Board of Insurance shall notify each examinee of the examination results within 30 days of the date of the examination. If, however, the notice of the examination results will be delayed for more than 90 days after the date of the examination, the board shall notify the applicant before the 90th day.

(b) Actual numerical results, rather than a "pass" or "fail" designation, will be provided to each individual who has been examined. A grade of 75 is a passing grade.

**.101. Circumstances Under Which a Written Examination Is Not Required.**

(a) A written examination is not required if the applicant has been previously licensed and currently holds, on the effective date of the Insurance Code, Article 21.07-1, §16, a valid license issued by the State Board of Insurance under either the Insurance Code, Articles 21.07, 21.07-1, or 21.14.

(b) A written examination is not required if the applicant is an individual whose license expires less than one year before the date of application and who may, in the discretion of the State Board of Insurance, be issued a license without written examination, provided the prior expired license granted the applicant the right to act as an agent for accident and health insurance.

(c) A written examination is not required if the applicant is a corporation. A corporation may, however, be licensed hereunder only if it otherwise complies with the provisions of the Insurance Code, Article 21.07-1, §4(d), but in the application of said section to such compensation hereunder, any requirement pertaining to or reference therein to "life insurance" shall be changed and limited to "health and accident insurance" only as is in-

tended by the terms of the Insurance Code, Article 21.07-1, §16.

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 February 9, 1984.

TRD-841739      James W. Norman  
Chief Clerk  
State Board of Insurance

Earliest possible date of adoption:

March 19, 1984

For further information, please call (512) 475-2950.

**TITLE 31. NATURAL RESOURCES  
AND CONSERVATION  
Part X. Texas Water Development  
Board**

The following proposals submitted by the Texas Water Development Board will be serialized beginning in the February 21, 1984, issue of the *Texas Register*. Earliest possible date of adoption for the documents is March 19, 1984.

- Chapter 341. Consolidated Permits
  - Application for Permit
    - §341.165 (new)
  - Additional Conditions for Drilled or Mined Shaft Permits
    - §§341.381-341.386 (new)
- Chapter 361. Drilled or Mined Shafts
  - Subchapter A. General Provisions
    - §§361.1-361.10 (new)
  - Subchapter B. Standards and Methods
    - §§361.21-361.29 (new)
  - Subchapter C. Complaints
    - §361.41, §361.42 (new)

**Chapter 353. Underground Injection  
Control  
General Provisions**

31 TAC §353.1, §353.2

The Texas Department of Water Resources proposes amendments to §353.1 and §353.2, concerning underground injection control. These amendments make the underground injection control rules consistent with the new drilled or mined shaft rules, and correct typographical and grammatical errors.

These rules were first proposed in the September 23, 1983, issue of the *Texas Register* (8 TexReg 3788).

Comments were received from the mining industry and some governmental agencies. Due to the comments received, substantive changes have been made to the rules. Therefore, these rules are being withdrawn and repropoed for additional public comment.

A public hearing to receive comments will be held following a seminar to discuss the rules and rule changes which will be held at 9 a.m. on February 21, 1984, in the University Suite, Student Union Building, El Paso. The public comment period will end April 1, 1984.

Mike Hodges, Fiscal Services Section chief, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications to state or local governments or small businesses as a result of enforcing or administering the rules as proposed.

Mr. Hodges has also determined that for each year of the first five years the rules as proposed are in effect the public benefits anticipated as a result of enforcing the rules as proposed is clarification of the rules and assurance that the rules are consistent and do not conflict. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Savannah Robinson, Staff Attorney, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78701, (512) 475-7841.

The amendments are proposed under the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to promulgate rules to carry out authority delegated to the Texas Department of Water Resources.

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

(a) (No change.)

(b) This chapter [subchapter] applies to all injection wells and activities within the department's jurisdiction.

**§353.2 Definitions.** The definitions contained in the Texas Water Code, §27.002, shall apply to this chapter. The following words and terms, when used in these sections, will have the following meanings, unless the context clearly indicates otherwise:

**Fresh water**—Water having bacteriological, physical, and chemical properties which make it suitable and feasible for beneficial use for any lawful purpose.

(A) For the purposes of this chapter [subchapter], it will be presumed that water is suitable and feasible for beneficial use for any lawful purpose only if:

(i) it is used as drinking water for human consumption, or

(ii) the ground water contains fewer than 10,000 mg/l "total dissolved solids"; and,

(iii) it is not within an "exempted aquifer."

(B) (No change.)

**Shaft**—Any vertically oriented excavation, whether constructed by drilling or mining techniques, where the depth of the excavation is greater than its diameter, the excavation penetrates into or through the base of the uppermost water-bearing strata, and the pri-

mary purpose of the excavation is the transport of workers and materials to and from a destination, at depth, for purposes of geological studies, access to existing and planned subsurface mine workings, or for ventilation of those workings.

**Well**—A bored, drilled, or driven penetration [shaft], or an artificial opening in the ground made by digging, jetting, or some other method, where the depth of the well is greater than its largest surface dimension, but the term does not include any surface pit, surface excavation, shaft, or natural depression.

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 February 8, 1984.

TRD-841716

Susan Plettman  
General Counsel  
Texas Department of Water  
Resources

Earliest possible date of adoption.

March 19, 1984

For further information, please call (512) 475-7841.

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Resources

#### Chapter 15. Medicaid Eligibility

##### Subchapter GG. Resources for

##### Individuals Related to the SSI Program

#### 40 TAC §15.3201

The Texas Department of Human Resources proposes amendments to §15.3201, concerning Medicaid eligibility. The amendments clarify the department's definition of liquid resources and to delete internal department operating procedures.

David Hawes, programs budget and statistics director, has determined that for the first five-year period the rule 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 rule as proposed.

Mr. Hawes also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule as proposed is a clearer understanding of the department's definition of liquid resources. There is no anticipated economic cost to individuals required to comply with the rule as proposed.

Comments may be sent to Susan L. Johnson, Administrator, Policy Development Support Division—047, Texas Department of Human Resources 153-B, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in this Register.



The amendments are proposed under the Human Resources Code, Title 2, Chapter 22 and Chapter 32, which authorizes the department to administer public assistance programs.

**§15.3201. Resources.** Resources are defined as cash or other liquid assets, or any real or personal property an individual or spouse owns and could convert to cash to use for support and maintenance. If the individual has the right, authority, or power to liquidate the property or his share of it without legal restrictions, the caseworker considers it a resource. If a property right may not be liquidated, the caseworker does not consider the property a resource to the individual or spouse, as long as legal restrictions apply. If the individual would be required to seek court action to access or dispose of a resource, the caseworker does not consider the resource available to the individual.

(1) Liquid resources.

(A) Liquid resources are cash or financial instruments which can be converted to cash within 20 workdays (excluding holidays). Liquid resources include cash in savings accounts, checking accounts, and patient trust funds, and the cash value of stocks, bonds, promissory notes, and mortgages.

(B) The caseworker must accept the individual's statement of the amount of cash on hand, regardless of the amount, without verification. [The caseworker must verify deposits and withdrawals to determine if the individual's statements about his income are consistent with his bank accounts.]

(C)-(D) (No change.)

(2) (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 February 8, 1984

TRD-841684      Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Earliest possible date of adoption.  
March 19, 1984

For further information, please call (512) 441-3355,  
ext. 2037.

## Chapter 27. Intermediate Care Facility for Mentally Retarded Subchapter B. Criteria for ICF-MR Care

The Texas Department of Human Resources (DHR) proposes the repeal of §§27.101-27.106 and new §§27.101-27.107 in the Title XIX Intermediate Care Facility for Mentally Retarded (ICF-MR) Program. These new rules are the requirements by which a level-of-care determination is made at the time of an individual's application for services from the ICF-MR Program and during the continued stay review process. Revision of the existing level-of-care criteria is neces-

sary to delete statements not applicable to the level-of-care assignment process; delete statements that pertain to requirements for facility certification, not level-of-care assignment; clarify the specific criteria for each level of care—I, V, and VI; and clarify several problematic areas in the existing criteria. The department is revising the level-of-care criteria with the intention that individuals eligible for and currently receiving services will not be displaced from their current residential setting.

One problematic area is the definition of the disabled population eligible for application to the ICF-MR Program. The proposed criteria clarify the criteria currently in use. The ICF-MR Program in Texas serves developmentally disabled individuals who demonstrate significant intellectual deficits as well as adaptive behavior deficits, and who are in need of and able to benefit from the active treatment of the ICF-MR Program.

The current and proposed eligibility criteria for a level of care specify that an individual have a diagnosis of either mental retardation or one of the following developmental disabilities: a pervasive developmental disorder (autism), cerebral palsy, or epilepsy. The definition of mental retardation is the definition in the Mentally Retarded Person's Act of 1977 (Texas Civil Statutes, Article 5547-300). The definition of pervasive developmental disorders is the definition in the *Diagnostic and Statistical Manual of Mental Disorders*, third edition (DSM III).

The level-of-care rules include the individual's right to appeal a level-of-care determination. This right to appeal is available if the individual or someone legally empowered to represent the individual does not agree with the level-of-care determination.

The level-of-care criteria do not include an estimation of the staff-resident ratio the individual may require. Staff-resident ratios are a facility certification standard. The ratios are based on age, extent of handicap, and maladaptive behaviors of the residents in the facility. Staff-resident ratios are, therefore, each facility's responsibility. Likewise, it is the responsibility of the ICF-MR I facility to provide the level of professional nursing service required to be in compliance with certification standards.

Profiles of the developmental needs typically addressed by ICF-MR I, V, and VI facilities are used in determining the appropriate level of care if an individual meets the criteria for two levels of care. These profiles convey the programmatic intent of each level of care.

The criteria also provide a special review procedure for applicants whose I.Q., adaptive behavior level (ABL), health status, and/or ambulation status do not meet the criteria for one level of care. An example is the individual with an I.Q. of 60, which is addressed by one level of care, and an adaptive behavior level of IV, which is addressed by another level of care. In this instance, the Texas Department of Health may request a psychological, social, and medical evalua-

tion, current within 90 days. The Texas Department of Health, in conference with the Texas Department of Mental Health and Mental Retardation, reviews the information and assigns the level of care appropriate to the individual's developmental needs.

Both the I.Q. and adaptive behavior level are retained as specific criteria for a level-of-care assignment. They are key components in the diagnosis of mental retardation. Both measures of functioning are obtained in the assessment process. Extensive, specific information about an individual is used in determining an I.Q. and ABL.

The adaptive behavior levels appropriate for each level of care are not changed. The definition of "adaptive behavior level" in §27.102 includes the assessment of maladaptive behaviors in the assignment of an overall adaptive behavior level.

The criteria for health and ambulation status are the same as those in current use. Wording changes have been made only to convey more clearly the intent of each criterion.

David Hawes, programs budget and statistics director, has determined that for the first five-year period the new sections and repeal will be in effect there will be no fiscal implications to state or local governments or small businesses as a result of the repeal or enforcing or administering the new sections.

Mr. Hawes has also determined that for each year of the first five years the repeal and new sections as proposed are in effect, the public benefit will be a better understanding of the level-of-care criteria, and increased consistency in the interpretation of the level-of-care criteria. There is no anticipated economic cost to individuals who are required to comply with the repeal or new sections.

A hearing to accept public comment on the proposal will be held on March 7, 1984, at 1:30 p.m. in the DHR board room, 706 Banister Lane, Austin.

Comments may be sent to Susan L. Johnson, Administrator, Policy Development Support Division—344, Texas Department of Human Resources 153—B, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in this Register.

#### **40 TAC §§27.101-27.106**

*(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Human Resources, 706 Banister Lane, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The repeal is proposed under the Human Resources Code, Title 2, Chapter 22 and Chapter 32, which authorizes the department to administer public and medical assistance programs.

§27.101. *Eligibility.*

§27.102. *Placement in ICF-II, III, or IV.*

§27.103. *Evaluating the Need for Active Treatment.*

§27.104. *Intermediate Care Facility—Mentally Retarded I (ICF-MR I).*

§27.105. *Intermediate Care Facility—Mentally Retarded V (ICF-MR V).*

§27.106. *Intermediate Care Facility—Mentally Retarded VI (ICF-MR VI).*

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 February 10, 1984.

TRD-841776

Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Earliest possible date of adoption:  
March 19, 1984

For further information, please call (512) 441-3355,  
ext. 2037.

#### **40 TAC §§27.101-27.107**

The new rules are proposed under the Human Resources Code, Title 2, Chapter 22 and Chapter 32, which authorizes the department to administer public and medical assistance programs.

§27.101. *Purpose.* The rules in this subchapter state the requirements for an assignment of a level of care in the Intermediate Care Facility for Mentally Retarded (ICF-MR) Program. These criteria are used in determining a level of care for individuals who apply for admission to the ICF-MR Program and in the redetermining of a level of care during the continued stay review.

§27.102. *Definitions for Level-of-Care Criteria.* The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

Active treatment—Regular participation, according to a current individualized plan of care, in a program of activities, experiences, or therapies that are designed to attain the optimum physical, intellectual, social, and vocational functioning of which the individual is capable. The components of active treatment, for the purpose of these rules, are specified in 42 Code of Federal Regulations §435.1009.

Adaptive behavior level (ABL)—The effectiveness or degree to which the individual meets the standards of personal independence and social responsibility expected of the person's age and cultural group. For the purpose of these rules, deficits in adaptive behavior are identified according to the American Association on Mental Deficiency's adaptive behavior levels (ABL I, II, III, or IV) as presented in the association's *Classification in Mental Retardation*, 1983 revision. Assignment of an adaptive behavior level includes assessment of any maladaptive behavior. Maladaptive behaviors may influence the individual's independence in skills performance, self-motivation, and acceptability within his community. Maladap-

tive behaviors are inappropriate behaviors, emotional disturbances, or personality disorders.

**Ambulatory**—Able to walk independently, without assistance.

**Cerebral palsy**—A group of disabling conditions that results from nonprogressive damage to the central nervous system which usually occurs before, during, or shortly after birth. The disability is characterized by an inability to fully control motor functions.

**Continued stay review**—The individual client review conducted by the Texas Department of Health (TDH) no later than six months following the individual's admission to an ICF-MR facility and at least every six months thereafter. The purpose of each review is to determine if the individual continues to need the care and services provided by the ICF-MR Program and if the level-of-care assignment is appropriate. The Texas Department of Health may determine that the individual no longer needs the care and services provided by the ICF-MR Program or that the level-of-care assignment is not appropriate. In this case, TDH staff members make a new level-of-care assignment.

**Epilepsy**—A paroxysmal transient disturbance of brain function that may be manifested as episodic impairment or loss of consciousness, abnormal motor phenomena, psychic or sensory disturbances, and perturbation of the autonomic nervous system. Symptoms are the result of paroxysmal disturbance of the electrical activity of the brain.

**Mobile nonambulatory**—Unable to walk without assistance but able to move one's self from place to place with the use of a device.

**Nonmobile**—Unable to move one's self from place to place even with the use of a device.

**Mental retardation**—Significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and originating during the developmental period. Subaverage general intellectual functioning refers to measured intelligence on standardized psychometric instruments of two or more standard deviations below the age group mean for the tests used. Developmental period means the period of time from conception to 18 years. Arrest or deterioration of intellectual ability that occurs after this period is functional retardation and does not meet the definition of mental retardation.

**Pervasive developmental disorder**—A distortion in the development of multiple basic psychological functions that are involved in the development of social skills and language as described and defined in the *Diagnostic and Statistical Manual of Mental Disorders*, third edition (DSM III). Disorders include infantile autism; infantile autism, residual state; childhood onset pervasive developmental disorder, and childhood onset pervasive developmental disorder, residual state.

§27.103. *Eligibility for Level-of-Care Assignment.*

(a) The ICF-MR Program provides services to individuals who have the developmental disability of mental retardation. These individuals must have an I.Q. of 69 or below as measured by a standardized psychometric instrument. The ICF-MR Program also provides services to individuals who have the developmental disabilities of cerebral palsy, epilepsy, or a pervasive developmental

disorder. These individuals must also have an I.Q. of 75 or below and deficits in adaptive behavior. The developmental disability must have been diagnosed through formal testing and evaluation.

(b) Individuals must be in need of and able to benefit from the active treatment provided in the 24-hour supervised residential setting of an ICF-MR facility. This must be evidenced by information submitted for a level-of-care assignment and determined by the Texas Department of Health.

(c) For a facility to be paid for services, individuals must meet the Title XIX Medicaid financial eligibility criteria and the level-of-care criteria. The level-of-care determination is made independently of the financial need determination.

§27.104. *Level-of-Care Determination.*

(a) The level-of-care determination is performed by the Texas Department of Health according to the level-of-care criteria in this subchapter. Information submitted to the Texas Department of Health must be based on current data obtained from standardized evaluations and formal assessments which include physical, emotional, social, and cognitive factors.

(b) If an individual or someone legally empowered to act on his behalf does not agree with the level-of-care determination, the level-of-care decision may be appealed according to the Texas Department of Human Resources fair hearing procedures.

(c) The ICF-MR Program has three levels of care: ICF-MR I, ICF-MR V, and ICF-MR VI. The level-of-care determination is based on the following variables regarding the developmental needs of each individual:

- (1) intellectual functioning;
- (2) adaptive behavior;
- (3) health status; and
- (4) ambulation status.

(d) A single, specific deficit or developmental need does not necessarily indicate a need for active treatment.

(e) If an I.Q. score cannot be obtained for a severely or profoundly retarded individual, a social quotient (S.Q.) obtained on the Vineland Social Maturity Scale or other professionally accepted scale must be submitted. Documentation must be available that an assessment of intelligence with a standardized instrument was attempted.

(f) An individual is not eligible for the ICF-MR Program if he:

(1) has been medically diagnosed as having "brain death," which includes no evidence of sensory receptivity or sensory responsiveness on a permanent basis; or

(2) does not respond in any way to his environment, but needs continuous care for medical reasons.

(g) An individual eligible for an ICF-MR I level of care who has been determined mobile nonambulatory is eligible for an ICF-MR V level of care if:

- (1) there is no ICF-MR I facility; or
- (2) there are no ICF-MR I beds available that meet the requirements of the institutional Life Safety Code.

(h) If the Texas Department of Health determines that information submitted for a level of care was not correct, the level-of-care assignment is re-evaluated. If

information originally submitted has changed, the level-of-care assignment is also re-evaluated.

(i) If an individual's I.Q., adaptive behavior level, health status, and/or ambulation status cause the individual to be unable to meet all of the criteria for any level of care, the TDH conducts a special review of that individual's application for a level of care. The individual may be asked by TDH staff to submit a psychological, social, and medical evaluation, all current within 90 days of the request. The Texas Department of Health, in conference with the Texas Department of Mental Health and Mental Retardation, makes the level-of-care determination.

(j) The criteria for each level of care include a profile of typical developmental needs for that level of care. Based on I.Q., adaptive behavior level, health status, and ambulation status, an individual may meet the criteria for two levels of care. In this situation, application is made for the level of care that best meets the individual's developmental needs. This determination is based on the profile that most closely describes the individual. A single deficit in any of the categories of skills noted in a profile does not necessarily make the individual ineligible for that level of care.

**§27.105. ICF-MR I Level-of-Care Criteria.** The individual eligible for the ICF-MR I Program must have the potential to participate in a training program that will prepare him for eventual placement in a less structured living setting. The individual requires training in the skills of independent living. This training includes using community resources, maintaining the home, managing money, and acquiring independence in self-care areas. If age-appropriate, the individual requires placement in a sheltered workshop or in community employment training. The individual demonstrates sufficient self-direction to participate in the active treatment of the program. The individual may have maladaptive behaviors that require programmatic intervention but do not prevent his participation in the active treatment of the program.

(1) Intellectual functioning. The individual functions in the mild to moderate range of mental retardation as evidenced by a full scale I.Q. score within the range of 35 to 69 obtained by formal assessment. If the individual has been diagnosed as having the developmental disability of cerebral palsy, epilepsy, or a pervasive developmental disorder, the individual must have a full scale I.Q. score within the range of 35 to 75 obtained by formal assessment. If the individual has a sensory or motor handicap for which a specialty standardized intelligence test or a certain portion of a standardized intelligence test is appropriate, then that score must be reported as the I.Q. score for compliance with this criterion.

(2) Adaptive behavior level. The individual exhibits mild to moderate deficits in adaptive behavior with an adaptive behavior level of I or II obtained by formal assessment.

(3) Health status. The individual's health status does not interfere with participation in the active treatment program.

(4) Ambulation status. The individual is fully ambulatory or mobile nonambulatory. If the individual is mobile nonambulatory, the ICF-MR I facility must

meet the requirements of the institutional Life Safety Code, as determined by the Texas Department of Health.

**§27.106. ICF-MR V Level-of-Care Criteria.** The individual eligible for the ICF-MR V Program may need assistance and supervision in the refinement of self-help skills. The individual may require training in socialization skills, work skills and behaviors (if age-appropriate), motor skills, care of belongings and personal area, and group recreation skills. The individual may require daily supervision and management to ensure completion of scheduled activities and compliance with staff requests. The individual may have maladaptive behaviors that require programmatic intervention. The individual may also have health care needs requiring daily supervision by licensed nursing personnel.

(1) Intellectual functioning. The individual functions in the mild to severe range of mental retardation as evidenced by an I.Q. score within the range of 20 to 69 obtained by formal assessment. If the individual has been diagnosed as having the developmental disability of cerebral palsy, epilepsy, or a pervasive developmental disorder, the individual must have a full scale I.Q. score within the range of 20 to 75 obtained by formal assessment. If the individual has a sensory or motor handicap for which a specialty standardized intelligence test or a certain portion of a standardized intelligence test is appropriate, then that score must be reported as the I.Q. score for compliance with this criterion.

(2) Adaptive behavior level. The individual exhibits moderate to severe deficits in adaptive behavior with an adaptive behavior level (ABL) of II or III obtained by formal assessment. An individual with an ABL of I is eligible for the ICF-MR V Program if:

(A) that individual is mobile nonambulatory; and

(B) there is no ICF-MR I facility (or no available ICF-MR I beds) that meets the requirements of the institutional Life Safety Code, as determined by the Texas Department of Health.

(3) Health status. The individual's health status does not interfere with participation in the Active Treatment Program. The individual may have health care needs requiring daily supervision by licensed nursing personnel.

(4) Ambulation status. The individual may be ambulatory, mobile nonambulatory, or nonmobile.

**§27.107. ICF-MR VI Level-of-Care Criteria.** The individual eligible for the ICF-MR VI Program requires extensive supervision and assistance in the completion of self-help activities. The individual requires a highly structured environment with ongoing supervision. The individual may also have medical needs requiring close supervision and nursing intervention. Training is necessary in basic self-help skills, sensory-motor development, compliance with daily routines and group activities, and socially appropriate behaviors. Maladaptive behaviors often are present and require active programmatic intervention.

(1) Intellectual functioning. The individual functions in the severe to profound range of mental retardation as evidenced by a full scale I.Q. score of 39 or below obtained by formal assessment. If the individual has a sensory or motor handicap where a specialty standard-

ized intelligence test or a certain portion of a standardized intelligence test is appropriate, then that score must be reported as the I.Q. score for compliance with this criterion. If an I.Q. score cannot be obtained for a severely or profoundly retarded individual, a social quotient (S.Q.) obtained on the Vineland Social Maturity Scale or other professionally accepted scale must be submitted. Documentation must be available that an assessment of intelligence with a standardized intelligence test was attempted.

(2) **Adaptive behavior level.** The individual exhibits extreme deficits in adaptive behavior with an adaptive behavior level of III or IV obtained by formal assessment.

(3) **Health status.** The individual's health status does not interfere with participation in the Active Treatment Program. The individual may require close daily supervision and nursing intervention. The individual,

however, must be able medically to be out of the bedroom/bedroom area for active treatment during waking hours.

(4) **Ambulation status.** The individual may be ambulatory, mobile nonambulatory, or nonmobile.

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 February 10, 1984

TRD-841775

Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Earliest possible date of adoption:

March 19, 1984

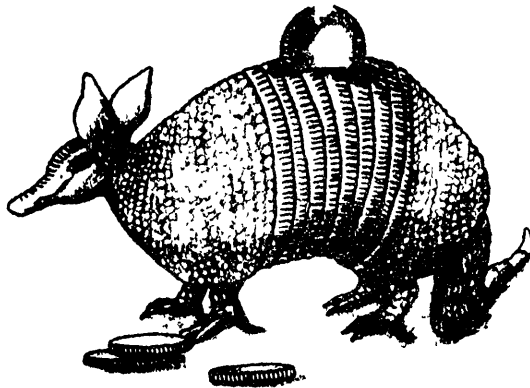
For further information, please call (512) 441-3355,  
ext. 2037.

# Withdrawn Rules

An agency may withdraw proposed action or the remaining effectiveness of emergency action on a rule by filing a notice of withdrawal with the *Texas Register*. The notice is generally effective immediately upon filing.

If a proposal is not adopted or withdrawn within six months after the date of publication in the *Register*, it will automatically be withdrawn by the *Texas Register* office. Notice of the withdrawal will appear in the next regularly scheduled issue of the *Register*. The effective date of the automatic withdrawal will appear immediately following the published notice.

No further action may be taken on a proposal which has been automatically withdrawn. However, this does not preclude a new proposal of an identical or similar rule following normal rulemaking procedures.



## TITLE 7. BANKING AND SECURITIES

### Part IV. Credit Union Department Chapter 91. Credit Union Regulations Organizational Procedure

#### 7 TAC §§91.11-91.18

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the repeal of §§91.11-91.18, submitted by the Credit Union Department, has been automatically withdrawn, effective February 13, 1984. The notice of proposed repeal appeared in the August 12, 1983, issue of the *Texas Register* (8 Tex-Reg 3123).

TRD-841840  
Filed: February 13, 1984

### Powers of Credit Unions

#### 7 TAC §§91.21-91.25

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the repeal of §§91.21-

91.25, submitted by the Credit Union Department, has been automatically withdrawn, effective February 13, 1984. The notice of proposed repeal appeared in the August 12, 1983, issue of the *Texas Register* (8 Tex-Reg 3124).

TRD-841839  
Filed: February 13, 1984

### Audits and Bond Requirements

#### 7 TAC §§91.31-91.34

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the repeal of §§91.31-91.34, submitted by the Credit Union Department, has been automatically withdrawn, effective February 13, 1984. The notice of proposed repeal appeared in the August 12, 1983, issue of the *Texas Register* (8 Tex-Reg 3124).

TRD-841834  
Filed: February 13, 1984

### Loans

#### 7 TAC §§91.41-91.43

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the repeal of §§91.41-91.43, submitted by the Credit Union Department, has been automatically withdrawn, effective February 13, 1984. The notice of proposed repeal appeared in the August 12, 1983, issue of the *Texas Register* (8 Tex-Reg 3124).

TRD-841833  
Filed: February 13, 1984

## **Investments**

### **7 TAC §91.51, §91.52**

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the repeal of §91.51 and §91.52, submitted by the Credit Union Department, has been automatically withdrawn, effective February 13, 1984. The notice of proposed repeal appeared in the August 12, 1983, issue of the *Texas Register* (8 TexReg 3124).

TRD-841838  
Filed: February 13, 1984

## **Reserves and Dividends**

### **7 TAC §91.61, §91.62**

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the repeal of §91.61 and §91.62, submitted by the Credit Union Department, has been automatically withdrawn, effective February 13, 1984. The notice of proposed repeal appeared in the August 12, 1983, issue of the *Texas Register* (8 TexReg 3124).

TRD-841837  
Filed: February 13, 1984

## **Change in Corporate Status**

### **7 TAC §91.71**

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the repeal of §91.71, submitted by the Credit Union Department, has been automatically withdrawn, effective February 13, 1984. The notice of proposed repeal appeared in the August 12, 1983, issue of the *Texas Register* (8 TexReg 3124).

TRD-841836  
Filed February 13, 1984

## **Capital—Deposit Accounts**

### **7 TAC §§91.91, 91.92, 91.94-91.96**

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the repeal of §§91.91, 91.92, and 91.94-91.96, submitted by the Credit Union Department, has been automatically withdrawn, effective February 13, 1984. The notice of proposed repeal appeared in the August 12, 1983, issue of the *Texas Register* (8 TexReg 3124).

TRD-841835  
Filed: February 13, 1984

## **TITLE 25. HEALTH SERVICES**

### **Part I. Texas Department of Health**

#### **Chapter 37. Maternal and Child Health Services**

#### **Lay Midwives**

### **25 TAC §§37.171-37.174**

The Texas Department of Health has withdrawn from consideration for permanent adoption proposed new §§37.171-37.174, concerning lay midwives. The new sections as proposed appeared in the September 2, 1983, issue of the *Texas Register* (8 TexReg 3401). The Texas Department of Health intends to repropose rules on lay midwives in the near future

Issued in Austin, Texas, on February 9, 1984

TRD-841777      Dan LaFleur  
Liaison Officer  
Texas Department of Health

Filed: February 10, 1984  
For further information, please call (512) 458-7236.

## **TITLE 31. NATURAL RESOURCES AND CONSERVATION**

### **Part X. Texas Water Development Board**

#### **Chapter 341. Consolidated Permits Application for Permit**

### **31 TAC §§341.152, §341.153**

The Texas Water Development Board has withdrawn from consideration for permanent adoption proposed amendments to §341.152 and §341.153, concerning consolidated permits. The text of the amended sections as proposed appeared in the September 23, 1983, issue of the *Texas Register* (8 TexReg 3788).

Issued in Austin, Texas, on February 9, 1984

TRD-841720      Susan Plettman  
General Counsel  
Texas Water Development Board

Filed: February 9, 1984  
For further information, please call (512) 475 7841.

### **31 TAC §341.165**

The Texas Water Development Board has withdrawn from consideration for permanent adoption new §341.165, concerning application for permit. The text of the new section as proposed appeared in the

September 23, 1983, issue of the *Texas Register* (8 TexReg 3789).

Issued in Austin, Texas, on February 8, 1984.

TRD-841721 Susan Plettman  
General Counsel  
Texas Water Development Board

Filed: February 9, 1984  
For further information, please call (512) 475-7841.

### **Additional Conditions for Drilled or Mined Shaft Permits**

31 TAC §§341.381-341.386

The Texas Water Development Board has withdrawn from consideration for permanent adoption new §§341.381-341.386, concerning the additional conditions for drilled or mined shaft permits. The text of new sections as proposed appeared in the September 23, 1983, issue of the *Texas Register* (8 TexReg 3789)

Issued in Austin, Texas, on February 8, 1984

TRD-841722 Susan Plettman  
General Counsel  
Texas Water Development Board

Filed: February 9, 1984  
For further information, please call (512) 475-7841.

### **Chapter 353. Underground Injection Control**

#### **General Provisions**

31 TAC §353.1, §353.2

The Texas Water Development Board has withdrawn from consideration for permanent adoption proposed amendments to §353.1 and §353.2, concerning general provisions. The text of the amended sections as proposed appeared in the September 23, 1983, issue of the *Texas Register* (8 TexReg 3791).

Issued in Austin, Texas, on February 8, 1984.

TRD-841723 Susan Plettman  
General Counsel  
Texas Water Development Board

Filed: February 9, 1984  
For further information, please call (512) 475-7841.

### **Chapter 361. Drilled or Mined Shafts Subchapter A. General Provisions**

31 TAC §§361.1-361.6

The Texas Water Development Board has withdrawn from consideration for permanent adoption new §§361.1-361.6, concerning general provisions. The text of the new sections as proposed appeared in the September 23, 1983, issue of the *Texas Register* (8 TexReg 3792).

Issued in Austin, Texas, on February 8, 1984.

TRD-841724 Susan Plettman  
General Counsel  
Texas Water Development Board

Filed: February 9, 1984  
For further information, please call (512) 475-7841

### **Subchapter B. Standards and Methods**

31 TAC §§361.21-361.28

The Texas Water Development Board has withdrawn from consideration for permanent adoption new §§361.21-361.28, concerning standards and methods. The text of the new sections as proposed appeared in the September 23, 1983, issue of the *Texas Register* (8 TexReg 3795).

Issued in Austin, Texas, on February 8, 1984.

TRD-841725 Susan Plettman  
General Counsel  
Texas Water Development Board

Filed: February 9, 1984  
For further information, please call (512) 475-7841.

### **Subchapter C. Complaints**

31 TAC §361.41, §361.42

The Texas Water Development Board has withdrawn from consideration for permanent adoption new §361.41 and §361.42, concerning complaints. The text of the new sections as proposed appeared in the September 23, 1983, issue of the *Texas Register* (8 TexReg 3798).

Issued in Austin, Texas, on February 8, 1984.

TRD-841726 Susan Plettman  
General Counsel  
Texas Water Development Board

Filed: February 9, 1984  
For further information, please call (512) 475-7841.



An agency may take final action on a rule 30 days after a proposal has been published in the *Register*. The rule 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.

The document, as published in the *Register*, must indicate whether the rule is adopted with or without changes to the proposal. The notice must also include paragraphs which explain the legal justification for the rule, how the rule will function, contain comments received on the proposal, list parties submitting comments for and against the rule, explain why the agency disagreed with suggested changes, and contain the agency's interpretation of the statute under which the rule was adopted.

If an agency adopts the rule without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. The text of the rule, as appropriate, will be published only if final action is taken with alterations to the proposal. The certification information, following the submission, contains the effective date of the final action, the proposal's publication date, and a telephone number to call for further information.

# Adopted Rules

## TITLE 16. ECONOMIC REGULATION

### Part I. Railroad Commission of Texas

#### Chapter 13. Regulations for Compressed Natural Gas (CNG) Fuel Systems

A notice appeared in the February 14, 1984, issue of the *Texas Register* indicating that the following adoptions would be serialized in this issue. Effective date of adoption for the documents is February 28, 1984.

Subchapter A. Scope and Definitions  
§§ 13.1, § 13.2  
(new)

Subchapter B. General Rules for CNG and Equipment Qualifications  
§§ 13.11-13.22  
(new)

Subchapter C. Engine Fuel Systems  
§§ 13.31-13.43  
(new)

Subchapter D. CNG Compression, Storage, and Dispensing System  
§§ 13.51-13.66  
(new)

#### Subchapter A. Scope and Definitions.

16 TAC § 13.1, § 13.2

The Railroad Commission of Texas adopts new § 13.1 and § 13.2, without changes to the proposed text published in the September 6, 1983, issue of the *Texas Register* (8 TexReg 3486).

Senate Bill 617, 68th Legislature, 1983, requires the commission to adopt rules governing CNG activities to protect the health, safety, and welfare of the general public. Adoption of the new sections is necessary to carry out this mandate.

The new sections establish a framework of minimum standards to which all CNG installations and activities must conform.

A task force on compressed natural gas rules met on October 12, 1983. Several comments, both written and oral, were received.

All commenters indicated that rules for the CNG industry were needed; therefore, no one commented against the rules. Comments instead were directed at improving the rules as proposed. Comments were submitted by Toni Tricomi and John Carter, Southern Cross Corporation; Roy DuBois, Little Cypress-Mauriceville C.I.S.D.; Scott C. Smith, Jr., Energas Company; A. E. Emmett, Lone Star Gas Company;

Kirk Drew, Carrollton-Farmers Branch I.S.D.; Eddie Imken, Southern Union Gas Company; Paul Boswell, Pampa I.S.D.; Bill Gammon, Dual Fuel Systems, Inc.; Bob Woods, L.E. Klien; Jack Riegel, Impco Carburetor; Bob Heil, City of Corpus Christi; Michael R. Crean, Jr., Pressed Steel Tank Co., Inc.; Ed Dyson, C.N.G. Fuel Systems, Ltd.; and Paul Barron, Norwalk Company, Inc.

No comments were received regarding § 13.1. Several comments were received concerning the definition of "flexible metal and wire braided hose" contained in § 13.2. The hose defined in this section is intended to provide flexibility between a compressor and the incoming pipeline. The staff, therefore, believes that the definition is adequate without changes.

Several worthwhile comments were received which addressed areas not presently covered by these sections. The commission will consider future amendments to incorporate some of these suggestions.

The new sections are adopted pursuant to Senate Bill 617, 68th Legislature, 1983, which authorizes the Railroad Commission of Texas to adopt rules relating to CNG work and operations to protect the health, safety, and welfare of the general public.

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 February 6, 1984.

TRD-841565      Mack Wallace, Chairman  
                    Buddy Temple and Jim Nugent,  
                    Commissioners  
                    Railroad Commission of Texas

Effective date: February 28, 1984  
Proposal publication date: September 6, 1983  
For further information, please call (512) 445-1186.

## **Subchapter B. General Rules for CNG and Equipment Qualification**

### **16 TAC §§ 13.11-13.22**

The Railroad Commission of Texas adopts new §§ 13.11-13.22. Sections 13.14-13.16, 13.18-13.20, and 13.22 are adopted with changes to the proposed text published in the September 6, 1983, issue of the *Texas Register* (8 TexReg3486). Sections 13.11-13.13, 13.17, and 13.21 are adopted without changes and will not be republished in this issue.

Senate Bill 617, 68th Legislature, 1983, requires the commission to adopt rules governing compressed natural gas (CNG) activities to protect the health, safety, and welfare of the general public. Adoption of the rules is necessary to carry out this mandate.

The rules establish a framework of minimum standards to which all CNG installations and activities must conform.

A task force on compressed natural gas rules met on October 12, 1983. Several comments, both written and oral, were received.

All commenters indicated that rules for the CNG industry were needed; therefore, no one commented against the rules. Comments instead were directed at improving the rules as proposed. Comments were submitted by Toni Tricomi and John Carter, Southern Cross Corporation; Ray DuBois, Little Cypress-Mauriceville C.I.S.D.; Scott C. Smith, Jr., Energas Company; A. E. Emmett, Lone Star Gas Company; Kirk Drew, Carrollton-Farmers Branch I.S.D.; Eddie Imken, Southern Union Gas Company; Paul Boswell, Pampa I.S.D.; Bill Gammon, Dual Fuel Systems, Inc.; Bob Woods, L. E. Klien, Jack Riegel, Impco Carburetor; Bob Heil, City of Corpus Christi, Michael R. Crean, Jr., Pressed Steel Tank Co., Inc., Ed Dyson, C.N.G. Fuel Systems, Ltd.; and Paul Barron, Norwalk Company, Inc.

All commenters agreed that odorization of gas is necessary. One commenter suggested that odorometers also be required by § 13.12. The staff disagrees, in that odorization of natural gas is required by the commission's Gas Utilities Division and all gas must be odorized before passing into distribution lines for sale to and consumption by end users. A. E. Emmett of Lone Star Gas Company opposed the use of charcoal filters downstream of the compressor because the malodorant would be filtered out. The staff agrees with Mr. Emmett's concern, but believes that it can be handled through the equipment approval process.

A commenter stated that § 13.13 should be amended to require Underwriters' Laboratories or American Gas Association approval of equipment. Such approval is not presently available, but may be considered at a later date. Another commenter expressed the opinion that a strict approval plan is necessary for school districts converting to CNG. The staff agrees and has already implemented such a program under emergency rules adopted by the commission.

Several comments addressed § 13.14(a), concerning the impracticability of requiring protective guards on cascade storage cylinders. Since protection of fuel supply cylinders is covered by § 13.33(e), the requirement of protective guards has been deleted in § 13.14(a).

Michael Crean of Pressed Steel Tank Company recommended that § 13.14(b) be reworded to indicate that some Department of Transportation (DOT) specifications for CNG cylinders do exist. Although certain DOT specification cylinders are acceptable for CNG service, they are not specifically designed for such service. Accordingly, § 13.14(b) is adopted without changes.

For clarification purposes, superfluous language is deleted in § 13.14(c), concerning removing or obliterating certain symbols on DOT cylinders.

One commenter expressed confusion due to the wording in §13.15(b), relating to "containers (other than cylinders)," stating that all of his containers are cylinders. The staff is aware that cylinders are currently used almost exclusively in the CNG industry; however, the staff did not want to be so restrictive as to preclude the possibility of using containers manufactured pursuant to the American Society of Mechanical Engineers (ASME) Code. The same commenter questioned which part of the ASME Code was being referred to in §13.15(b). Section 13.14(d) specifies that all containers other than cylinders shall be in accordance with the ASME Code, Section VIII, Division I.

John Carter of Southern Cross commented that equipment installers should be able to set and mark the start to discharge setting of relief valves rather than requiring the manufacturer to do so as provided in subsections (d) and (e)(1) of §13.15. The suggested change is unacceptable because it would result in uncertainty as to actual settings of relief valves and would expose valve manufacturers to liability for settings made by unqualified persons. Section 13.15(d) has been changed to allow relief valves with broken seals to be returned to service after being reset and resealed.

Several objections were made to the requirement of §13.16(c) that pressure gauge dials be graduated to read twice the operating pressure of the systems to which they are attached. It was recommended that dials be graduated to 1.5 times the operating pressure. This suggestion has been incorporated.

One commenter opined that §13.18(b) was too restrictive. He stated that compression fittings are better than flared fittings with stainless steel due to the difficulty of properly flaring stainless steel. The rule has been reworded to allow either flared or multiflare compression fittings.

Scott Smith of Energas suggested that §13.18(d) be changed to require all pipe to be joined by socket weld fittings. The staff believes this requirement to be too restrictive. The rule requires piping to comply with the national code for chemical plant and refinery piping. The staff believes that this standard adequately ensures safety while allowing alternative methods of joining pipe. Another commenter recommended that all pipe fittings be stamped 6,000 psi or greater rather than 3,000 psi or greater as originally proposed. The staff agrees that this increases the margin of safety and this change has been incorporated into the rule as adopted.

Section 13.18(e)(5) has been reworded to clarify that pipe nipples are not to be used for initial connections to cylinders or pressure vessels.

In response to a comment on §13.19(b), the word "minimum" has been deleted as surplusage.

Section 13.20(d) has been reworded to clarify labeling requirements for hoses used in CNG service. Since it is impractical to continuously label metallic hose, the rule now requires that such hose shall be labeled with a permanently attached tag.

Toni Tricomi of Southern Cross Corporation pointed out that a fueling connector with four opposing discharge ports as required by §13.22(d) will not comply with §13.61(g), which requires breakaway protection such that any separation in the transfer line will stop the flow of gas. The staff agrees with Mr. Tricomi. Furthermore, the staff believes that §13.22(d) is too restrictive and has deleted this provision from the rule.

Several worthwhile comments were received which addressed areas not presently covered by these rules. The commission will consider further amendments to incorporate some of these suggestions.

The new sections are adopted pursuant to Senate Bill 617, 68th Legislature, 1983, which authorizes the Railroad Commission of Texas to adopt rules relating to CNG work and operations in order to protect the health, safety, and welfare of the general public.

**§13.14. Design and Construction of Cylinders and Pressure Vessels.**

(a) Cylinders and pressure vessels shall be fabricated of steel, aluminum, or composite materials.

(b) Cylinders shall be manufactured, inspected, marked, tested, and retested in accordance with U.S. Department of Transportation regulations or exemptions for Compressed Natural Gas (CNG) service. Fuel supply cylinders shall have a rated service pressure of not less than 2,400 psig at 70°F. Cascade storage cylinders shall have a rated service pressure of not less than 3,600 psig at 70°F. Note: Currently, there are no cylinder specifications in Department of Transportation (DOT) regulations for CNG. Current documents covering these cylinders are DOT exemptions. These are single purpose documents issued to a single company for a specific CNG application.

(c) The "+" (plus) and "\*" (star) markings on DOT cylinders shall not apply in accordance with DOT regulations for cylinders for flammable compressed gases.

(d) Pressure vessels and containers other than cylinders shall be manufactured, inspected, marked, and tested in accordance with the *Rules for the Construction of Unfired Pressure Vessels*, American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code, Section VIII, Division I.

(e) In addition to other marking requirements, cylinders shall be labeled with the words, "FOR CNG ONLY" in letters at least one inch high in contrasting colors and in a location which will be visible after installation. Decals or stencils are acceptable.

(f) Field welding or brazing for the repair or alteration of a cylinder or ASME pressure vessel is prohibited.

**§13.15. Pressure Relief Devices.**

(a) Each fuel supply cylinder shall be fitted with a pressure relief device in accordance with the following:

(1) pressure relief devices for cylinders shall be in accordance with Compressed Gas Association (CGA) Pamphlet S-1.1 and be of the Combination Rupture Disk-Fusible Plug CG-5 type in which the fusible plug has a nominal yield temperature of 212°F;

(2) only one combination rupture disk-fusible plug shall be installed in any pressure relief device opening;

(3) the pressure relief device shall communicate with the fuel and be vented to the atmosphere by a method that will withstand the maximum pressure which will result;

(4) the discharge flow rate of the pressure relief device shall not be reduced below that required for the capacity of the container upon which the device is installed;

(5) the pressure relief device on cylinders shall be permanently marked with the manufacturer's name, initials, or trademark, the temperature rating (212°F) of the fuse plug, and the maximum pressure rating of the rupture disk.

(b) Containers (other than cylinders) and pressure vessels shall be provided with one or more springloaded pressure relief valves set to open in accordance with the ASME Code.

(c) The minimum rate of discharge of pressure relief devices shall be in accordance with CGA Pamphlet S-1.1 (cylinders); S-1.2 (cargo and portable tanks); S-1.3 (storage cylinders); or the ASME Code, whichever is applicable.

(d) Pressure relief valves for CNG service shall not be fitted with lifting devices. The adjustment, if external, shall be provided with means for sealing the adjustment to prevent tampering by unauthorized persons. If at any time such seal is broken, the valve shall be removed from service until it has been reset and sealed. Any adjustments necessary shall be made by the manufacturer only.

(e) Each pressure relief valve shall be plainly marked by the manufacturer of the valve, as follows:

(1) with the pressure in pounds per square inch (psi) at which the valve is set to start to discharge;

(2) with the discharge capacity in cubic feet per minute (cfm).

#### **§13.16. Pressure Gauges.**

(a) Pressure gauges shall be approved for compressed natural gas (CNG) service.

(b) Pressure gauges shall be designed for the normal pressure and temperature conditions to which the devices may be subjected with a burst pressure safety factor of at least four.

(c) Dials shall be graduated to read 1.5 times the operating pressure of the system to which the gauge is attached.

(d) A gauge shall have an opening not to exceed 0.055 inches (number 54 drill size) at the inlet connection.

#### **§13.18. Piping.**

(a) Pipe, tubing, fittings, gaskets, and packing material shall be compatible with the fuel under the service conditions.

(b) All steel tube connections shall be made of manufactured inverted flare type fittings or multi-farrel compression fittings.

(c) Pipe, tubing, fittings, and other piping components between a cylinder or pressure vessel and the first shutoff valve shall be capable of withstanding a hydrostatic test of at least four times the rated working pressure without structural failure.

(d) Compressed natural gas piping shall be fabricated and tested in accordance with American National

Standard Code for Chemical Plant and Petroleum Refinery Piping, ANSI B31.3. Such piping shall be ASTM steel schedule 80, or better. All pipe fittings shall be forged steel stamped 6,000 psi or greater.

(e) The following components or materials shall not be used:

(1) fittings, street ells, and other piping components of cast iron or semi-steel other than those complying with ASTM Specifications A-536 (Grade 60-40-18), A-395, and A-47 (Grade 35018);

(2) plastic pipe, tubing, and fittings for high pressure service;

(3) galvanized pipe and fittings;

(4) aluminum pipe, tubing, and fittings;

(5) pipe nipples for the initial connection to a cylinder or pressure vessel;

(6) copper alloy with copper content exceeding 70%.

(f) Piping components such as strainers, snubbers, and expansion joints shall be permanently marked by the manufacturer to indicate the service ratings.

#### **§13.19. Valves.**

(a) Valves, valve packing, and gaskets shall be suitable for the fuel over the full range of pressures and temperatures to which they may be subjected under normal operating conditions.

(b) Shutoff valves shall have a design working pressure not less than the rated working pressure of the entire system with a safety factor of four.

(c) Valves of cast iron or semi-steel other than those complying with ASTM Specifications A-536 (Grade 60-40-18), A-395, and A-47 (Grade 35018) shall not be used as primary shutoff valves.

(d) The following valves shall not be used:

(1) valves of a design that will allow the valve stem to be removed without removal of the complete valve bonnet or disassembly of the valve body;

(2) valves with valve stem packing glands which cannot be replaced under pressure.

(e) The manufacturer shall stamp or otherwise permanently mark the valve body to indicate the service ratings.

#### **§13.20. Hoses and Hose Connections.**

(a) Hose and metallic hose shall be of or lined with materials that are resistant to corrosion and the actions of compressed natural gas (CNG).

(b) Hose, metallic hose, flexible metal hose, tubing, and their connections shall be suitable for the most severe pressure and temperature conditions expected under normal operating conditions with a burst pressure of at least four times the maximum working pressure.

(c) Hose assemblies shall be tested by the manufacturer or its designated representative prior to use at pressures equal to not less than twice the service pressure.

(d) Hose shall be continuously and distinctly marked, indicating the manufacturer's name or trademark, compressed natural gas service, and working pressure. Metallic hose shall have a manufacturer's permanently attached tag marked with the manufacturer's name or trademark, CNG service, and working pressure.

**§13.22. Vehicle Fueling Connection.**

(a) A vehicle fueling connection shall provide for the reliable and secure connection of the fuel system cylinders to a source of compressed natural gas (CNG).

(b) The fueling connection shall be suitable for the pressure expected under normal conditions and corrosive conditions which might be encountered.

(c) The fueling connection shall prevent escape of gas when the connector is not properly engaged or becomes separated.

(d) The refueling receptacle on an engine fuel system shall be firmly supported, and shall:

(1) receive the fueling connector and accommodate the working pressure of the vehicle fuel system;

(2) incorporate a means to prevent the entry of dust, water, and other foreign material. If the means used is capable of sealing system pressure, it shall be capable of being depressurized before removal;

(3) have a different fueling connection for each pressure base vehicle fuel system.

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 February 6, 1984

TRD-841566 Mack Wallace, Chairman  
Buddy Temple and Jim  
Nugent, Commissioners  
Railroad Commission of Texas

Effective date: February 28, 1984

Proposal publication date: September 6, 1983

For further information, please call (512) 445-1186

**Subchapter C. Engine Fuel Systems**

**16 TAC §§13.31-13.43**

The Railroad Commission of Texas adopts new §§13.31-13.43. Sections 13.32, 13.33, 13.36, 13.40, and 13.41 are adopted with changes to the proposed text published in the September 6, 1983, issue of the *Texas Register* (8 TexReg 3486). Sections 13.31, 13.34, 13.35, 13.37-13.39, 13.42, and 13.43 are adopted without changes and will not be republished in this issue.

Senate Bill 617, 68th Legislature, 1983, requires the Railroad Commission of Texas to adopt rules governing compressed natural gas (CNG) activities to protect the health, safety, and welfare of the general public. Adoption of the rules is necessary to carry out this mandate.

The rules establish a framework of minimum standards to which all CNG installations and activities must conform.

A task force on CNG rules met on October 12, 1983. Several comments, both written and oral, were received. All commenters indicated that rules for the CNG industry were needed, therefore, no one commented against the rules. Comments instead were

directed at improving the rules as proposed. Comments were submitted by Toni Tricomi and John Carter, Southern Cross Corporation; Roy DuBois, Little Cypress—Mauriceville C.I.S.D.; Scott C. Smith, Jr., Energas Company; A. E. Emmett, Lone Star Gas Company; Kirk Drew, Carrollton-Farmers Branch Independent School District; Eddie Imken, Southern Union Gas Company; Paul Boswell, Pampa Independent School District; Bill Gammon, Dual Fuel Systems, Inc.; Bob Woods, L. E. Klien; Jack Riegel, Impco Carburetor; Bob Heil, City of Corpus Christi; Michael R. Crean, Jr., Pressed Steel Tank Company, Inc.; Ed Dyson, C.N.G. Fuel Systems, Ltd.; and Paul Barron, Norwalk Company, Inc.

A comment was made that many CNG components are too small to comply with the labeling requirements of § 13.32(c). The rule has therefore been changed to provide an exception to labeling requirements for cylinder valves, tubing, and fittings.

Subsections (f) and (g) of §13.33 have been reworded to clarify requirements for cylinder bracket mounting. A commenter recommended that §13.33(g) be changed to require self-locking nuts instead of double nutting, and the rule has been changed accordingly. Additional wording has been included to clarify the intent of § 13.33(j) in relation to minimizing fretting corrosion between containers and mounting systems.

Paul Barron of Norwalk Company commented that interstage relief valves should be required for CNG compressors. The staff has taken this under consideration for a future amendment.

Several commenters objected to §13.36(b). Objections were made to placing manual quarter turn shutoff valves on the street side of school buses. The requirement of a second quarter turn shutoff valve installed inside a school bus on the floor near the driver's seat also met opposition. Commenters expressed concern about gas escaping into the interior of the bus if the valve were somehow damaged. The staff also foresees the hazard of a bus driver attempting to locate and activate the shutoff valve below his seat while driving and possible losing control of the bus. The rule has therefore been reworded to require only one quarter turn shutoff valve on school buses, with the valve located as near as possible to the front entrance of the bus.

Section 13.36(e) has been changed to require a "means" rather than a vacuum switch to prevent the flow of fuel when the engine is not running. The rule as changed provides more flexibility in methods of accomplishing the desired result.

Cylinder retest dates may not be required in some instances. Therefore, language "(where applicable)" has been added to § 13.40(b)(4) for clarification.

Section 13.41(d) has been clarified to require accidents involving CNG to be reported to the CNG Subdivision of the LP-Gas Division

Several worthwhile comments were received which addressed areas not presently covered by these rules. The commission will consider future amendments to incorporate some of these suggestions.

The new sections are adopted pursuant to Senate Bill 617, 68th Legislature, 1983, which authorizes the Railroad Commission of Texas to adopt rules relating to CNG work and operations to protect the health, safety, and welfare of the general public.

**§13.32. System Component Qualification.**

(a) System components shall comply with the appropriate provisions in Subchapter B of this chapter.

(b) Components in the engine compartment shall be suitable for service over a range of temperatures from -40°F to 250°F. All other components shall be suitable for service over a range of -40°F to 180°F.

(c) Fuel carrying components shall be labeled or stamped with the following:

- (1) the manufacturer's name or symbol;
- (2) the model designation;
- (3) the design working pressure;
- (4) direction of fuel flow when necessary for correct installation; and

(5) capacity or electrical rating as applicable. **Exception:** This subsection does not apply to service valves, tubing, and fittings.

**§13.33. Installation of Fuel Supply Cylinders.**

(a) Fuel supply cylinders on vehicles other than school buses or other vehicles used in public transportation may be located within, below, or above the driver or passenger compartment, provided all connections to the cylinders are external to, or sealed and vented from, these compartments.

(b) Fuel supply cylinders on school buses and other public transportation vehicles shall not be located above or within the driver or passenger compartment.

(c) Each fuel supply cylinder shall be mounted in a location to minimize damage from collision. No part of a cylinder or its appurtenances shall protrude beyond the sides or top of the vehicle at the point where it is installed.

(d) The fuel system shall be installed with as much road clearance as practical, but not less than the minimum road clearance of the vehicle when loaded to its gross vehicle weight rating. This minimum clearance shall be measured from the lowest part of the fuel system.

(e) No portion of a fuel supply cylinder or cylinder appurtenance shall be located ahead of the front axle or behind the rear bumper mounting face of a vehicle. Cylinder valves shall be protected from physical damage using the vehicle structure, valve protectors, or a suitable metal shield.

(f) Each cylinder bracket shall be secured to the vehicle body, bed, or frame with Grade 5, ½-inch bolts (or better), three-inch diameter washers or a solid back-up plate, and self-locking nuts to prevent damage from road hazards, slippage, loosening, or rotation, and shall be capable of withstanding a static force in any direction of eight times the weight of a fully pressurized cylinder.

(g) Each fuel supply cylinder in the bracket shall be secured to its cradle with Grade 5, ½-inch bolts (or better) and self-locking nuts, and shall be capable of

withstanding a static force applied in any direction of eight times the weight of the fully pressurized cylinder.

(h) The cylinder weight shall not be supported by the outlet, service valves, manifolds, or other fuel connections.

(i) Fuel supply cylinders located less than eight inches from the exhaust system shall be shielded against direct heat.

(j) The mounting system shall minimize fretting corrosion between the container and the mounting system by means of rubber insulators or other suitable means.

(k) Fuel supply cylinders shall not be installed so as to adversely affect the driving characteristics of the vehicle.

**§13.36. Installation of Valves.**

(a) A manually operated cylinder service valve shall be installed on each fuel cylinder.

(b) In addition to the cylinder service valve, a manual quarter turn shutoff valve shall be installed in an accessible location which will permit isolation of the cylinder(s) from the remainder of the fuel system. Manual quarter turn shutoff valves on school buses shall be installed on the exterior and as near as possible to the front entrance for immediate accessibility to the driver in case of emergency.

(c) The valve shall be securely mounted and shielded or installed in a protected location to minimize damage from vibration and unsecured objects.

(d) The valve location shall be marked with the words "MANUAL SHUTOFF VALVE" Decals or stencils are acceptable.

(e) A means shall be provided in the system which automatically prevents the flow of gaseous fuel to the engine when the engine is not running even if the ignition is in an "on" position.

(f) When multiple fuel systems are installed on the vehicle, automatic valves shall be provided, as necessary, to shut off the fuel not being used.

(g) The fueling system shall be equipped with a backflow check valve which will prevent the return of gas from the cylinder to the filling connection.

**§13.40. Labeling.**

(a) A vehicle equipped with a CNG fuel system shall bear a durable label, readily visible and located at the fueling connection receptacle.

(b) The label shall include the following:

- (1) CNG fueled vehicle;
- (2) system working pressure;
- (3) installer's name or company;
- (4) cylinder retest date(s) (where applicable); and
- (5) total cylinder water volume in cubic feet.

(c) Each vehicle shall be identified with a weather-resistant diamond-shaped label located on an exterior vertical or near-vertical surface on the lower right rear of the vehicle (on the trunk lid of a vehicle so equipped, but not on the bumper of any vehicle), inboard from any other markings. The label shall be approximately 4¾ inches by 3¼ inches. The marking shall consist of a border and the letters "CNG" (one inch minimum height centered in the diamond) of silver or white reflective luminous material on a blue background.

**§13.41. System Testing.**

(a) The complete assembly shall be leak tested using natural gas or inert gas (carbon dioxide or nitrogen, or a mixture of these).

(b) After installation, every connection shall be checked with a nonammonia soap solution or a leak detector instrument after the equipment is connected and pressurized to its working pressure.

(c) If the completed assembly is leak tested with natural gas, the testing shall be done under adequately ventilated conditions.

(d) When a vehicle is involved in an accident or fire causing damage to the CNG cylinder, the CNG cylinder shall be replaced or removed and returned to the manufacturer to be inspected and retested in accordance with the specifications under which it was originally manufactured. Before being returned to service, a manufacturer's report of retest and repair shall be sent to the CNG Subdivision of the LP-Gas Division.

(e) When a vehicle is involved in an accident or fire causing damage to any part of the CNG fuel system, the system shall be retested before being returned to service.

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 February 6, 1984

TRD 841567 Mack Wallace, Chairman  
Buddy Temple and Jim Nugent,  
Commissioners  
Railroad Commission of Texas

Effective date February 28, 1984  
Proposal publication date September 6, 1983  
For further information, please call (512) 445-1186

**Subchapter D. Compressed Natural Gas  
Compression, Storage, and  
Dispensing System**

**16 TAC §§13.51-13.66**

The Railroad Commission of Texas adopts new §§13.51-13.66 Sections 13.53-13.55, 13.59, and 13.64 are adopted with changes to the proposed text published in the September 6, 1983, issue of the *Texas Register* (8 TexReg 3486) Sections 13.51, 13.52, 13.56-13.58, 13.60-13.63, 13.65, and 13.66 are adopted without changes and will not be republished in this issue

Senate Bill 617, 68th Legislature, 1983, requires the commission to adopt rules governing Compressed Natural Gas (CNG) activities to protect the health, safety, and welfare of the general public. Adoption of the rules is necessary to carry out this mandate.

The rules establish a framework of minimum standards to which all CNG installations and activities must conform

A task force on compressed natural gas rules met on October 12, 1983. Several comments, both written

and oral, were received. All commenters indicated that rules for the CNG industry were needed, therefore, no one commented against the rules. Comments instead were directed at improving the rules as proposed. Comments were submitted by Toni Tricom and John Carter, Southern Cross Corporation, Roy Dubois, Little Cypress-Mauriceville C.I.S.D.; Scott C. Smith, Jr., Energas Company; A. E. Emmett, Lone Star Gas Company; Kirk Drew, Carrollton-Farmers Branch I.S.D.; Eddie Imken, Southern Union Gas Company, Paul Boswell, Pampa I.S.D.; Bill Gammon, Dual Fuel Systems, Inc.; Bob Woods, L. E. Klien; Jack Riegel, Impco Carburetor; Bob Heil, City of Corpus Christi; Michael R. Crean, Jr., Pressed Steel Tank Co., Inc.; Ed Dyson, C.N.G. Fuel Systems, Ltd., and Paul Barron, Norwalk Company, Inc.

Section 13.53(a) has been reworded to clarify the requirements for protecting CNG compression, storage, and dispensing equipment against physical damage and unauthorized tampering.

Section 13.54 has been changed to clarify that subsection (d) prohibits CNG equipment from being installed beneath electric transmission lines. Also, the exceptions set forth in subsections (d) and (i) have been reworded to allow reduced distances between CNG equipment and buildings constructed of noncombustible material.

A commenter suggested that the maximum capacity of cylinder cascades be limited in §13.54(f). The staff believes that such limitation is not feasible in that the capacity of cascades will depend upon the application of a particular installation.

The staff disagrees with one commenter who objected to the requirement contained in §13.54(i) that the point of fuel transfer be at least 10 feet from storage cylinders. The staff is of the opinion that this distance is a necessary safety precaution to reduce the exposure of storage cylinders to any possible source of ignition.

Section 13.55(c) requires all cylinders to be painted white, but a commenter pointed out that painting is inappropriate for composite cylinders. The staff agrees and the rule has been changed to exclude composite cylinders from this requirement.

Scott Smith of Energas recommended that §13.59(a) be revised to require coating of underground piping. Mr. Smith further recommended requiring the use of sleeves or conduit for underground piping. The staff declines to modify the rule because the recommended changes are too restrictive. One grammatical correction has been made in the last sentence of §13.59(a), changing the word "present" to "presently."

Bill Gammon of Dual Fuels suggested changing §13.64(d) to require the person operating a fuel supply cylinder to be responsible for putting retest dates on the cylinder. The rule only requires a person transferring fuel to a cylinder to verify that retest dates are current. Department of Transportation regulations require retest dates to be affixed to cylinders by persons having a valid retester's identification number.

issued by the Material Transportation Bureau of the Department of Transportation.

Section 13.64(f) has been clarified to reflect that chock blocks are to be used to prevent a cargo vehicle from rolling during the transfer of CNG.

A commenter believed that §13.64(j) required four separate signs to be posted. The rule merely requires that the stated warnings be displayed and it does not matter whether the warnings are all on one sign or stated separately on four signs. The commenter also suggested that the size of lettering be specified, and the rule has been amended accordingly. Also, the word "or" has been changed to "and" to clarify that warning signs are required for dispensing and compressor areas.

Several worthwhile comments were received which addressed areas not presently covered by these sections. The commission will consider future amendments to incorporate some of these suggestions.

The new sections are adopted pursuant to Senate Bill 617, 68th Legislature, 1983, which authorizes the Railroad Commission of Texas to adopt rules relating to CNG work and operations to protect the health, safety, and welfare of the general public.

**§13.53. General.**

(a) Equipment related to a compression, storage, or dispensing installation shall be protected to minimize the possibilities of authorized tampering by fencing and/or locks. Guard rails shall be used to protect such equipment from physical damage.

(b) Control devices shall be installed so that internal or external condensate formation will not cause malfunction.

(c) Vehicles shall not be considered a source of ignition with respect to the provisions in this chapter. Exception: Vehicles containing fuel-fired equipment (e.g., recreational vehicles and catering trucks) shall be considered a source of ignition unless this equipment is shut off completely before entering an area in which ignition sources are prohibited.

**§13.54. Location of Installations.**

(a) Compressed natural gas compression, storage, and dispensing shall be located and conducted outdoors.

(b) A facility in which CNG compression, storage, and dispensing equipment is sheltered by a canopy-type structure constructed of noncombustible materials which has at least one side open and a roof designed for ventilation and dispersal of escaped gas shall be regarded as in compliance, provided that a ventilation space 12 inches wide is provided along the full length at the top of three sides.

(c) Compressed natural gas storage cylinders charged with CNG not connected for use shall be located outdoors in a fenced, protected area.

(d) Compression, storage, and dispensing equipment shall be located aboveground, not beneath electric transmission lines or where exposed by their failure, a minimum of 15 feet from the nearest building or line of adjoining property. Exception: Upon approval by the Railroad Commission of Texas, such equipment may be

located a lesser distance from buildings or walls constructed of concrete or other noncombustible materials, but at least 10 feet from any building openings.

(e) Compression, storage, and dispensing equipment shall be located not less than 15 feet from the nearest public street or sidewalk line, and at least 50 feet from the nearest rail of any railroad main track.

(f) A clear space of at least three feet shall be provided for access to all valves and fittings of multiple groups of cylinders.

(g) Readily ignitable material shall not be permitted within 15 feet of any stationary cylinders.

(h) The minimum separation between cylinders and aboveground tanks containing flammable or combustible liquids shall be 25 feet.

(i) During fueling operations, the point of transfer shall be located at least 15 feet from any building, public sidewalk, highway, street, or road, and at least 10 feet from storage cylinders. Exception: Upon approval by the Railroad Commission of Texas, the point of transfer may be located at a lesser distance from buildings or walls constructed of concrete or other noncombustible materials, but at least 10 feet from any building openings.

**§13.55. Installation of Cylinders and Cylinder Appurtenances.**

(a) Storage cylinders shall be installed aboveground on stable, noncombustible foundations. Horizontal cylinders shall have no more than two points of support longitudinally. Where flooding may occur, they shall be securely anchored to prevent floating.

(b) Cylinders shall be protected by painting or other equivalent means where necessary to inhibit corrosion. Horizontally-installed cylinders shall not be in direct contact with each other.

(c) All cylinders other than composite cylinders shall be painted white.

(d) Adequate means shall be provided to prevent the flow or accumulation of flammable or combustible liquids under cylinders, such as by grading, pads, or diversion curbs.

**§13.59. Installation of Piping and Hoses.**

(a) Piping and tubing shall be run as directly as practical with adequate provisions for expansion, contraction, jarring, vibration, and settling. Exterior piping may be either buried or installed aboveground and shall be well supported and protected against mechanical damage. Underground piping shall be buried not less than 18 inches below the surface of the ground unless otherwise protected. Underground piping shall be protected from corrosion in compliance with presently recognized practices. Threaded pipe and fittings shall not be used underground.

(b) Natural gas shall not be vented to the atmosphere unless the vent leads to a safe point of discharge. A vent pipe or stack shall have the open end suitably protected to prevent entrance of rain, snow, and solid material. Vertical vent pipes and stacks shall have provision for drainage.

(c) The use of hose in an installation is limited to:  
(1) a vehicle fueling hose;  
(2) an inlet connection to compression equipment;



(3) a section of metallic hose not exceeding 24 inches in length in a pipeline to provide flexibility where necessary. Each section shall be so installed that it will be protected against mechanical damage and be readily visible for inspection. The manufacturer's identification shall be retained in each section.

**§13.64. Operation.**

(a) A cylinder shall not be charged in excess of the maximum allowable working pressure at normal temperature for that container. DOT cylinders shall be charged in accordance with DOT regulations.

(b) A fuel supply cylinder shall not have a settled pressure above the working pressure stamped on the cylinder and displayed on a label near the filling connection, corrected for the ambient temperature at time of filling.

(c) Compressed natural gas dispensing systems shall be equipped to automatically stop fuel flow when a fuel supply cylinder reaches the temperature-corrected fill pressure.

(d) The transfer of CNG into a fuel supply cylinder shall be performed by a person qualified as having performed the transfer operation at least three full cycles under supervision and having competence in initiating emergency procedures. This person shall be responsible for verifying working pressure and cylinder retest-date currency.

(e) When CNG is being transferred to or from a motor vehicle, the engine shall be stopped.

(f) During the transfer of CNG to or from cargo vehicles, the hand or emergency brake of the vehicle shall be set and chock blocks used to prevent rolling of the vehicle.

(g) Bleed connections shall be provided in transfer systems to permit depressurizing before disconnecting the line. These bleed connections shall lead to a safe point of discharge.

(h) Compressed natural gas shall not be used to operate any device or equipment which has not been designed or properly modified for compressed natural gas service.

(i) Sources of ignition shall not be permitted within 15 feet of any filling connection during a transfer operation.

(j) Readily visible warning signs with the words "stop motor," "no smoking," "no open flames permitted," "flammable gas" shall be provided for dispensing station and compressor areas. Lettering shall be at least one inch high.

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 February 6, 1984.

TRD-841568 Mack Wallace, Chairman  
Buddy Temple and Jim Nugent,  
Commissioners  
Railroad Commission of Texas

Effective date: February 29, 1984  
Proposal publication date: September 6, 1983  
For further information, please call (512) 445-1186.



**Part II. Public Utility Commission of  
Texas.**

**Chapter 23. Substantive Rules**

**16 TAC §§23.1-23.3**

The Public Utility Commission of Texas adopts the repeal of §§23.1-23.3, concerning general rules, without changes to the proposal published in the October 18, 1983, issue of the *Texas Register* (8 Tex-Reg 4243).

The repeal of existing Chapter 23 and adoption of new Chapter 23, concerning substantive rules, is necessitated by revisions to the Public Utility Regulatory Act as amended and reenacted by the 68th Legislature, 1983, providing for a public utility counsel or counselor and administrative law judges and prescribing their qualifications, powers, and duties; requiring annual audits; requiring certain reports and forecasts by utilities and the commission; providing rules and considerations for approval of building new facilities and for fixing or regulating rates to be allowed or changed by utilities; providing for hearings; relating to rate-making procedures by municipalities and appeals, providing for judicial review of proceedings of the utility commission; and adding special provisions as to the authority and power of the commission over telecommunications utilities. Renumbering, regrouping, and reorganization, as well as revised wording, are adopted to assure clarity and increase specificity through the logical organization of this chapter

No comments were received regarding adoption of the repeal

The repeal is adopted under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction and in administering 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 February 9, 1984

TRD-841740 Rhonda Colbert Ryan  
Secretary of the Commission  
Public Utility Commission of  
Texas

Effective date: March 1, 1984  
Proposal publication date: October 18, 1983  
For further information, please call (512) 458-0100.

The Public Utility Commission of Texas adopts new §23.3, concerning general rules, with changes to the proposed text published in the October 18, 1983, issue of the *Texas Register* (8 TexReg 4244). Section 23.1 and §23.2 are adopted without changes and will not be republished.

The repeal of existing Chapter 23 and adoption of new Chapter 23, concerning substantive rules, is necessitated by revisions to the Public Utility Regulatory Act as amended and reenacted by the 68th Legislature, 1983, providing for a public utility counsel or counselor and administrative law judges and prescribing their qualifications, powers, and duties; requiring annual audits; requiring certain reports and forecasts by utilities and the commission, providing rules and considerations for approval of building new facilities and for fixing or regulating rate to be allowed or changed by utilities, providing for hearings, relating to rate-making procedures by municipalities and appeals; providing for judicial review of proceedings of the utility commission, and adding special provisions as to the authority and power of the commission over telecommunications utilities. Renumbering, regrouping, and reorganization, as well as revised wording, are adopted to assure clarity and increase specificity through the logical organization of this chapter.

Section 23.3, concerning definitions, was adopted with changes. The definition of fuel cost recovery factor was deleted, and the definition of power cost recovery factor was added. The new definition reads "a charge or credit that reflects an increase or decrease in purchased power costs, not in base rates."

The several sections under the undesignated head "General Rules" will outline and define the purpose and scope of the rules, present a severability clause, and define key terms and phrases.

The agency received the following comments on §23.3. Houston Lighting and Power, in reference to base rates, found the term "fuel expense" used but not defined, and in reference to fuel cost recovery factor, felt it should be deleted, for it does not appear in the text of rules, and it is not consistent with §23.23(b)(2), concerning annual fuel cost recovery

Texas-New Mexico Power Company commented that the phrase "major projects" needs to be defined and clarified. "Major" is a relative term. The company wanted to add language to the definition of "base rates" to equate "fuel expense" with "purchased power expense" to more accurately explain the cost incurred by distribution companies. The power cost recovery factor also needs to be defined.

Gulf States Utilities commented that it is unclear in the definition on "base rates" whether the amount of the base rate must be itemized on the customer's bill. If the term "fuel expense" in the definition of "base rates" equates with the term "fuel cost charge" in the definition of "fuel cost recovery factor," the term should be standardized.

Southwestern Electric Power Company commented that "fuel cost recovery factor" is inconsistent with the provisions of §23.23(b)(2)(B), in that the costs allowed to be considered in developing a fuel cost recovery factor are more extensive than those itemized in the definition.

Dallas Power and Light, TESCO, and Texas Power and Light commented that the definition of "base rate" creates uncertainty as to whether or not all fuel costs are to be characterized as being included in base rates. This uncertainty is compounded by §23.45(e)(2)(B)(v), which requires kilowatt hours on the bill. Also, fuel cost factors may be established at other than "rate" proceedings (see §43(g)(2)(C) of the PURA), and the language of the rule should be modified to take this into account.

AT&T commented that the word "utility" is used throughout the rules but is not specifically defined. They would add "(or utility)" to the definition of public utility.

No comments were received regarding adoption of new §23.1 or §23.2.

The new sections are adopted under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction and in administering the provisions of this Act.

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

**Act**—The Public Utility Regulatory Act, Texas Civil Statutes, Article 1446c.

**Affected person**—Any public utility affected by any action of the regulatory authority, any person, partnership, cooperative corporation, corporation, or any combination thereof, whose utility service or rates are affected by any proceeding before the regulatory authority, or any person, partnership, cooperative corporation, corporation, or any combination thereof, that is a competitor of a public utility with respect to any service performed by the utility or that desires to enter into competition.

**Affiliated interest**—The definition of affiliated interest is that definition given in the Public Utility Regulatory Act, Article I, §3(i).

**Agency**—Any state board, commission, department, or officer having statewide jurisdiction (other than an agency wholly financed by federal funds, the legislature, the courts, the Industrial Accident Board, and institutions for higher education) which makes rules or determines contested cases.

**Allocations**—For all utilities, the division of plant, revenues, expenses, taxes, and reserves between states, between municipalities, or between municipalities and unincorporated areas, where such items are used for providing public utility service in a state or municipality or for a municipality and unincorporated areas.

**Applicant**—Any person, partnership, cooperative corporation, corporation, or any combination thereof requesting affirmative service or action from the utility.

**Base rate**—The portion of a customer's utility bill which is attributable to a set level of expenses fixed during rate proceedings. This would include a cost factor specifically identified as fuel expense.

**Bulletin**—The commission's unofficial reporter, published once monthly. Final orders of significant interest are printed in full with headnotes, while less significant material appears as memorandum citations.

**Commission**—The Public Utility Commission of Texas

**Class of service or customer class**—A description of utility service provided to a customer which denotes such characteristics as nature of use or type of rate. Classes may be further subdivided into grades denoting quality of service

**Contested proceeding or case**—A proceeding including, but not restricted to, rate making and licensing, in which the legal rights, duties, or privileges of a party are to be determined by the commission after an opportunity for adjudicative hearing.

**Cooperative corporation**—Any telephone or electric cooperative corporation organized and operating under the Telephone Cooperative Act (Texas Civil Statutes, Article 1528c) or the Electric Cooperative Corporation Act (Texas Civil Statutes, Article 1528b).

**Corporation**—Any corporation, joint-stock company, or association, domestic or foreign, and its lessees, assignees, trustees, receivers, or other successors in interest, having any of the powers or privileges of corporations not possessed by individuals or partnerships, but shall not include municipal corporations unless expressly provided otherwise in the Public Utility Regulatory Act.

**Customer**—Any person, firm, partnership, corporation, municipality, cooperative, organization, governmental agency, etc., provided with services by any utility

**Economy energy**—Energy produced and supplied from a more economical source by one utility substituted for that being produced or capable of being produced from a less economical source by another utility and scheduled on an availability basis.

**Facilities**—All the plant and equipment of a public utility, including all tangible and intangible real and personal property without limitation, and any and all means and instrumentalities in any manner owned, operated, leased, licensed, used, controlled, furnished, or supplied for, by, or in connection with the business of any public utility, including any construction work in progress allowed by the commission.

**Hearing**—Any proceeding based on an application, petition, complaint, or motion

**License**—The whole or part of any commission permit, certificate, approval, registration, or similar form of permission required by law

**Licensing**—The commission process respecting the granting, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license

**Municipality**—A city, incorporated village, or town, existing, created, or organized under the general, home rule, or special laws of the state.

**Municipally owned utility**—Any utility owned, operated, and controlled by a municipality or by a non-profit corporation whose directors are appointed by one or more municipalities.

**Nonrule-making proceeding**—A proceeding other than rule-making proceeding, and other than proceedings concerning exceptions to rules. This definition includes both contested and uncontested proceedings.

**Order**—The whole or part of the final disposition, whether affirmative, negative, injunctive, or declaratory in form, of the commission in a matter other than rule-making but including issuance of "certificates of convenience and necessity" and rate setting.

**Party**—Each person or agency named or admitted as a party

**Permanent installation**—Any installation that is constructed or placed on and permanently affixed to a foundation, and which is, or will be, used or occupied on a permanent full-time basis. A manufactured home or prefabricated structure shall qualify as a permanent installation only if it is installed on a foundation system according to regulations of the Texas Department of Labor and Standards or is otherwise impractical to move and has the wheels, axles, and hitch or towing device removed, and if it is connected to a permanent water and sewer system

**Person**—Any natural person, partnership, municipal corporation, cooperative corporation, corporation, association, governmental subdivision, or public or private organization of any character other than an agency

**Pleading**—A written allegation by the parties of their respective claims. Pleadings may take the form of applications, petitions, protests, exceptions, replies, motions, and/or answers

**Power cost recovery factor**—A charge or credit that reflects an increase or decrease in purchased power costs not in base rates

**Premises**—A tract of land or real estate including buildings and other appurtenances thereon

**Proceeding**—Any hearing, investigation, inquiry, or other fact-finding or decision-making procedure, including the denial of relief or the dismissal of a complaint. It may be rule-making or nonrule-making, rate setting or nonrate setting.

**Public utility**—The definition of public utility is that definition given in the Public Utility Regulatory Act, Article I, §3(c)

**Purchased power and/or energy**—Electrical power and/or energy purchased from a source outside the utility's system to supply load requirements

**Purchased power and/or energy adjustment factor**—A factor which, when multiplied by the number of kilowatt-hours consumed by a customer during a billing period, will produce a purchased power and/or energy adjustment charge to the customer. The total of these charges to all customers is the difference in the cost of power and/or energy purchased by the utility and the component of purchased power and/or energy cost which has been included in the customers' base rates.

**Rate**—Includes every compensation, tariff, charge, fare, fee, deposit, toll, rental, and classification, or any of them demanded, observed, charged, or collected whether directly or indirectly by any public utility for any service, product, or commodity defined in the Public Utility Regulatory Act, Article I, §3(c), and any rules, regulations, practices, or contracts affecting any such compen-

sation, tariff, charge, fare, fee, deposit, toll, rental, or classification.

*Register*—The *Texas Register*, established by the 64th Legislature, 1975, cited in Texas Civil Statutes, Article 6252-13a.

*Regulatory authority*—In accordance with the context where it is found, either the commission or the governing body of any municipality.

*Rule*—Any commission statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of the commission. The term includes the amendment or repeal of a prior rule, but does not include statements concerning only the internal management or organization of the commission and not affecting private rights or procedures.

*Rule-making proceeding*—A proceeding to adopt, modify, or interpret a rule as defined in this section, or to adopt, modify, or interpret a statement which has been filed as a rule by the secretary of state.

*Separation*—For communications utilities only, the division of plant, revenues, expenses, taxes and reserves applicable to exchange or local service where such items are used in common for providing public utility service to both local exchange service and other service, such as interstate or intrastate toll service

*Service*—Service is used in this chapter in its broadest and most inclusive sense and includes any and all acts done, rendered, or performed and any and all things furnished or supplied, and any and all facilities used, furnished, or supplied by public utilities in the performance of their duties under the Public Utility Regulatory Act to their patrons, employees, other public utilities and the public, as well as the interchange of facilities between two or more of them. Service shall not include the printing, distribution, or sale of advertising in telephone directories.

*Tariff*—The schedule of a utility containing all rates, tolls, and charges stated separately by type or kind of service and the customer class, and the rules and regulations of the utility stated separately by type or kind of service and the customer class.

*Test year*—The most recent 12 months for which operating data for a public utility are available, and shall commence with a calendar quarter.

*Uncontested proceeding or case*— All proceedings other than contested proceedings.

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 February 9, 1984

TRD-841741 Rhonda Colbert Ryan  
Secretary of the Commission  
Public Utility Commission of  
Texas

Effective date: March 1, 1984  
Proposal publication date: October 18, 1983  
For further information, please call (512) 458-0100.

## Records and Reports

### 16 TAC §§23.11-23.14

The Public Utility Commission of Texas adopts the repeal of §§23.11-23.14, concerning records and reports, without changes to the proposal published in the October 18, 1983, issue of the *Texas Register* (8 TexReg 4243).

The repeal of existing Chapter 23 and adoption of new Chapter 23, concerning substantive rules, is necessitated by revisions to the Public Utility Regulatory Act as amended and reenacted by the 68th Legislature, 1983, providing for a public utility counsel or counselor and administrative law judges and prescribing their qualifications, powers, and duties; requiring annual audits; requiring certain reports and forecasts by utilities and the commission; providing rules and considerations for approval of building new facilities and for fixing or regulating rates to be allowed or changed by utilities; providing for hearings; relating to rate-making procedures by municipalities and appeals, providing for judicial review of proceedings of the utility commission, and adding special provisions as to the authority and power of the commission over telecommunications utilities. Renumbering, regrouping, and reorganization, as well as revised wording, are adopted to assure clarity and increase specificity through the logical organization of this chapter.

The repeal of §§23.11-23.14 allows the adoption of new §§23.11, 23.13, and 23.14.

No comments were received regarding adoption of the repeal

The repeal is adopted under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction and in administering 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 February 9, 1984

TRD-841742 Rhonda Colbert Ryan  
Secretary of the Commission  
Public Utility Commission of  
Texas

Effective date: March 1, 1984  
Proposal publication date: October 18, 1983  
For further information, please call (512) 458-0100.

### 16 TAC §§23.11, 23.13, 23.14

The Public Utility Commission of Texas adopts new §§23.11 and §23.13, with changes to the proposed text published in the October 18, 1983, issue of the *Texas Register* (8 TexReg 4244). Section 23.14 is adopted without changes and will not be republished.

The repeal of existing Chapter 23 and adoption of new Chapter 23, concerning substantive rules, is necessitated by revisions to the Public Utility Regulatory Act, as amended and reenacted by the 68th Legislature, 1983, providing for a public utility counsel or counselor and administrative law judges and prescribing their qualifications, powers, and duties; requiring annual audits; requiring certain reports and forecasts by utilities and the commission, providing rules and considerations for approval of building new facilities and for fixing or regulating rate to be allowed or changed by utilities, providing for hearings; relating to rate-making procedures by municipalities and appeals; providing for judicial review of proceedings of the utility commission; and adding special provisions as to the authority and power of the commission over telecommunications utilities. Renumbering, regrouping, and reorganization, as well as revised wording, are adopted to assure clarity and increase specificity through the logical organization of this chapter.

Section 23.11, concerning general reports, was adopted with changes. Information involved in calculating a fuel cost factor for a given billing period will no longer be required, due to the abolition of the fuel cost factor.

Section 23.13, concerning statistical reports, was adopted with changes. Construction progress, status, cost, and schedule variance reports shall only be provided for new generating plants if requested by the commission staff. Also, subsection (c), concerning electric utilities, has been reformatted using more general language concerning reporting requirements, leaving specific data descriptions to reporting forms.

The several sections under the undesignated head "Records and Reports" will outline general reporting requirements; lay down the uniform system of accounts for financial records and reports, and set the form of statistical reports concerning capital needs and acquisition plans, construction plans and progress reports, information on the 10-year forecast of load management and resource needs, and other statistical reports as requested by the commission.

The agency received the following comments on §23.11. Houston Lighting and Power (HL&P) commented, in reference to fuel cost and use information, that the second sentence is in conflict with §23.23(b)(2). In reference to other expenditures, they suggested raising the dollar threshold for reporting expenditures from \$50 to \$100. The current level of detail is unnecessarily burdensome. Dallas Power and Light (DP&L), TESCO, and Texas Power and Light (TP&L) commented, in reference to fuel cost and use information, that the requirement that utilities file a report showing the calculation of its fuel cost factor by the fifth day of each billing period is now obsolete and should be deleted.

The City of Houston recommended, in reference to general reports, that reporting provisions be added to reflect the relationships of regulated utilities and

parent or controlling companies, reporting requirements concerning salaries, and number of employees.

The agency received the following comments on §23.13. Southwestern Public Service Company (SPS), in reference to §23.13(c)(1), commented that annual filings will result in costs far in excess of benefits derived. Forecasts should be filed every two years (see the PURA, Article III, §16(c)).

West Texas Utilities (WTU), in reference to §23.13(c)(1), commented that the December 31, 1983, deadline was impossible. Central Power and Light commented that the forecasting reports were excessive, going beyond PURA requirements (request for historical five-year data was unreasonable). It caused increased administrative expense—should use two-year report, eliminate five-year historical report; and revise §23.13(l)(L) to read "economic data for the service area which is compiled and readily available."

City Public Service of San Antonio, in reference to §23.13 and reporting requirements, commented that the commission should avoid over-regulation, since all requirements impose costs; municipalities should be excluded from reporting requirements—the reporting requirements are too stringent, and that items (B), (I), (J), (M), (N), and (O) are not mentioned in Senate Bill 232 and should be deleted.

Central and South West Services, Inc., commented that it was not necessary to use appliance saturation data to develop an acceptable load forecast model; benefits did not clearly outweigh costs. They suggested the use of a pilot project to test the value of the concept.

Houston Lighting and Power commented, in reference to §23.13(b), that the rule as proposed was burdensome to utilities and redundant. In reference to §23.13(c), they requested a biennial rather than an annual reporting requirement. They commented that current year data is available two months after year end, the rule should be flexible to account for this fact. They found the December 31, 1983, requirement unreasonable.

Texas-New Mexico Power Company (TNMPC) suggested that information concerning out-of-state facilities, from which no power flow is possible, be excluded from load management and other types of reports.

Gulf States Utilities (GSU), in reference to §23.13(c)(1) and (2), requested that the filing date be put back to March 1, 1984, so December data may be included. The GSU also suggested "current year" be replaced by "immediate preceding year." In reference to §23.13(c)(1)(j), concerning data base used in forecasting peak load, the company stated that support data was confidential and customers might not make such information available if it was made public. In reference to §23.13(c)(3), concerning number of copies filed on commission forms, the GSU found the paragraph ambiguous, needing stronger punctuation or revised wording. The GSU also recommended three copies of all forms for each jurisdiction.

Dallas Power and Light, TESCO and Texas Power and Light, in reference to §23.13(b), commented that monthly reports on construction progress are excessive and a burden to utilities. Quarterly reports are also required by this rule and should suffice. In reference to §23.13(c)(1), concerning utility forecast, they commented that the commission proposal went beyond the PURA, §16(c), by requiring annual forecast reports rather than biennial forecast reports. The filing of the report once every two years is sufficient. Also, subparagraph (c)(1)(G), which requires historical peak load data by customer class, could be estimated, but the information is typically unavailable. This comment would also apply to (c)(1)(I) (appliance saturation data).

AT&T, in reference to §23.13(d), concerning telephone utility statistical reports, commented that interexchange carriers should be excluded from this reporting provision since they do not have stations on which to report. This change can be accomplished by requesting the report for local exchange telephone utilities only. Also, the term "station" has been replaced by "end user" in the industry, and should be used in this subsection.

Eastman Kodak, in reference to §23.11(e) and §23.14, stated that the information received by these sections should be made reasonably available to affected parties in rate proceedings.

Many of the comments filed by interested parties were found by the commission to be either similar to comments considered at previous meetings and specifically not adopted at that time or without merit. The remaining comments were adopted by the commission and are reflected in the changes made in the rules as published herein.

The new sections are adopted under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and in administering the provisions of this Act.

**§23.11. General Reports.**

(a) Who shall file. The record-keeping, reporting, and filing requirements listed in this section shall apply to all public utilities operating in the State of Texas, excluding municipally owned utilities, unless otherwise specified.

(b) Initial reporting. Periodic reporting (quarterly, annual) shall commence with an initial filing, unless otherwise specified in this section, such that:

(1) the initial quarterly report shall reflect the transactions and conditions of the utility for the most recent fiscal quarter ending on or prior to April 30, 1976; and

(2) the initial annual report shall reflect the transactions and conditions of the utility for the most recent fiscal year ending on or prior to April 30, 1976. All initial reports shall, unless otherwise specified in this section, be filed within 60 days after issuance of commission instructions or forms.

(c) Report attestation. All reports submitted to the commission shall be attested to by an officer or manager of the utility under whose direction the report is prepared, or if under trust or receivership, by the receiver or a duly authorized person, or if not incorporated, by the proprietor, manager, superintendent, or other official in responsible charge of the utility's operation.

(d) Due dates of reports. All periodic reports must be received by the commission on or before the following due dates unless otherwise specified in this section.

(1) Monthly reports: 45 days after the end of the reported period.

(2) Quarterly reports: 45 days after the end of the reported period.

(3) Annual reports: 90 days after the end of the reported period.

(4) Special or additional reports, as may be prescribed by the commission.

(e) Fuel cost and use information. Copies of all presently effective and future fuel purchase or sale contracts shall be available for examination or filed with the commission on request. Each generating electric utility, including municipally owned generating electric utilities, shall file monthly fuel reports on forms prescribed by the commission.

(f) Relationships with affiliates. Copies of contracts or arrangements between any public utility and any affiliated interest shall be filed with the commission on request. If such contract or arrangement is not in writing, it shall be reduced to writing. The following information shall be reported annually:

(1) all ownership and management relationships between companies or between companies and individuals;

(2) all transactions with affiliates including, but not limited to, payments for costs of any services, or any property, right, or thing, or for interest expense.

(g) Payments and other compensation. An annual report shall be submitted to the commission showing all payments of compensation (other than salary or wages subject to the withholding of federal income tax) to residents of Texas, and all payments for legal, administrative, or legislative matters in Texas or for representation before the Texas legislature or any governmental agency or body.

(h) Other expenditures. An annual report shall be filed with the commission providing the total for each of the following classes of expenditures and detailing each expenditure exceeding \$50:

(1) business gifts and entertainment,  
(2) institutional, consumption-inducing, and other advertising expenses;

(3) public relations expenses;

(4) legislative advocacy;

(5) charitable, civic, religious, and political contributions and donations;

(6) all dues or membership fees paid; and

(7) other expenses as deemed appropriate by the commission.

(i) Gross receipts assessment reporting. All utilities subject to the jurisdiction of the commission shall file a gross receipts assessment report with the state comptroller reflecting those gross receipts subject to the assessment.

stipulated in the Act on a form prescribed by the state comptroller. These reports shall be required on an annual basis for those companies that have elected to remit their assessment annually and on a quarterly basis for those companies that have elected to remit their assessment quarterly. Such reports and assessments shall be remitted in accordance with the Public Utility Regulatory Act, Article XII, §79.

(j) Information omitted from reports. The commission may waive the reporting of any information required in those sections if it determines that it is either impractical or unduly burdensome on any utility to furnish the requested information. If any such information is omitted by permission of the commission, a written explanation of the omission must be stated in the report.

(k) Special and additional reports. Each utility, including municipally owned utilities, shall report on forms prescribed by the commission special and additional information as requested which relates to the operation of the business of the utility.

(l) Service quality reports. Service quality reports shall be submitted quarterly on a form prescribed by the commission.

(m) Research and development reports. Research and development reports shall be submitted annually on a form prescribed by the commission.

(n) Report amendments. Corrections of reports resulting from new information or errors shall be filed on a form prescribed by the commission.

(o) Penalty for refusal to file on time. In addition to penalties prescribed by law, the commission may disallow for rate-making purposes the costs related to the activities for which information was requested and not timely filed.

(p) Groundwater withdrawal reports. Each utility, including municipally owned utilities, which withdraws groundwater from conservation, reclamation, or subsidence districts shall file with the commission a verified or certified copy of the appropriate permit, when applicable, issued by the conservation, reclamation, or subsidence district.

**§23.13. Statistical Reports**

(a) Capital needs and acquisition plan. A capital needs and acquisition plan, based upon operations and construction plans, shall be filed annually by all Class A telephone, Class A and B electric, and Class A water and sewer utilities. The plan shall be accompanied by an appropriate written description.

(b) Construction reports. Each utility constructing a facility requiring reporting to the commission under §23.31(c) of this title (relating to Certification Criteria) shall report to the commission on the commission-prescribed preliminary construction report form prior to the commencement of construction. In addition, monthly progress reports, quarterly status reports, and annual cost and schedule variance analyses shall be provided for all new generating plants, if requested by the commission staff, and major generation or transmission system modifications. The form and format of these reports shall be approved by the commission.

(c) Electric utilities.

(1) Every generating electric utility in the state (including municipally owned electric utilities and elec-

tric utilities that will acquire generating capacity at any time during the minimum forecast period) shall prepare and transmit to the commission by December 31, 1983, and every two years thereafter, a report specifying at least a 10-year forecast of load and required resources for its service area. The report shall include the following:

(A) a description of methods and economic/demographic assumptions incorporated in the forecast and of projected population growth, urban development, industrial expansion, and other growth factors influencing the demand for electric energy in the service area;

(B) a list of existing electric generating plants in service with a description of planned and potential generating capacity at existing sites;

(C) projected annual system capacity, peak load, interruptible load, and reserve margins;

(D) forecasted annual load duration curves and peak loads for major demand sectors in the service area;

(E) projected annual firm purchases and sales of capacity;

(F) a description of how electrical energy requirements identified in the forecast will be met, including:

(i) a list of planned annual capacity additions and retirements;

(ii) description of general location, types of fuel used, and estimated shutdown and spent nuclear fuel disposal costs for planned facility additions and retirements;

(iii) projection of annual fuel mix by type of fuel for the forecast period,

(iv) a description of how future electrical energy requirements can be met through improvements in generating/transmission efficiency; importation of power; interstate or interregional pooling; improvements in other operating efficiencies; load management; use of alternative energy sources such as hydro, wind, and solar; development of cogeneration and small power production facilities; and conservation.

(G) descriptions of current load management and conservation programs and efforts to encourage cogeneration and small power production,

(H) such additional information (including historical data) as the commission deems necessary to the evaluation of utility forecasts and resource plans and the development of the statewide electrical energy forecast.

(2) The time period for which the required information shall be filed includes the current year and a forecast period of at least 10 years. Due to the December 31 filing date, current year data may have to be a combination of actual and estimated information. The commission may also require certain historical data.

(3) All required information shall be filed on forms prescribed by the commission. Electric utilities operating in Texas and another state(s) shall file a separate form for Texas-only operations and a form covering total system operations.

(4) Four copies of all required forms shall be filed with the commission filing clerk.

(d) Telephone utilities. Each telephone utility shall submit annually a station data report on a form prescribed by the commission.

(e) Other statistical reports. Other reports shall be filed as requested by the commission. Other reports may include, but are not limited to, customer class credit risk analyses, appliance saturation and energy use studies, and special cost of service-related studies.

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.

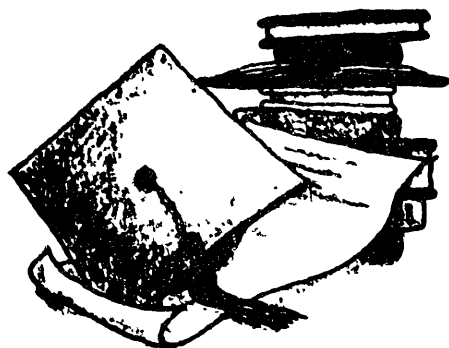
Issued in Austin, Texas, on February 9, 1984

TRD-841743 Rhonda Colbert Ryan  
Secretary of the Commission  
Public Utility Commission of  
Texas

Effective date March 1, 1984

Proposal publication date October 18, 1983

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



## Rates

### 16 TAC §§23.21-23.24

The Public Utility Commission of Texas adopts the repeal of §§23.21-23.24, concerning rates, without changes to the proposal published in the October 21, 1983, issue of the *Texas Register* (8 TexReg 4325).

The repeal of existing Chapter 23 and adoption of new Chapter 23, concerning substantive rules, is necessitated by revisions to the Public Utility Regulatory Act as amended and reenacted by the 68th Legislature, 1983, providing for a public utility counsel or counselor and administrative law judges and prescribing their qualifications, powers, and duties; requiring annual audits; requiring certain reports and forecasts by utilities and the commission, providing rules and considerations for approval of building new facilities and for fixing or regulating rates to be allowed or changed by utilities, providing for hearings, relating to rate-making procedures by municipalities and appeals, providing for judicial review of proceedings of the utility commission, and adding special provisions as to the authority and power of the commission over telecommunications utilities. Renumbering, regrouping, and reorganization, as well as revised wording, are adopted to assure clarity and increase specificity through the logical organization of this chapter.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and to make decisions with respect to administering 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 February 9, 1984

TRD-841744 Rhonda Colbert Ryan  
Secretary of the Commission  
Public Utility Commission of  
Texas

Effective date March 1, 1984

Proposal publication date October 21, 1983

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

### 16 TAC §§23.21, 23.23, 23.24

The Public Utility Commission of Texas adopts new §§23.21, 23.23, and 23.24, concerning rates, with changes to the proposed text published in the October 21, 1983, issue of the *Texas Register* (8 TexReg 4325).

The repeal of existing Chapter 23 and adoption of new Chapter 23, concerning substantive rules, is necessitated by revisions to the Public Utility Regulatory Act as amended and reenacted by the 68th Legislature, 1983, providing for a public utility counsel or counselor and administrative law judges and prescribing their qualifications, powers, and duties, requiring annual audits; requiring certain reports and forecasts by utilities and the commission, providing rules and considerations for approval of building new facilities for fixing or regulating rate to be allowed or changed by utilities, providing for hearings, relating to rate-making procedures by municipalities and appeals, providing for judicial review of proceedings of the utility commission, and adding special provisions as to the authority and power of the commission over telecommunications utilities. Renumbering, regrouping, and reorganization, as well as revised wording, are adopted to assure clarity and increase specificity through the logical organization of this chapter.

Section 23.21, concerning cost of service, is adopted with changes. The first sentence of subsection (b), concerning allowable expenses, was expanded for clarity. Also, subsection (b)(1)(E)(i)-(iii) have been modified by changing the word "promoting" to "advertising." In subsection (c)(2), rate base, sometimes referred to as invested capital, is defined more broadly by substituting a less exclusive verb phrase for the form of be "is", subsection (c)(2)(B)(iii) will now include interexchange telephone carriers in the list of utilities which are able to claim up to one-eighth of



total annual operations maintenance expense under working capital allowance; and subsection (c)(2)(D) has been reworded

Section 23.23, concerning rate design, is adopted with changes. Subsection (a) will now more closely track the language of the PURA. Subsection (b)(2) (A) has been clarified to indicate that "all fuel costs shall be reviewed, and may be redetermined, at the time of the utility's general rate case." Subsection (b)(2) (i)(iii), second sentence, will reiterate the changes in subsection (b)(2)(A) concerning the redetermination of allowed fuel costs in the general rate case. As adopted in subsection (b)(3)(E), generating utilities will now calculate the monthly interim fuel factor by dividing actual unadjusted fuel costs incurred by actual net generation (rather than by net generation sales). And finally, subsection (b)(3)(F) was deleted.

Section 23.24, concerning form and filing of tariffs, is adopted with changes. Language was added to subsection (f) to indicate that utilities must make tariffs available to the public at each of their business offices, or designated sales offices within Texas. Subsection (i) which gives the commission the authority to suspend the effective date of a tariff for a total of 150 days has been modified so that:

in the case of an actual hearing on the merits of a case that exceeds 15 days, the commission may extend the suspension for two days for each one day of actual hearing in excess of 15 actual hearing days

The several sections of the undesignated head "Rates" will outline components of cost of service, allowable expenses, and return on invested capital, determine standards and methods for rate structure and design, and set requirements for the form and filing of tariffs.

Comments were received on §23.21 stating that subsection (b)(2)(i) excludes interest expense on refunds from cost of service. Rules implies interest expense will be deducted from cost of service in some manner. (Such an intent exceeds requirements of the PURA, §41 (c)(3)(C) )

Comments were received suggesting that the language be changed to read.

Costs of processing a refund or credit of sums collected in excess of the rate finally ordered by the commission in a case where the utility has put bonded rates into effect, or when the utility has otherwise been ordered to make refunds

Comments received concerning subsection (c)(2) stated that the definition of rate base is incomplete and not meant to stand alone, and is only a part of the paragraph.

Comments received on subsection (b)(1)(E)(iv) concerning cost of service, stated that in allowable expenses it is inappropriate to include funds expended in support of membership in professional or trade organizations in the calculation of recoveries to be allowed for advertising, contributions, and donations.

Comments received on subsection (b)(2)(i) stated that

interest costs related to refunds are a legitimate business experience.

Comments received on subsection (c)(1) stated that "return" and "rate of return" need to be defined fully, and that the last sentence of subparagraph (A) is not a legal guideline but rather a statement of opinion and should be deleted. Comments on subsection (c)(2) stated that the second sentence of this paragraph tends to limit those items to be included in rate base, and a less specific verb phrase is suggested.

The second sentence in subsection (c)(2)(B)(i) is unclear, and in subsection (c)(2)(B)(ii), the "balance sheet" method of establishing O&M ignores the needs for working capital within each month of the test year, and only in-depth studies should be utilities. In subsection (c)(2) (D), comments stated that revisions proposed do not reflect the intent of the amended PURA, the use of "extraordinary" rather than "exceptional" is contrary to legislative intent and beyond statutory authority of the commission, and that there is an unfair burden of proof which should be rewritten.

Comments on subsection (b) stated that there is no commission obligation to guarantee recovery of each segregated item of expense, that in computing allowable expense, including fuel expense, only historical test year data or known and measurable adjustments should be used, and that a paragraph (2)(K) should be added titled "Expenses Not Allowed." TML suggests all nonrecurring expense be excluded from cost of service. The rule fails to deal with municipal franchise fees. TML suggests that these fees be included in a utility's overall cost of service rather than be allocated on a territorial basis.

In paragraph (1)(E), comments stated that shareholders should support the expense of corporate donations since they are the ones making the decision as to what organizations will receive donations. It is not necessary for a monopoly to advertise. Many utilities use the one-eighth methodology to compute "reasonable cash allowance" to circumvent the company's burden of proof. This method should not be allowed under any circumstance. The utility should have the burden of showing its requested cash allowance is reasonable by use of lead-lag, balance sheet, or similar methodologies.

Comments on subsection (c)(1)(D) stated that language should be added to define the term "financial integrity" to insure that the inclusion of CWIP in the rate base is indeed an exceptional form of relief. The proposed rule should prevent utilities from transferring test year CWIP to plant-in-service to avoid the financial integrity test, and make it clear that only test year CWIP will be considered. An amendment is recommended to subsection (c)(2)(D) to require the commission to determine if plant held for future use is presently used and useful. Comments on subsection (c)(2)(D) stated that the information is vague and too broad, and that "prudently managed" and "financial integrity" need to be defined.

Comments on subsection (b)(2)(i) stated that it should be eliminated from expenses not allowed in cost of service, that it imposes an unconstitutional confiscation of property without due process of law; and that it goes beyond the language of the PURA, §41(c)(3)(C), which only disallows from cost of service the costs of processing a refund or credit when the utility has put rates into effect under the §43(e) bonding provision. Comments on subsection (c)(2)(C)(v) consider "customer deposits" as a source of cost-free capital. However, customer deposits are not cost-free. When customer deposits are deducted from cost-free capital, interest should be reflected as an operating expense under subsection (b)

Comments on subsection (b)(1)(E), concerning expenses subject to 0.3% limitation (donations and advertising), could have a profoundly adverse impact on the efforts of utilities to promote conservation and load management as alternatives to new plants. It will also hinder participation and membership in professional organizations and trade associations; it is suggested that clauses (i)-(iv) be deleted from subparagraph (E) and moved to a new subparagraph (F) headed "The Following Expenditure May be Allowed by the Commission." Comments on subsection (c)(2)(B)(iii) stated that the proposal would give credence to the "balance sheet method" of determining allowance for cash working capital, but this method is fallacious. The commission may want to keep the door open to alternative methods of determination, but should do so without emphasizing particular methods by deleting the words "(including, but not limited to, lead-lag studies and balance sheet methods)" from the third sentence of this clause.

Comments on subsection (c)(2)(D) stated that the proposal is in excess of the commission's statutory authority to adopt (see the PURA, §41(a)). The proposal departs in three material respects: it introduces "extraordinary circumstances" requirement; it states that the commission "may" rather than "shall" include CWIP when necessary to the financial integrity of the utility; and it places an unfair burden of proof on the utility concerning planning and management. Comments on subsection (b)(2)(i) stated that interest expense is normally part of the calculation of the rate of return as a capital cost and not an expense. The proposal appears to be in excess of the PURA, §41(c)(3)(C). Comments on subsection (c)(2)(D) by General Telephone Company of the Southwest proposes short-term CWIP be allowed in rate base for telephone utilities, because the FCC, Part 31, states no interest during construction is to be charged to short-term CWIP which is completed within one year and the "ready to serve capability" required by commission rules demands that the telephone company maintain short-term CWIP at all times so long as growth continues. Comments on subsection (c)(2)(C)(v) stated that customer deposits bear 6.0% interest and, therefore, are not cost-free capital.

Comments by the Texas Press Association support retaining 0.3% as discretionary allowance for advertising and charitable contribution expense. The Texas

Association of Broadcasters support retaining "shall" in the rule on advertising expense, and strongly opposes "may." Comments on subsection (b)(1)(B) stated that the commission should not endorse one particular method of computation, namely the "straight line method," but should allow some flexibility in computation method to more accurately reflect capital recovery requirements caused by such things as new technology. Comments on subsection (b)(2)(i) stated that the proposed language may exceed the intent of the PURA. In cases of interim emergency rate relief, the commission has an opportunity to rule on that increase. If the commission decides a refund is necessary, a company should be allowed to recover the costs involved in making that refund. (See the PURA, §43(e).)

Comments on subsection (c)(2)(A)(iii) stated that there was a need for flexibility in depreciation methods. Comments on subsection (c)(2)(B)(i) stated that redundant wording needed to be deleted. The first sentence takes care of inventories found to be other than reasonable. Comments on subsection (c)(2)(B)(iii) stated that the majority of charges for interexchange carriers are not prebilled and since most charges are billed after they have occurred it is therefore reasonable to include interexchange carriers in the listing of utilities which may receive an allowance of up to one-eighth of total annual operations and maintenance expense in working capital allowance. It is improper to exclude amounts expensed to operations and maintenance from cash working capital allowance. A distinction based on whether the source of an expense is cash or some other asset account fails to give proper recognition to the nature of the expense. The phrase should be deleted. If the alternatives to the formula method are required, does the "up to" language of the first sentence of the subsection cap the amount that is determined to be proper under the alternative?

Comments on subsection (c)(2)(D) stated that the PURA, §41(a), provides for the jurisdiction of the commission to decide when CWIP should be included but does not describe the circumstances as ordinary or extraordinary, and this language should be deleted. Subsection (c)(2)(D)(iii) needs to be revised to conform more closely with the Act. Comments on subsection (c)(2)(D)(iii) stated that the proposed rule is inconsistent with FCC, 31.100.2. The proposed rule would require AT&T to keep one set of records for Texas intrastate investment reflecting accumulation of IDC, while maintaining FCC reports reflecting no accumulation of IDC on short-term plant. Comments on subsection (b)(1)(E), concerning advertising expense, recommend allowing actual expenditures (deletes 0.3% limit) for most information instructional advertising and for attracting new employees. The comments agree with stricter guidelines for contribution expenses, but believe advertising and contributions should be treated totally separate.

Several comments were received on §23.23. A comment was received stating that this section needs a new subsection providing that permanent fuel factors

may only be changed in general rate cases unless the emergency force majeure subsections are invoked

Houston Lighting and Power commented that subsection (a) does not accurately track §39(a) of the amended PURA and underlying legislative intent, revises the statutory guarantee of recovery, and requests review of previous comments on subsection (b). Don Butler commented that where an electric utility receives revenues sufficient to cover both actual fuel costs and fixed costs, there is no "under-recovery" of fuel which would require implementation of the reconciliation provision of this rule, and that subsection (a) should mirror the language of the PURA, §39(a). Subsection (b)(1) should take into account the impact of increased rates on each class of customer. Dramatic increases should not be allowed.

Texas Electric Cooperatives commented that in subsection (b)(3)(E), the "fuel factor" should be identified in terms of cost per net kilowatt hours generated, and the word "sales" should be deleted from the phrase "net generation sales." The Texas-New Mexico Power Company commented that subsection (b)(3)(F) should apply to all electric utilities—the operating company for any generating plant should be the company responsible for compliance. DP&L, Tesco and TP&L commented that in subsection (b)(2) comments already on file with the commission should be noted. Eastman Kodak commented that subsection (b)(2)(C)(iii) relates line losses to voltage level of service. However, the number of transformers and the length of specific lines are far more important than voltage level.

Sam Rayburn G&T commented that subsection (b)(3)(F) contains an inaccuracy in requiring "cooperative utilities" to make the reports to "regular retail customer." Generation and transmission cooperatives sell wholesale electric power to distribution co-ops who sell to retail customers. Therefore, SRG&T suggests that the commission should clarify this section to require generation and transmission co-ops to make the reports to "their respective wholesale customers." The commission should also revise this section to require generation and transmission co-ops to send a copy of the full commission opinion rendered in the respective operating partner's general rate case or fuel hearing, rather than a summary of the commission's evaluations, to its "regular wholesale customer."

CP&L, WTU, and SWEPCO commented on subsection (b), recommending clarification of the rule to specify that fuel factors can be set in a separate fuel proceeding. As written, the rule could be read to allow for the setting of fuel factors only at the time of a general rate case or fuel reconciliation. The language of the rule should be modified to clearly provide for the setting of fuel factors in a general rate case, fuel processing, or reconciliation proceeding.

Tex-La Electric Cooperative, who commented on subsection (b)(2), recommends changing the language "The interim fuel factor shall remain fixed until the utility's next general rate case or commission ordered reconciliation, whichever occurs first" to:

The interim fixed fuel factor shall terminate upon a final order granted in a general rate case or a commission ordered reconciliation proceeding, whichever occurs first. Thereafter, a utility may only change the fuel cost component of its base rate in a general rate case.

Tex-La maintains that such a change will clarify when the interim fixed fuel factor terminates and articulates under what circumstances a utility may file to change the fuel cost component of its base rates.

Tex-La also commented on subsection (b)(2)(A), stating that the language "All fuel costs shall be reviewed at the time of the utility's general rate case" sets no standards for the review, the rule should state whether the fuel cost component of base rates is to be computed using an historic test year with adjustments for known and measurable changes or on a projected test year basis. Tex-La believes the fuel rule should require the use of an historic test year, and recommended the following language:

The entire fuel cost component of base rates shall be reviewed at the time of the utility's general rate case. The fuel cost component shall be determined on an historic test year basis with adjustments allowed only for known and measurable changes. The test year for fuel cost components shall be the same as the test year for all other components of base rates.

The second sentence in the provision should be clarified to state how the reconciliation is to be accomplished and what is to be reconciled. Suggested language was:

All allowed fuel costs, including, if approved, a reconciliation of over- or under-recovery of fuel costs, shall be recovered through the energy portion of the utility's base rates. The reconciliation shall be, as near as practicable over the same period of time as the over- or under-recovery. The reconciliation shall continue only so long as required to refund or collect the over- or under-recovery.

The Association for Local Control of Utility Rates, Inc., commented that the PUC should require electric utility companies to display component costs on monthly billings "in a meaningful way." The Corpus Christi Taxpayer's Association, Inc., fully endorses the position and recommendations of the Association for the Local Control of Utility Rates, Inc.

AT&T commented on §23.24(f), stating that AT&T will not operate business offices as the operating telephone companies do, but will have sales offices where transactions will be made available to the public, and suggest a change in §23.24(i) in effective date and suspension procedure to reflect changes in the PURA, §43(d).

The Association for Local Control of Utility Rates, Inc., and The Corpus Christi Taxpayer's Association, Inc., commented for the rules. AT&T, Tex-La Electric Cooperative, CP&L, WTU and SWEPCO, Sam Rayburn for General Telephone, Eastman Kodak, DP&L, TESCO, TP&L, Texas-New Mexico Power Company, Don Butler, HL&P, the PUC general counsel, Southwestern Bell, the Texas Association of Broadcasters,

and the Texas Press Association commented against the rules

Many of the comments filed by interested parties were found by the commission to be either similar to comments considered at previous meetings and specifically not adopted at that time or without merit. The remaining comments were adopted by the commission and are reflected in the changes made in the rules as published herein

The new sections are adopted under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and to make decisions with respect to administering the provisions of this Act.

**§23.21. Cost of Service.**

(a) Components of cost of service. Rates are based upon a utility's cost of rendering service to the public. The two components of cost of service are allowable expenses and return on invested capital.

(b) Allowable expenses. Only those expenses which are reasonable and necessary to provide service to the public shall be included in allowable expenses. In computing a utility's allowable expenses, only the utility's historical test year expenses as adjusted for known and measurable charges will be considered, except as provided for in any section of these rules dealing with fuel expenses.

(1) Components of allowable expenses. Allowable expenses, to the extent they are reasonable and necessary, and subject to the rules in this section, may include, but are not limited to, the following general categories:

(A) operations and maintenance expense incurred in furnishing normal utility service and in maintaining utility plant used by and useful to the utility in providing such service to the public. Payments to affiliated interests for costs of service, or any property, right or thing, or for interest expense shall not be allowed as an expense for cost of service except as provided in the Act, §41(c)(1).

(B) depreciation expense based on original cost and computed on a straight line basis as approved by the commission,

(C) assessments and taxes other than income taxes;

(D) federal income taxes on a normalized basis. Federal income taxes shall be computed according to the provisions of the Act, §41(c)(2).

(E) advertising, contributions, and donations. The actual expenditures for ordinary advertising, contributions, and donations may be allowed as a cost of service provided that the total sum of all such items allowed in the cost of service shall not exceed 3/10 of 1.0% (0.3%) of the gross receipts of the utility for services rendered to the public. The following expenses shall be included in the calculation of the 3/10 of 1.0% (0.3%) maximum:

(i) funds expended advertising methods of conserving energy,

(ii) funds expended advertising methods by which the consumer can effect a savings in total utility bills;

(iii) funds expended advertising load factor improvement at off peak times;

(iv) funds expended in support of or membership in professional or trade associations, provided such associations contribute toward the professionalism of their membership. However, membership expenses related to legislative advocacy, directly or indirectly, shall not be considered allowable expenses.

(2) Expenses not allowed. The following expenses shall never be allowed as a component of cost of service:

(A) legislative advocacy expenses, whether made directly or indirectly, including, but not limited to, legislative advocacy expenses included in professional or trade association dues;

(B) funds expended in support of political candidates;

(C) funds expended in support of any political movement;

(D) funds expended in promotion of political or religious causes;

(E) funds expended in support of or membership in social, recreational, fraternal, or religious clubs or organizations;

(F) funds promoting increased consumption of electricity or water;

(G) additional funds expended to mail any parcel or letter containing any of the items mentioned in subparagraphs (A)-(F) of this paragraph;

(H) payments, except those made under an insurance or risk-sharing arrangement executed before the date of the loss, made to cover costs of an accident, equipment failure, or negligence at a utility facility owned by a person or governmental body not selling power within the State of Texas,

(I) costs, including, but not limited to, interest expense, of processing a refund or credit of sums collected in excess of the rate finally ordered by the commission in a case where the utility has put bonded rates into effect, or when the utility has otherwise been ordered to make refunds,

(J) any expenditure found by the commission to be unreasonable, unnecessary, or not in the public interest, including, but not limited to, executive salaries, advertising expenses, legal expenses, penalties and interest on overdue taxes, criminal penalties or fines, and civil penalties or fines

(c) Return on invested capital. The return on invested capital is the rate of return times invested capital.

(1) Rate of return. The commission shall allow each utility a reasonable opportunity to earn a reasonable rate of return, which is expressed as a percentage of invested capital, and shall fix the rate of return in accordance with the following principles.

(A) The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties. A rate of return may be rea-

sonable at one time and become too high or too low by changes affecting opportunities for investment, the money market, and business conditions generally.

(B) The commission shall consider efforts by the utility to comply with the statewide energy plan, the efforts and achievements of the utility in the conservation of resources, the quality of the utility's services, the efficiency of the utility's operations, and the quality of the utility's management, along with other applicable conditions and practices.

(C) The commission may, in addition, consider inflation, deflation, the growth rate of the service area, and the need for the utility to attract new capital. The rate of return must be high enough to attract necessary capital but need not go beyond that. In each case, the commission shall consider the utility's cost of capital, which is the composite of the cost of the various classes of capital used by the utility.

(i) Debt capital. The cost of debt capital is the actual cost of debt.

(ii) Equity capital. The cost of equity capital shall be based upon a fair return on its value. For companies with ownership expressed in terms of shares of stock, equity capital commonly consists of the following classes of stock.

(I) Common stock capital. The cost of common stock capital shall be based upon a fair return on its value.

(II) Preferred stock capital. The cost of preferred stock capital is its annual dividend requirement, if any, plus an adjustment for premiums, discounts and cost of issuance.

(2) Invested capital; rate base. The rate of return is applied to the rate base. The rate base, sometimes referred to as invested capital, includes as a major component the original cost of plant, property, and equipment, less accumulated depreciation, used and useful in rendering service to the public. Components to be included in determining the overall rate base are as follows.

(A) original cost, less accumulated depreciation, of utility plant used by and useful to the public utility in providing service;

(i) original cost shall be the actual money cost, or the actual money value of any consideration paid other than money, of the property at the time it shall have been dedicated to public use, whether by the utility which is the present owner or by a predecessor,

(ii) reserve for depreciation is the accumulation of recognized allocations of original cost, representing recovery of initial investment, over the estimated useful life of the asset. Depreciation shall be computed on a straight line basis over the expected useful life of the item or facility;

(iii) payments to affiliated interests shall not be allowed as a capital cost except as provided in the Act, §41(c)(1);

(B) working capital allowance to be composed of, but not limited to, the following

(i) reasonable inventories of materials, supplies, and fuel held specifically for purposes of permitting efficient operation of the utility in providing normal utility service. This amount excludes appliance in-

ventories and inventories found by the commission to be unreasonable, excessive, or not in the public interest,

(ii) reasonable prepayments for operating expenses. Prepayments to affiliated interests shall be subject to the standards set forth in the Act, §41(c)(1);

(iii) a reasonable allowance up to one-eighth of total annual operations and maintenance expense for electric, water, sewer, and interexchange telephone utilities, or a reasonable allowance up to one-twelfth of total annual operations and maintenance expense for telephone utilities, excluding amounts charged to operations and maintenance expense for materials, supplies, fuel, and prepayments. The factor applied to operations and maintenance expense may be reduced to reflect certain billing practices, such as prebilling of local charges in the case of telephone utilities. Alternative methods of establishing an allowance, including, but not limited to, lead-lag studies and balance sheet methods may be used or required by the commission. Operations and maintenance expense does not include depreciation, other taxes, or federal income taxes. The amount for operations and maintenance expense may be reduced for fuel expense, depending on the method for recovering fuel costs from the consumer, and for other items.

(C) deduction of certain items which include, but are not limited to, the following

(i) accumulated reserve for deferred federal income taxes;

(ii) unamortized investment tax credit to the extent allowed by the Internal Revenue Code;

(iii) contingency and/or property insurance reserves,

(iv) contributions in aid of construction;

(v) customer deposits and other sources of cost-free capital.

(D) construction work in progress. The inclusion of construction work in progress is an exceptional form of rate relief. Under ordinary circumstances the rate base shall consist only of those items which are used and useful in providing service to the public. Under exceptional circumstances, the commission will include construction work in progress in rate base that the utility has proven that

(i) the inclusion is necessary to the financial integrity of the utility, and

(ii) major projects under construction have been efficiently and prudently planned and managed. However, construction work in progress shall not be allowed for any portion of a major project which the utility has failed to prove was efficiently and prudently planned and managed.

#### §23.23 Rate Design.

(a) General. In fixing the rates of a public utility, the commission shall fix its overall revenues at a level which will permit such utility a reasonable opportunity to earn a reasonable return on its capital investment used and useful in rendering service to the public over and above its reasonable and necessary operating expenses.

(b) Electric

(1) Rates shall not be unreasonably preferential, prejudicial, or discriminatory, but shall be sufficient, equitable, and consistent in application to each class of

customers, taking into consideration the need to conserve energy and resources

(2) The provisions of this paragraph apply to all investor-owned generating electric utilities. Beginning with the September 1983 billing period of each utility, respectively, no automatic fuel adjustment clause shall be allowed. Any revision of a utility's billings to its customers to allow for the recovery of additional fuel costs may be made only upon public hearing and order of the commission. No later than August 15, 1983, each utility covered by this section shall file with the commission all information necessary to determine an interim fixed fuel factor, effective with its September 1983 billing period. On September 1, 1983, each utility shall file an application for an interim fixed fuel factor. After notice and hearing, the commission shall set such an interim factor. The interim fuel factor shall remain fixed until the utility's next general rate case or commission-ordered reconciliation, whichever occurs first. The monthly interim fuel factor shall be determined by dividing the actual, unadjusted fuel cost by actual, unadjusted sales for the 12-month period ending June 30, 1983.

(A) All fuel costs shall be reviewed, and may be redetermined, at the time of the utility's general rate case. All allowed fuel costs, including, if approved, a reconciliation of over- or under-recovery of fuel costs, shall be recovered through the energy portion of the utility's base rates.

(B) In determining allowable fuel costs, the commission may consider the cost of fuel for the utility's own generation, the cost of economy energy, hydro electric energy, purchased power, cogeneration, wheeling, and other costs associated with generated or purchased power as approved by the commission. In making such determination, the commission shall consider revenues from these or other activities, including off-system sales, to assure that the ratepayers receive an appropriate portion of benefits associated with such revenues.

(C) When approved by the commission, a utility's base rates may be designed to:

(i) include seasonal differentiation of fuel costs, and

(ii) account for system losses and for differences in line losses corresponding to voltage level of service.

(D) For all third-party, nonaffiliated fuel contracts, the utility shall have the burden of demonstrating in each general rate case that its contract negotiations have produced the lowest reasonable cost of fuel to ratepayers. To the extent that the utility does not meet its burden of proof, the commission shall disallow the portion of fuel costs that it finds to be unreasonable.

(E) For all fuels acquired from or provided by affiliates of a generating utility, the utility shall have the burden of demonstrating in each general rate case that all fuel and fuel-related affiliate expenses are reasonable and necessary, and that the price to the utility is no higher than prices charged by the supplying affiliate to its other affiliates or divisions or to unaffiliated persons or corporations for the same item or class of items.

(i) The affiliate fuel price shall be "at cost", no return on equity or equity profit may be included in the affiliate fuel price. The commission may consider the

inclusion of affiliate equity return in rate of return and rate base during the utility's general rate case, however, affiliate equity return or profit shall not be considered part of fuel cost.

(ii) Within 12 months of the implementation of this subsection and thereafter, as determined by the commission, the commission shall perform a full operational investigation of all affiliate fuel suppliers and fuel supply services. The commission may use the results of such investigations during a succeeding general rate case, fuel cost reconciliation proceedings, emergency request proceedings, and elsewhere as it deems appropriate.

(iii) The affiliated companies shall establish, maintain, and provide for commission audit all books and records related to the cost of fuel. These records shall explicitly identify all salaries, contract expenses, or other expenses paid or received among any affiliated companies, their employees, or contract employees.

(F) If an electric utility can demonstrate in an emergency request that fuel curtailments, equipment failure, strikes, embargoes, sanctions, or other reasonably unforeseeable circumstances have substantially changed the cost of fuel included in its base rates, the commission shall issue an interim order on such emergency request within 30 days. Such request shall state the nature of the emergency and the magnitude of change in fuel costs resulting from the emergency circumstances. If, within 120 days after implementation, after a full investigation of the emergency condition, the interim factor is found by the commission to have been excessive, the utility shall refund, with interest at the utility's composite cost of capital during the period the rates were in effect, all excessive collections. Such interest shall be calculated on the cumulative monthly over-recovery balance. If, after full investigation, the commission determines that no emergency condition existed, a penalty of up to 10% of such collections may be imposed. Any over- or under-recovery of fuel costs existing at the time of the emergency request shall be subject to reconciliation as provided for in subparagraph (I) of this paragraph.

(G) In the event of an unanticipated material decrease in fuel costs or unanticipated material increase in revenues from the sales of economy energy, wheeling or other sources, such as off-system sales, the utility shall file, under the emergency provision of subparagraph (F) of this paragraph, a request to decrease the fuel portion of its base rates. The commission shall modify the base rates to assure that ratepayers receive an appropriate portion of such savings or revenues.

(H) Each utility shall maintain up-to-date monthly and cumulative records of fuel costs, fuel revenues, and the difference between them, and it shall report this information to the commission on a monthly basis.

(I) No less than 12 months after implementing a change in its base rates, a utility shall request reconciliation of any over-recovery of fuel cost revenues and may request an opportunity to reconcile any under-recovery of such fuel costs. Under-recovery reconciliation shall be granted only for that portion of fuel costs increased by conditions or events beyond the control of the utility, and upon demonstration of proof by the utility that such conditions or events could not have been pre-

dicted or foreseen at the time the rates were established Interest to be paid by the utility or to the utility on such over- or under-recovery of fuel costs shall be at the utility's composite cost of capital during the period the rates were in effect Such interest shall be calculated on the cumulative monthly over-under-recovery balance.

(i) The utility shall have the burden of showing in public hearing that it has operated plant and generated electricity efficiently and that it has maintained effective cost controls Such burden of proof shall extend to affiliates in the case of affiliate fuel suppliers

(ii) A utility may not request a fuel cost reconciliation if it has been granted a fuel cost reconciliation within the preceding 12 months This subsection shall not preclude the reconciling of fuel costs and revenues or redetermination of allowed fuel costs in the general rate case as approved by the commission, and it shall not preclude the filing of an emergency request as provided in subparagraphs (F) and (G) of this paragraph.

(J) If upon audit or other finding, the commission determines that fuel cost revenue collections are excessive, it may initiate a fuel cost reconciliation hearing

(K) Utilities covered by this section shall provide, in a format specified by the commission, monthly reports containing all information required by the commission to monitor and evaluate fuel-related activities, including economy energy transactions, wheeling, off-system sales, or other similar transactions

(3) The provisions of this paragraph apply to all investor-owned electric distribution utilities, river authorities, and all cooperative-owned electric utilities Beginning with the September 1983 billing period of each utility, respectively, an electric utility which purchases electricity at wholesale pursuant to rate schedules approved, promulgated, or accepted by a federal or state authority and/or purchases from qualifying facilities pursuant to a long-term contract may be allowed to include within its tariff a purchased power cost recovery factor (PCRFR) clause which authorizes the utility to charge or credit its customers for the cost of power and energy purchased to the extent that such cost varies from the amount of purchased power cost utilized to fix the base rates of the utility Purchased electricity cost includes all amounts chargeable for electricity under the wholesale tariffs pursuant to which the electricity is purchased The terms and conditions of such clause shall be approved by an order of the commission

(A) Any difference between the actual costs to be recovered through the PCRFR and the actual PCRFR revenues recovered shall be credited or charged to the customers in the second succeeding billing month

(B) If such a utility purchases power from an unregulated entity, such as a political subdivision of the State of Texas, such utility shall submit the purchased power contract to the commission for approval of the terms, conditions, and price If the commission issues an order approving the purchase, the purchasing utility may have a PCRFR applicable to such purchases

(C) If PCRFR revenue collections exceed PCRFR costs by 10% in any given month, and the total PCRFR revenues have exceeded total PCRFR costs by 5.0% or more for the most recent 12-month period:

(i) investor-owned electric distribution utilities shall be subject to a 10% penalty on excess collection,

(ii) cooperative-owned electric utilities shall report to the commission the justification for excess collection.

(D) The utility shall maintain up-to-date monthly records of the costs to be recovered through the PCRFR Such records shall show at each month end the total estimated PCRFR cost for that month, the actual PCRFR cost on a cumulative basis, and the total dollar amount of revenues resulting from the PCRFR portion of customer rates These records and the calculation of the PCRFR shall be reported to the commission on a most-current-month basis.

(E) Investor-owned electric distribution utilities, river authorities, and cooperative-owned electric utilities which own generating facilities must demonstrate in the general rate case that they have made the lowest reasonable cost fuel purchases, generated electricity efficiently, and maintained adequate cost controls All findings in the rate case concerning fuel purchases, generation efficiency, and cost controls shall be summarized fairly in plain language and reported within 60 days to the regular wholesale and retail customers who buy the power and energy Beginning September 1, 1983, no automatic adjustment shall be allowed for the cost of fuel consumed by such generating utilities in the operation of generation facilities owned by such utilities Any revision of such a utility's billings to allow for the recovery of such fuel costs in excess of the cost of such fuel approved by the commission shall be made only upon public hearing and order of the commission No later than September 9, 1983, each utility covered by this section shall file with the commission all information necessary to determine an interim fixed fuel factor effective with its September 1983 billing period The interim fuel factor shall remain fixed until changed by order of the commission In the case of utilities which own generation facilities, the monthly interim fuel factor shall be determined by dividing actual unadjusted fuel costs incurred by such utility in its own generation facilities by actual net generation sales from its own generation facilities for the 12-month period ending June 30, 1983, and subtracting the amount, if any, of the per kilowatt-hour fuel cost of such generation included in the utility's existing energy rate In the case of utilities which do not have 12 months of normal operational history at that time, such utilities shall file with the commission a requested factor together with all supporting information The commission shall, after opportunity for a public hearing, enter its order approving an interim factor The interim factor shall remain in effect until further order of the commission in a general rate proceeding, a reconciliation proceeding, or in an emergency proceeding

(i) In the case of utilities which own generation facilities, the cost of fuel consumed by such utilities in the operation of generation facilities owned by the utility shall be recovered through a fixed per kilowatt-hour charge multiplied times the kilowatt-hour sales generated by the utility and divided by the total kilowatt-hour sales by the utility All such fuel costs shall be reviewed at the time of the utility's general rate case. All allowed fuel

costs, including a reconciliation of over-recovery or under-recovery shall be recovered through the fixed per kilowatt-hour charge.

(ii) In determining allowable fuel costs, the commission may consider the cost of fuel for the utility's own generation, the cost of economy energy, hydroelectric energy, purchased power, cogeneration, wheeling, and other costs associated with generated power as approved by the commission. In making such determination, the commission shall consider revenues and costs from these or other activities, including off-system sales, to assure that the ratepayers receive an appropriate portion of benefits associated with such revenues.

(iii) When approved by the commission, a utility's rates may be designed to include seasonal differentiation of fuel costs, and account for system losses and for differences in line losses corresponding to voltage level of service.

(iv) If the electric utility can demonstrate in an emergency request that fuel curtailments, equipment failure, strikes, embargoes, sanctions, or other reasonably unforeseeable circumstances have substantially changed the cost of fuel previously fixed by commission order, the commission shall issue an interim order on such emergency request within five days. Such order shall be effective for the period of the unforeseen circumstances. The request shall state the nature of the emergency and the magnitude of change in fuel costs resulting from the emergency circumstances. If, within 120 days after implementation, after a full investigation of the emergency condition, the interim factor is found by the commission to have been excessive, the utility shall refund all excessive collections. Any over- or under-recovery of fuel costs existing at the time of the emergency request or resulting from the emergency relief shall be subject to reconciliation as provided in clause (viii) of this subparagraph.

(v) In the event of an unanticipated material decrease in fuel costs or unanticipated material increase in revenues from the sales of economy energy, wheeling, or other sources, such as off-system sales, the utility shall file, under the emergency provision of clause (iv) of this subparagraph a request to decrease the fuel charge. The commission shall modify the charge to assure that ratepayers receive an appropriate portion of such savings or revenues.

(vi) Each utility shall maintain up-to-date monthly and cumulative records of fuel costs of its generation, fuel revenues by reason of fuel used in generation facilities owned by the utility, and the difference between them, and it shall report this information to the commission on a monthly basis.

(vii) Such a utility may request reconciliation of any over-recovery or under-recovery of fuel cost revenues annually. The utility shall have the burden of showing in public hearing that it has operated plant and generated electricity efficiently and that it has maintained effective cost controls.

(viii) If, upon audit or other findings, the commission determines that fuel cost revenue collections are excessive, it may initiate a fuel cost reconciliation hearing.

(ix) Utilities covered by this section shall provide, in a format specified by the commission, month-

ly reports containing all information required by the commission to monitor and evaluate fuel-related activities, including economy energy transactions, wheeling, off-system sales, or other similar transactions.

(c) Water and sewer. In order to promote conservation, water and sewer utilities shall not apply declining-block rate structures or any other rate design which may offer discounts or reduced rates for increased usage.

#### §23.24. Form and Filing of Tariffs.

(a) Effective tariff. No utility shall directly or indirectly demand, charge, or collect any rate or charge, or impose any classifications, practices, rules, or regulations different from those prescribed in its effective tariff filed with the commission.

(b) Requirements as to size, form, identification, and filing of tariffs.

(1) Every public utility shall file with the commission filing clerk four copies of its tariff containing schedules of all its rates, tolls, charges, rules, and regulations pertaining to all of its utility service by September 1, 1976, or when it applies for a certificate of convenience and necessity to operate as a public utility, if it is not in existence as of September 1, 1976. It shall also file four copies of each subsequent revision. Each revision shall be accompanied by a cover page which contains a list of pages being revised, a statement describing each change, its effect if it is a change in an existing rate, and a statement as to impact on rates of the change by customer class, if any. If a proposed tariff revision constitutes an increase in existing rates of a particular customer class or classes, then the commission may require that notice be given.

(2) All tariffs shall be in looseleaf form of size 8½ inches by 11 inches and shall be plainly printed or reproduced on paper of good quality. The front page of the tariff shall contain the name of the utility and location of its principal office and the type of service rendered (telephone, electric, etc.).

(3) Each rate schedule must clearly state the territory, city, county, or exchange wherein said schedule is applicable.

(4) Tariff sheets are to be numbered consecutively per schedule. Each sheet shall show an effective date, a revision number, section number, sheet number, name of the utility, the name of the tariff, and title of the section in a consistent manner. Sheets issued under new numbers are to be designated as original sheets. Sheets being revised should show the number of the revision, and the sheet numbers shall be the same.

(c) Composition of tariffs. The tariff shall contain sections setting forth:

- (1) a table of contents,
- (2) a preliminary statement containing a brief description of the utility's operations,
- (3) a list of the cities, exchanges, and counties in which service is provided;
- (4) the rate schedules; and
- (5) the service rules and regulations, including forms of the service agreements.

(d) Tariff filings in response to commission orders. Tariff filings made in response to an order issued by the commission shall include a transmittal letter stating that the tariffs attached are in compliance with the order, giv-



ing the docket number, date of the order, a list of tariff sheets filed, and any other necessary information. Said tariff sheets shall comply with all other rules in this chapter and shall include only changes ordered. The effective date and/or wording of said tariffs shall comply with the provisions of the order.

(e) Symbols for changes. Each proposed tariff sheet shall contain notations in the right-hand margin indicating each change made on these sheets. Notations to be used are (C) to denote a change in regulations; (D) to denote discontinued rates or regulations; (E) to denote the correction of an error made during a revision (the revision which resulted in the error must be one connected to some material contained in the tariff prior to the revision); (I) to denote a rate increase; (N) to denote a new rate or regulation; (R) to denote a rate reduction; and (T) to denote a change in text, but no change in rate or regulation. In addition to symbols for changes, each changed provision in the tariff shall contain a vertical line in the right-hand margin of the page which clearly shows the exact number of lines being changed.

(f) Availability of tariffs. Each utility shall make available to the public at each of its business offices or designated sales offices within Texas all of its tariffs currently on file with the commission, and its employees shall lend assistance to seekers of information therefrom and afford inquirers an opportunity to examine any of such tariffs upon request. The utility also shall provide copies of any portion of the tariffs at a reasonable cost to reproduce such tariff for a requesting party.

(g) Rejection. Any tariff filed with the commission and found not to be in compliance with these sections shall be so marked and returned to the utility with a brief explanation of the reasons for rejection.

(h) Change by other regulatory authorities. Tariffs which are filed to reflect changes in rates or regulations set by other regulatory authorities shall include a copy of the order or ordinance authorizing the change.

(i) Effective date of tariff change. No jurisdictional tariff change may take effect prior to 35 days after filing without commission approval. The requested date will be assumed to be 35 days after filing unless the utility requesting the change requests a different date in its application. The commission may suspend the effective date of the tariff change for 120 days after the requested effective date and extend that suspension another 30 days if it finds that a longer time will be required for final determination. In the case of an actual hearing on the merits of a case that exceeds 15 days, the commission may extend the suspension for two days for each one day of actual hearing in excess of 15 actual hearing days.

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 February 9, 1984

TRD-841745 Rhonda Colbert Ryan  
Secretary of the Commission  
Public Utility Commission of  
Texas

Effective date March 1, 1984

Proposal publication date October 21, 1983

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

## Service

### 16 TAC §§23.31-23.38

The Public Utility Commission of Texas adopts the repeal of §§23.31-23.38, concerning service, without changes to the proposal published in the October 18, 1983, issue of the *Texas Register* (8 TexReg 4332).

The repeal of existing Chapter 23 and adoption of new Chapter 23, concerning substantive rules, is necessitated by revisions to the Public Utility Regulatory Act as amended and reenacted by the 68th Legislature, 1983, providing for a public utility counsel or counselor and administrative law judges and prescribing their qualifications, powers, and duties, requiring annual audits, requiring certain reports and forecasts by utilities and the commission, providing rules and considerations for approval of building new facilities and for fixing or regulating rates to be allowed or changed by utilities; providing for hearings, relating to rate-making procedures by municipalities and appeals, providing for judicial review of proceedings of the utility commission, and adding special provisions as to the authority and power of the commission over telecommunications utilities. Renumbering, regrouping, and reorganization, as well as revised wording, are adopted to assure clarity and increase specificity through the logical organization of this chapter.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and to make decisions with respect to administering 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 February 9, 1984

TRD-841746 Rhonda Colbert Ryan  
Secretary of the Commission  
Public Utility Commission of  
Texas

Effective date March 1, 1984

Proposal publication date October 21, 1983

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

## Certification

### 16 TAC §23.31

The Public Utility Commission of Texas adopts new §23.31, concerning certification, without changes to the proposed text published in the October 21, 1983, issue of the *Texas Register* *Texas Register* (8 TexReg 4325).

The repeal of existing Chapter 23 and the adoption of new Chapter 23, concerning substantive rules, is necessitated by revisions to the Public Utility Regulatory Act as amended and reenacted by the 68th Legis-

lature of the State of Texas, providing for a public utility counsel or counselor and administrative law judges and prescribing their qualifications, powers, and duties; requiring annual audits; requiring certain reports and forecasts by utilities and the commission; providing rules and considerations for approval of building new facilities and for fixing or regulating rates to be allowed or changed by utilities, providing for hearings, relating to rate-making procedures by municipalities and appeals; providing for judicial review of proceedings of the utility commission; and adding special provisions as to the authority and power of the commission over telecommunications utilities. Renumbering, regrouping, and reorganization, as well as revised wording, are adopted to assure clarity and increase specificity through the logical organization of this chapter.

The single section of the undesignated head, Certification, will set certification criteria for both new and existing service areas, and address the transferability and exclusiveness of certificates of convenience and necessity

Comments were received stating that the commission should require a certificate of convenience and necessity for all construction projects, that when a certificated but yet unconstructed transmission line is upgraded, only the filing of a construction report should be required, that imposition of a requirement to seek a new certificate for a route within an existing certificated area will be burdensome and expensive, and that this requirement should exclude local exchange carriers; and that there is no apparent need as determined by statute for a certificate of convenience and necessity for new interexchange telecommunications trunk routes (See the Act, §37 )

Don Butler, Gulf States Utilities, General Telephone Company of the Southwest, and AT&T commented against the rules

Many of the comments filed by interested parties were found by the commission to be either similar to comments considered at previous meetings and specifically not adopted at that time, or without merit

The new section is adopted under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and to make decisions with respect to administering 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 February 9, 1984

TRD-841747 Rhonda Colbert Ryan  
Secretary of the Commission  
Public Utility Commission of  
Texas

Effective date March 1, 1984  
Proposal publication date October 21, 1983  
For further information, please call (512) 458-0100

## Customer Service and Protection

16 TAC §§23.41, 23.42, 23.44-23.48

The Public Utility Commission of Texas (PUC) adopts new §§23.41, 23.42, and 23.44-23.46, with changes to the proposed text published in the October 21, 1983, issue of the *Texas Register* (8 TexReg 4325). Sections 23.42, 23.47, and 23.48 are adopted without changes and will not be republished here.

The repeal of Chapter 23 and adoption of new Chapter 23, concerning substantive rules, is necessitated by revisions to the Public Utility Regulatory Act as amended and reenacted by the 68th Legislature, 1983, providing for a public utility counsel or counselor and administrative law judges and prescribing their qualifications, powers, and duties, requiring annual audits; requiring certain reports and forecasts by utilities and the commission; providing rules and considerations for approval of building new facilities and for fixing or regulating rates to be allowed or changed by utilities, providing for hearings; relating to rate-making procedures by municipalities and appeals; providing for judicial review of proceedings of the utility commission, and adding special provisions as to the authority and power of the commission over telecommunications utilities. Renumbering, regrouping, and reorganization, as well as revised wording, are adopted to assure clarity and increase specificity through the logical organization of this chapter.

In §23.41, concerning customer relations, subsection (a)(7) was modified to correct a typographical error in a rule cite. The correct cite should read "pursuant to §23.61(b) of this title, (relating to Telephone Utilities)." Subsection (a)(8) was also modified, substituting the word "customers" for "consumers."

Section 23.43, concerning applicant deposit, was not adopted on a regular basis, however, it was adopted on an emergency basis, effective January 26, 1984, with an emergency amendment effective February 1, 1984. The definitions of applicant and customer, in subsection (a)(2), now read

For purposes of this section, applicant is to be defined as a person who applied for service for the first time or reapplies at a new or existing location after discontinuance of service. Customer is defined as someone who is currently receiving service

Subsection (a)(3)(C)(iii), which proposed that the utility contact the guarantor if the guarantee is still in effect two years after being signed, has been deleted. Subsection (a)(5) was modified to state that a deposit is required by the utility applicants for and customers of commercial, industrial, or residential service shall be provided written information about deposits, and, subsection (a)(5)(B) was deleted causing some renumbering. Subsection (c)(1), second sentence, was modified to read

If actual billings of a commercial customer are at least twice the amount of the estimated billings, a new deposit may be required to be made within seven days. If actual billings of a residential customer are at least twice the amount of the estimated billings, after two

billing periods, a new deposit may be required to be made within seven days

The changes to subsection (c)(1) were considered substantive changes. The rule has been adopted on an emergency basis and was withdrawn and repropose for public comment in the January 31, 1984, issue of the *Texas Register*.

Section 23.44, concerning new construction, was adopted with changes. Subsection (b)(3) was modified to indicate that utilities shall not charge fees or charges for service or function that is a normal utility service, except as provided in the tariff of the utility. Subsection (c)(6) was also modified, and now reads "explained to the customer following assessment of necessary line work."

Section 23.45, concerning billing, was adopted with changes. Subsection (e)(2)(B)(iv), (v), and (vii) were deleted, and the remaining clauses were renumbered (i)-(viii). In the original proposal, subsection (e)(2)(B)(vi) was modified to changing "electricity used" to "services provided" and renumbering (due to the deletion of material indicated previously). Clause (viii) of subsection (e)(3)(B) was also deleted, causing renumbering of the remaining clauses. In subsection (f), after the fifth sentence, a new sentence was added, reading "the backbilling is not to exceed six months unless the utility can produce records to identify the additional amount of backbilling."

Section 23.46, concerning discontinuance of service, was adopted with changes. The deadline for disconnection for delinquent bills in subsection (a) was extended from 22 to 23 days from the date of issuance. Subsection (c) was modified to read

Utility service may be disconnected without notice where a known dangerous condition exists for as long as the condition exists, or where service is connected without authority by a person who has not made application for service or who has reconnected service without authority following termination of service for nonpayment

Subsection (d)(8) was deleted in its entirety.

The several sections concerning customer service and protection set standards and procedures for notice to customers and reporting to the commission on customer relations, refusal of service by a utility, applicant deposit, new construction, billing, discontinuance of service, meters, and continuity of service

There were several comments regarding §23.41. Southwestern Public Service (SPS) stated that in subsection (a)(2) the customer should be required to ask by special request for service alternatives

West Texas Utilities (WTU) stated that in subsection (a)(8), "consumers" should be changed to "customers"

Texas-New Mexico Power Company (TNMPC) stated that in subsection (a)(2) the term "lowest priced alternatives" was ambiguous and requested clarification.

Eastman Kodak stated the information required by subsection (a)(1) should be made reasonably available to affected parties in rate proceedings.

Continental Telephone of Texas (Continental) commented that in subsection (a)(2), the first offer of service to a customer should be the best service and performance available. Lowest rates could be provided on applicant request. The company also stated that in subsection (a)(5) the requirement for Spanish "as necessary" is vague

AT&T stated that the reference to §23.41(b) in (a)(7) should be §23.41(d). Regarding subsection (a)(9), AT&T would exempt interexchange carriers from providing the information requested in §23.41(a)(3)-(8), since it does not appear applicable to interexchange carriers.

Concerning §23.42, the TNMPC stated that utilities must be allowed to recover revenues lost when meter tampering has occurred, and subsection (c)(3) should state this

Continental stated that an exemption from the disconnection restriction should be added in subsection (c)(1) to provide protection against account delinquency at the same residence by members of the same family. Also, some latitude for exceptions is necessary in subsection (c)(4). Emergency provisions are needed to exempt the utility from the notice requirement before disconnection when a hazardous situation exists

Southwestern Bell (SWB) recommended language in subsection (a)(2) allowing a telephone utility providing basic exchange service and performing billing and collection services for an interexchange carrier under tariffs approved by the PUC to refuse local exchange service for failure to pay amounts billed for interexchange service

Concerning §23.43, the Lower Colorado River Authority (LCRA) commented on subsection (a)(3)(C), concerning guarantees to secure payment (company does not want cost of return insufficient guarantees). The company also stated that in regard to subsection (a)(5), information on deposits is already available through §23.41(a)(5). The section is redundant and will increase costs. It should not be adopted.

SPS stated that it is extraordinarily burdensome to customer and utility to require signed statements concerning deposits. The company requests that §23.43(a)(5)(B) be deleted and §23.43(a)(5) be amended to only require written information on deposits if the utility has requested a deposit. Subsection (a)(3)(C)(iii) also places an undue burden on the utility to research files to determine guarantor's responsibility. The company requests that this requirement be deleted.

WTU commented on subsection (a)(3)(C)(iii). The customer should be responsible for reminding a guarantor of his or her responsibility after two years. Unreasonable cost for utility and customers is not affected. The company also stated that subsection (a)(5) duplicates information required in §23.41(a)(5)(L), concerning an undue administrative burden.

Central Power & Light (CP&L) stated that rules should minimize administrative costs related to deposits. The new rule increases utility costs and lessens protection of paying customers. It suggested removing subsection (a)(5), concerning deposit information.

Houston Lighting & Power (HL&P) stated that subsection (a)(3)(C)(i) should be deleted. It is burdensome and costly and could result in bill collection problems with multiple guarantors.

Subsection (a)(3)(C)(iii) should be deleted because it is the responsibility of the guarantor to cancel the guarantee. In subsection (a)(4) the wording is unclear as to whom the section applies. Subsection (a)(5) is redundant with §23.41(a)(5) and burdensome and expensive to implement.

The TNMPC stated that requiring customer compliance with subsection (a)(5)(B) is beyond the scope of the commission and puts utilities in an unfair position if the customer refuses to comply.

Gulf States Utilities (GSU) stated that in subsection (a)(3)(C)(i), utilities should have the ability to contract freely in regard to letters of guarantee. The increased burden to the utility in subsection (a)(3)(C)(iii) outweighs the benefits. Documents of guarantee should be destroyed rather than returned to the guarantor. Subsection (a)(3)(C)(iii) should be deleted for the same reason. Subsection (a)(5)(A) is repetitive, since annually information is disseminated under §23.41(a). Unreasonable burden is placed on a company in subsection (a)(5)(B). The utility cannot force compliance by customers.

Southwestern Electric Power Company (SEPCO) stated that the requirements of subsection (a)(5) are redundant (see §23.41(a)(5)) and potentially costly. It deals with information on deposits to new customers.

Dallas Power & Light Company (DP&L), Texas Electric Service Company (TESCO), and Texas Power & Light (TP&L) stated that subsection (a)(3)(C)(iii) should be deleted. A guarantor should be responsible for its obligation.

In subsection (a)(5), a separate customer information publication regarding deposits distributed at the time service is initiated will be redundant and costly. With regard to the requirement that utilities ask customers to sign a statement that information has been received and understood, companies can request such action by customers but have no method of enforcement if customers refuse to cooperate. This proposal is ambiguous and creates a burdensome record-keeping requirement for utilities. The companies urge that paragraph (5) not be adopted in any part.

Continental stated that subsection (a)(5) is redundant, burdensome, and costly.

United Telephone Company of Texas (UTCT) suggested deleting the 20-day period in subsection (a)(2) from the definition of applicant and customer. The company recommended that the applicant be any person applying for service who does not currently have

any type of service with that utility, and that customer be defined as any person currently having service. The company also stated that in subsection (a)(3)(C)(iii), being aware that one is a guarantor is that person's responsibility and that the administrative cost to the utility as a result of the proposed language is one which should not be "thrust upon the ratepayers for a service which is an aid to a limited number of customers." Regarding subsection (a)(5)(B), it agrees that every applicant should be given information about deposits but states that keeping a copy on file would be an added cost to the utilities which ultimately would be borne by the customers.

AT&T suggested that interexchange carriers provided billing service by local exchange carriers be excluded from §23.43(a)-(i).

SWB recommended defining customer in subsection (a)(2) as "someone who is currently receiving service" and deleting "including someone who voluntarily discontinues service and reapplies for it with the same utility at a new or existing location within 20 days after disconnection." A set time frame is irrelevant to the definition of applicant and customer; once a customer's telephone number is no longer in service as a result of a complete disconnect, he or she then becomes an applicant for new service. If a customer disconnects service and reapplies, that customer should receive the same consideration as any other applicant. The payment record is the critical issue, not the length of time since previous service was disconnected. The company also recommended adding language in subsection (a)(4), which would allow a telephone utility providing basic exchange service and performing billing and collection services for an interexchange carrier to require deposits reflecting billings for interexchange service. The company recommended deletion of entire subsection (a)(5)(B), regarding the statement program. Implementation of such a program would impose a tremendous administration burden on the utility (with the resulting costs borne by the ratepayer) with little, if any, additional benefit to the customer. The company also recommended the retention of the phrase "use is" rather than "billings are" in subsection (c)(1). This will allow the company to secure the high risk accounts when notified of abnormal toll usage prior to billing. The company also suggested the addition of language allowing a telephone utility providing basic exchange service and performing billing and collection services for an interexchange carrier to require deposits reflecting anticipated billings for interexchange service.

Concerning §23.44, HL&P stated that subsection (b)(3) is unclear and unnecessary.

Don Butler stated that in subsection (b)(1), "switch-over fees may prevent a customer from having a real choice in determining who will provide utility service." Initial service should not include switchover fees.

GSU stated that in subsection (c)(6), clerical employees are unable to determine the need for line work when an application is initially taken, and until an

assessment is made by the Transmission and Distribution Department information on cost is incomplete

DP&L, TESCO and TP&L stated that subsection (b)(3) is vague, since there is no definition of the term "normal utility service," and it ignores commission approved tariff schedules which set forth charges for miscellaneous service items that are not included in the standard rates for utility service

Concerning §23.45, the LCRA stated that 16 days to pay a bill is too long. Those who expect payment to arrive in one day by mail will still face the same problem whether the period is 15, 16, or 30 days. It should not be adopted

WTU stated that a 16-day mailing period creates rule inconsistencies. The current system is equitable and sufficient

HL&P stated that the due date should remain 15 days. A change would cause added expense. The company also stated that subsection (e)(2)(B)(v) is not consistent with §23.23(b)(2), which equates "total cost of fuel per kWh" with "fuel cost factor"

The TNMPC stated that in subsection (f), language should be added to allow utilities to recover for undercharges which are the result of criminal activities by customers.

DP&L, TESCO & TP&L stated that in subsection (a), the proposal would result in an increased capital requirement for carrying customer accounts an additional day and is in conflict with the deadlines set out for termination of service in §23.46(a)

Concerning subsection (e)(2)(B)(v), the requirement of showing on the bill the charge per kWh for fuel is unnecessary due to revisions in the fuel rule (§23.23), and clause (v) should read "the total cost of purchased power (purchased power adjustment factor), if authorized."

Eastman Kodak stated that subsection (e)(2)(B)(v), which requires that the fuel cost recovery factor be shown on the bill, is at odds with §23.23(a)(2)(A). Kodak suggests this clause be deleted and that the fuel factor in use during the billing period be shown on the bill even though fuel costs will be recovered through base rates. Kodak would also add a new subparagraph (C), to subsection (e)(2) to read as follows

If an error in calculation of a previous bill is recognized, then necessary correction should be shown on a subsequent bill. All such corrections shall be fully explained, and the charges or credits associated with the correction shall be listed separately from other items in the bill

Continental stated that subsection (a) conflicts with §23.46(a) and that an additional mailing day will not help prevent delinquent bills. In subsection (c)(1), a charge should be included for the extension of credit to avoid excessive requests for this service

Bandera Electric Cooperative commented on §23.45 and §23.46. If the disconnect can be made 22 days after issuance of the bill, and the notice must be seven

days before stated disconnect notice, the bill would be due 15 days after issuance rather than 16 days.

Doug Arnold & Associates, Inc., was opposed to the change in §23.45, which would permit telephone utilities to backbill for the entire period of any undercharge. The company cited example of "heavy-handed and arbitrary" tactics used by utilities which "discourage attempts by customers to collect the money they are legally entitled to."

United Telephone Company of Texas (UTCT) suggested that the 16-day interval in subsection (a) is too long. The 16 days plus the required seven-day notice to disconnect means that a bill would have to be at least 23 days overdue before disconnection. The company believes that telephone utilities have a larger risk than other utilities, since a large toll bill could be incurred during the 23 days a customer would have use of the network. The company proposed changing the due date to 10 days receipt of the bill.

The Association for Local Control of Utility Rates stated that subsection (e)(2) should also require electric bills to reflect construction work in progress and nonconstruction work in progress charges; individual listing of all taxes, and the total cost per kWh expressed in cents, in addition to other requirements.

AT&T stated that in subsection (e), regulated interexchange carriers subject to regulation should only be required to issue bills when a customer has used the service.

SWB stated that the due date in subsection (a) should be changed from 16 days to 15 days. The present due date is 15 days and there appears to be no reason to extend it by one day

Concerning §23.46, the City of Corpus Christi supported comments filed by CP&L concerning meter tampering. The commission should not adopt any rule which could arguably bestow property rights to someone engaged in stealing services

SPS stated that in subsection (b)(4), notice before disconnection as a result of meter tampering is unreasonable since it encourages illegal diversion during the notice period. Subsection (d)(8) should not apply to payment of final bill for consumption used by a customer at previous address when new service is established at another address

WTU commented that in subsection (b)(4), no notice of discontinuance should be necessary when tampering has occurred. Subsection (d)(8) may encourage customers not to pay final bills at previous residence

CP&L suggested that language be added to reflect meter tampering as a cause for immediate service interruption and issuing of a back bill

HL&P stated that, regarding §23.43, 23.46, and 23.47, meter tampering is a growing problem and reiterate rule comments made in spring of 1983.

The TNMPC stated that in subsection (d)(5), language should be added to allow utilities to recover for under-

charges which are the result of criminal activities by customers.

GSU stated that the proposal in §23.46(e) appears to infer that an employee physically collect late payment fees before service is reconnected. However, mechanical devices may be used by utilities to collect this money. Therefore, the rule should be modified to make allowance for this situation to avoid increased administrative costs to utilities.

DP&L, TESCO, and TP&L commented on subsection (b)(4), stating that to give notice to a customer who has tampered with a meter and is stealing electricity is to reward the thief at the expense of honest customers. The commission should seek to discourage theft and, for that reason, should allow termination of service without notice in such cases.

Subsection (d)(8) gives rise to the possibility of evasion of payment in instances where a customer moves without leaving a forwarding address and paying the final bill. The proposal also conflicts with paragraph (4) which provides for termination of service to a customer as guarantor on another account. Paragraph (8) is wholly unnecessary since paragraph (3) provides the protection sought.

General Telephone Company of the Southwest stated that in subsection (b), a customer's local service should be disconnected for failure to pay all long distance charges regardless of the interexchange carrier.

SWB requested a change in the *Texas Register* preamble to definitions, which is beyond the scope of the commission. SWB stated subsection (d)(8) would hamper collection efforts, force the company to discontinue the use of letters of guarantee, and give the company no recourse if a customer defaulted on another account transferred to his account. In addition, the proposal is in conflict with §23.42(a)(2) and §23.46(d)(4).

No comments were received in favor of the rules.

Those commenting against were SPS, WTU, the TNMPC, Eastman Kodak; Continental; AT&T, SWB; LCRA, CP&L, HL&P; GSU; SWEPCO; DP&L TESCO-TP&L; UTCT; Don Butler, Bandera Electric Cooperative; Doug Arnold & Associates, Inc.; Association for Local Control of Utility Rates; the City of Corpus Christi; and General Telephone Company of the Southwest.

Many of the comments filed by interested parties were found by the commission to be either similar to comments considered at previous meetings and specifically not adopted at that time or without merit. The remaining comments were adopted by the commission and are reflected in the changes made in the rules as published herein.

The new sections are adopted under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and to make deci-

sions with respect to administering the provisions of this Act.

**§23.41. Customer Relations.**

(a) Information to customers. Each utility shall:

(1) Maintain a current set of maps showing the physical locations of its facilities. All facilities (generating plants, telephone exchange locations, transmission, distribution or collection lines, treatment plants, etc.) shall be labeled to indicate the size, nominal capacity and voltage, or any pertinent information which will accurately describe the utility's facilities. These maps, or such other maps as may be required by the commission, shall be kept by the utility in a central location and will be available for commission inspection during normal working hours. Each business office or service center shall have available up-to-date maps, plans, or records of its immediate area, with such other information as may be necessary to enable the utility to advise applicants, and others entitled to the information, as to the facilities available for serving that locality.

(2) Upon request for service by a residential applicant or for a transfer of service by a residential customer, the utility shall inform the applicant or customer of the utility's lowest-priced alternatives available at the customer's location. The utility shall provide this information beginning with the lowest-price alternative and giving full consideration to applicable equipment options and installation charges.

(3) In compliance with the commission's rules of practice and procedure, notify customers affected by a change in rates or schedule of classification.

(4) Post a notice in a conspicuous place in each business office of the utility where applications for service are received, informing the public that copies of the rate schedules and rules relating to the service of the utility, as filed with the commission, are available for inspection.

(5) Provide to all new residential telephone or electric utility customers, at the time service is initiated, a pamphlet or information packet containing the following information. This information shall be provided in English and Spanish as necessary to adequately inform the customer; provided, however, the commission upon application and a showing of good cause may exempt the utility from the requirement that the information be provided in Spanish:

(A) the customer's right to information concerning rates and services and the customer's right to inspect or obtain at reproduction cost a copy of the applicable tariffs and service rules;

(B) the customer's right to have his/her meter tested without charge under §23.47(d) of this title (relating to Meters), if applicable,

(C) the time allowed to pay outstanding bills;

(D) grounds for termination of service;

(E) the steps that must be taken before a utility may terminate service;

(F) how the customer can resolve billing disputes with the utility and how disputes affect termination of service;

(G) information on alternative payment plans offered by the utility, including, but not limited to, de-

ferred payment plans, level billing programs, and average payment plans,

(H) the steps necessary to have service reconnected after involuntary termination;

(I) how to register a complaint with municipal regulatory authorities and/or the commission, as may be applicable;

(J) the hours, addresses, and telephone numbers of utility offices where bills may be paid and information may be obtained; and

(K) the customer's right to be instructed by the utility how to read his or her meter, if applicable

(L) the circumstances under which the utility may require a deposit or additional deposit; how a deposit is calculated; the interest paid on deposits, and the time frame and requirement for return of the deposit to the customer.

(6) At least once each calendar year, notify all residential telephone or electric consumers that information is available upon request, at no charge to the customer, concerning the items listed in paragraph (5) of this subsection. This notice may be accomplished by use of a billing insert or a printed statement upon the bill itself

(7) Telephone utilities shall not be required to provide customers with the information packets or the annual information statements set forth in paragraphs (5) and (6) of this subsection if the telephone utility provides the customer with substantially the same information in telephone directories provided each customer pursuant to §23.61(b) of this title (relating to Telephone Utilities)

(8) Where necessary, a toll-free telephone number or the equivalent (such as WATS or collect calls) will be provided for telephone or electric customers for repair service or billing inquiries

(b) Customer complaints.

(1) Upon complaint to the utility by a customer either at its office, by letter, or by telephone, the utility shall promptly make a suitable investigation and advise the complainant of the results thereof

(2) In the event the complainant is dissatisfied with the utility's report, the utility must advise the complainant of the Public Utility Commission of Texas complaint process

(3) Upon receipt of a complaint, either by letter or by telephone, from the commission on behalf of a customer, the utility shall make a suitable investigation and advise the commission of the results thereof. Initial response to the commission must be made within 30 days. The commission encourages all customer complaints to be made in writing to assist the commission in maintaining records on the quality of service of each utility

(4) The utility shall keep a record of all complaints which shall show the name and address of the complainant, the date and nature of the complaint, and the adjustment or disposition thereof for a period of two years subsequent to the final settlement of the complaint. Complaints with reference to rates or charges which require no further action by the utility need not be recorded

**§23.44 New Construction**

(a) Standards of construction. In determining standard practice, the commission will be guided by the provisions of the American National Standards Institute, In-

corporated, the National Electrical Safety Code, American Water Works Association, and such other codes and standards that are generally accepted by the industry, except as modified by this commission or by municipal regulations within their jurisdiction. Each utility shall construct, install, operate, and maintain its plant, structures, equipment, and lines in accordance with these standards, and in such manner to best accommodate the public, and to prevent interference with service furnished by other public utilities insofar as practical.

(b) Line extension and construction charges. Every utility shall file its extension policy as required in §23.24(b)(1) of this title (relating to Form and Filings of Tariffs). The policy shall be consistent, nondiscriminatory, and subject to the approval of the commission. No contribution in aid of construction may be required of any customer except as provided for in the extension policy.

(1) Where service is being switched between electric companies, the electric utility disconnecting such customer shall be permitted to charge the customer a disconnection fee of an amount set forth in its tariff, and such fee shall be based upon the average direct labor and vehicle costs of disconnecting such customer and any distribution facilities rendered idle and not usable elsewhere on the system based upon the original cost of such facilities less depreciation and salvage. Prior to any disconnection under this section, the customer shall pay the disconnecting electric utility for service up through the date of disconnection and the charges for disconnection set forth in this section. Upon payment of such charges the utility shall give the customer a paid receipt. The connecting electric utility may not provide service to said customer until it has evidence from the disconnecting electric utility that the customer has paid for electric service through the date of disconnection and any charges for disconnection under this section

(2) The fees for initiation of service charged by a water or sewer utility shall be in accordance with the following

(A) The fee charged by a utility for connecting a customer's premises to the system shall be cost based and limited by the utility's average of actual costs of materials and labor for such service connections

(B) Contributions in aid of construction that are required through an approved extension policy shall not be required for production, storage, treatment, or transmission facilities

(3) Utilities shall not charge disconnect fees, membership fees, application fees, or service call fees or any other fee or charge for service or function that is a normal utility service except as provided in the tariff of the utility

(c) Response to request for service. Every public utility shall serve each qualified applicant for service within its certificated area as rapidly as is practical

(1) Those applications for new electric service not involving line extension or new facilities should be filled within seven working days. Applications for electric residential service requiring line extension should be filled as quickly as possible and shall be filled within 90 days unless unavailability of materials causes unavoidable delays.

(2) Applications for new telephone service shall be filled in accordance with §23.61(e)(2) of this title (relating to Telephone Utilities). Those applications for new telephone residential service requiring line extensions should be filled as quickly as possible and shall be filled within 90 days unless unavailability of materials or other situations which are reasonably beyond the control of the utility cause unavoidable delays. Drop wire less than 300 feet in length which connects the utility distribution facility to the customer premises is not considered a line extension. For this rule, facility placement which requires a permit for a road or railroad crossing will be classed as a line extension.

(3) Those applications for new water or sewer service not involving line extensions or new facilities shall be filled within 14 working days. Applications for water or sewer service requiring line extension should be filled as quickly as possible and shall be filled within 90 days.

(4) If a line extension is required by other than a large industrial or commercial electric customer or if facilities are not available, the telephone or electric utility shall inform the customer within 10 working days of receipt of the application, giving the customer an estimated completion date.

(5) In the event that residential utility service is delayed in excess of 90 days after an applicant has met credit requirements and made satisfactory arrangements for payment of any required construction charges, a report shall be made to the commission listing the name, location, and cause for delay. Unless such delays are due to causes which are reasonably beyond the control of the utility, delay in excess of 90 days shall constitute refusal to serve, and consideration may be given to revoking the certificate of convenience and necessity or to granting a certificate to another utility to serve the applicant, or refusal may be considered in arriving at a proper return on the invested capital of the utility.

(6) Any construction cost options such as rebates to the customer, sharing of construction costs between the utility and the customer, or sharing of costs between the customer and other applicants shall be explained to the customer following assessment of necessary line work.

#### §23.45 Billing

(a) Due date. The due date of the bill for utility service shall not be less than 16 days after issuance. A bill for utility service is delinquent if not received at the utility or at the utility's authorized payment agency by the due date. The postmark, if any, on the envelope of the bill, or an issuance date on the bill, if there is no postmark on the envelope, shall constitute proof of the date of issuance. If the due date falls on a holiday or weekend, the due date for payment purposes shall be the next work day after the due date.

(b) Penalty on delinquent bills for retail service. A one-time penalty not to exceed 5.0% may be made on delinquent commercial or industrial bills, however, no such penalty shall apply to residential bills under this section. The 5.0% penalty on delinquent commercial and industrial bills may not be applied to any balance to which the penalty was applied in a previous billing.

(c) Deferred payment plan. The utility shall offer upon request a deferred payment plan to any residential customer who has demonstrated a good faith ability to

pay a reasonable portion but not all of his/her bill, if that customer has not previously been delinquent at any time during the preceding 12 months. In all other cases, the utility is encouraged to offer a deferred payment plan to residential customers.

(1) Every deferred payment plan entered into due to the customer's inability to pay the outstanding bill in full shall provide that service will not be disconnected if the customer pays current bills and a reasonable amount of the outstanding bill and agrees to pay the balance in reasonable installments until the bill is paid.

(2) For purposes of determining reasonableness under these rules, the following shall be considered:

- (A) size of the delinquent account,
- (B) customer's ability to pay,
- (C) customer's payment history,
- (D) time that the debt has been outstanding;
- (E) reasons why debt has been outstanding;
- (F) any other relevant factors concerning the

circumstances of the customer.

(3) A deferred payment plan offered by a utility, if reduced to writing, shall state immediately preceding the space provided for the customer's signature and in boldface print at least two sizes larger than any other used thereon, that

If you are not satisfied with this agreement, do not sign. If you do sign this agreement, you give up your right to dispute the amount due under the agreement except for the utility's failure or refusal to comply with the terms of this agreement.

(4) A deferred payment plan may include a 5.0% penalty for late payment but shall not include a finance charge.

(5) If a customer for utility service has not fulfilled terms of a deferred payment agreement, the utility shall have the right to disconnect pursuant to disconnection rules in this chapter and under such circumstances, it shall not be required to offer subsequent negotiation of a deferred payment agreement prior to disconnection.

(6) Any utility which institutes a deferred payment plan shall not refuse a customer participation in such a program on the basis of race, color, creed, sex, or marital status.

(d) Level and average payment plan. Electric utilities with seasonal usage or seasonal demands are encouraged to offer a level payment plan or average payment plan to elderly or chronically ill residential customers who may be on fixed incomes and to other customers having similarly unique financial needs.

(1) The payment plan may be one of the following methods:

(A) a level payment plan allowing eligible residential customers to pay on a monthly basis a fixed billing rate of one-twelfth of that customer's estimated annual consumption at the appropriate customer class rates, with provisions for quarterly adjustments as may be determined based on actual usage.

(B) an average payment plan allowing eligible residential customers to pay on a monthly basis one-twelfth of the sum of that customer's current month's consumption plus the previous 11 month's consumption (or an estimate thereof, for a new customer) at the appropriate customer class rates, plus a portion of any unbilled balance.



(2) If a customer for a utility service does not fulfill the terms and obligations of a level payment agreement or an average payment plan, the utility shall have the right to disconnect service to that customer pursuant to the disconnection rules provided elsewhere in these sections

(3) The utility may collect a customer deposit from all customers entering into level payment plans or average payment plans; the deposit will not exceed an amount equivalent to one-sixth of the estimated annual billing. Notwithstanding any other provision of these sections, the utility may retain said deposit for the duration of the level or average payment plan; however, the utility shall pay such interest on the deposit as is provided elsewhere in these sections.

(e) Rendering and form of bills.

(1) Telephone utilities.

(A) Bills for telephone service shall normally be rendered monthly; shall show the period of time covered by the billings; and shall show a clear listing of all charges due and payable. The utility shall provide the customer with a breakdown of local service charges upon written request. Itemized toll statements shall be included in each bill. Customer billing sent through the United States mail shall be sent in an envelope.

(B) In the event a customer's service is interrupted other than by the negligence or willful act of the customer, and it remains out of order for eight normal working hours or longer after access to the premises is made available and after being reported to be out of order, appropriate adjustment or refunds shall be made to the customer. The amount of adjustment or refund shall be determined on the basis of the known period of interruption, generally beginning from the time the service interruption is first reported. The refund to the customer shall be the pro rata part of the month's flat rate charges for the period of days and that portion of the service facilities rendered useless or inoperative. The refund may be accomplished by a credit on a subsequent bill for telephone service.

(2) Electrical utilities

(A) Bills for electric service shall be rendered monthly, unless otherwise authorized by the commission, or unless service is rendered for a period of less than a month. Bills shall be rendered as promptly as possible following the reading of meters.

(B) The customer's bill shall show all the following information.

(i) if the meter is read by the utility, the date and reading of the meter at the beginning and at the end of the period for which the bill is rendered;

(ii) the number and kind of units metered;

(iii) the applicable rate schedule and title or code;

(iv) the total amount due for services provided;

(v) the total amount due after addition of any penalty for nonpayment within a designated period. The terms "gross bill" and "net bill" or other similar terms implying the granting of a discount for prompt payment shall be used only when an actual discount for prompt payment is granted. The terms shall not be used

when a penalty is added for nonpayment within a designated period;

(vi) a distinct marking to identify an estimated bill;

(vii) any conversions from meter reading units to billing units, or any other calculations to determine billing units from recording or other devices, or any other factors used in determining the bill; and

(viii) the information required in clauses (ii)-(v), and (vii) of this subparagraph shall be arranged so as to allow the customer to readily compute his bill with the applicable rate schedule which shall be mailed on request to the customer.

(3) Water and sewer utilities.

(A) Bills for water and sewer service shall be rendered monthly unless otherwise authorized by the commission, or unless service is terminated before the end of a billing cycle. Service initiated less than one week before the next billing cycle may be billed with the following month's bill. Bills shall be rendered as promptly as possible following the reading of meters

(B) The customer's bill shall show all the following information, if applicable:

(i) if the meter is read by the utility, the date and reading of the meter at the beginning and at the end of the period for which the bill is rendered;

(ii) the number and kind of units metered;

(iii) the applicable rate schedule title or code;

(iv) the total amount due for water and sewer service;

(v) the due date of the bill;

(vi) the date by which commercial or industrial customers must pay the bill in order to avoid addition of a penalty;

(vii) the total amount due for commercial or industrial users as penalty for nonpayment within a designated period;

(viii) a distinct marking to identify an estimated bill;

(ix) any conversions from meter reading units to billing units, or any other calculations to determine billing units from recording or other devices, or any other factors used in determining the bill; and

(x) the gallonage used in determining sewer usage;

(xi) the information required in clauses (i)-(x) of this subparagraph shall be arranged so as to allow the customer to readily compute his bill with a copy of the applicable rate schedule which shall be mailed on request to the customer.

(f) Overbilling and underbilling. If billings for utility service are found to differ from the utility's lawful rates for the services being purchased by the customer, or if the utility fails to bill the customer for such services, a billing adjustment shall be calculated by the utility. If the customer is due a refund, an adjustment shall be made for the entire period of the overcharges. If the customer was undercharged, the utility may backbill the customer for the amount which was underbilled. The backbilling is not to exceed six months unless the utility can produce records to identify and justify the additional amount of backbilling. However, the utility may not disconnect ser-

vice if the customer fails to pay charges arising from an underbilling more than six months prior to the date the utility initially notified the customer of the amount of the undercharge and the total additional amount due. If the underbilling is \$25 or more, the utility shall offer to such customer a deferred payment plan option, for the same length of time as that of the underbilling

(g) **Estimated bills** When there is good reason for doing so, an electric, water, or sewer utility may submit estimated bills provided that an actual meter reading is taken every six months. In months where the meter reader is unable to gain access to the premises to read the meter on regular meter reading trips, or in months where meters are not read, the utility must provide the customer with a postcard and request the customer to read the meter and return the card to the utility. If such postcard is not received by the utility in time for billing, the utility may estimate meter reading and render bill accordingly

(h) **Disputed bills**

(1) In the event of a dispute between a customer and a utility regarding any bill for utility service, the utility shall forthwith make such investigation as shall be required by the particular case and report the results thereof to the customer and, in the event the dispute is not resolved, shall inform the customer of the complaint procedures of the commission

(2) Notwithstanding any other section of these rules, the customer, except customers of telephone utilities, shall not be required to pay the disputed portion of the bill which exceeds the amount of that customer's average monthly usage at current rates pending the completion of the determination of the dispute, but in no event more than 60 days. For purposes of this rule only, the customer's average monthly usage at current rates shall be the average of the customer's gross utility service for the preceding 12-month period. Where no previous usage history exists, consumption for calculating the average monthly usage shall be estimated on the basis of usage levels of similar customers and under similar conditions.

(3) Notwithstanding any other section of these rules, a telephone utility customer's service shall not be subject to discontinuance for nonpayment of that portion of a bill under dispute pending the completion of the determination of the dispute, but in no event to exceed 60 days. The customer is obligated to pay any billings not disputed as established in §23.46 of this title (relating to Discontinuance of Service)

**§23.46 Discontinuance of Service**

(a) **Disconnection for delinquent bills.** A customer's utility service may be disconnected if a bill has not been paid or a deferred payment agreement entered into within 23 days from the date of issuance and if proper notice has been given. Proper notice shall consist of a separate mailing or hand delivery at least seven days prior to a stated date of disconnection, with the words "termination notice" or similar language prominently displayed on the notice. The information included in the notice shall be provided in English and Spanish as necessary to adequately inform the customer. If mailed, the cut-off day may not fall on a holiday or weekend, but shall fall on the next working day after the seventh day. Payment at a utility's authorized payment agency is con-

sidered payment to the utility. The company shall not issue late notices or disconnect notices to the customer earlier than the first day the bill becomes delinquent so that a reasonable length of time is allowed to ascertain receipt of payment by mail or at the utility's authorized payment agency.

(b) **Disconnection with notice.** Utility service may be disconnected after proper notice for any of the following reasons:

(1) failure to pay a delinquent account for utility service or failure to comply with the terms of a deferred payment agreement

(2) violation of the utility's rules pertaining to the use of service in a manner which interferes with the service of others or the operation of nonstandard equipment, if a reasonable attempt has been made to notify the customer and the customer is provided with a reasonable opportunity to remedy the situation

(3) failure to comply with deposit or guarantee arrangements where required by §23.43 of this title (relating to Applicant and Customer Deposit)

(4) tampering with the utility company's meter or equipment or bypassing the same.

(c) **Disconnection without notice.** Utility service may be disconnected without notice where a known dangerous condition exists for as long as the condition exists, or where service is connected without authority by a person who has not made application for service or who has reconnected service without authority following termination of service for nonpayment

(d) **Disconnection prohibited.** Utility service may not be disconnected for any of the following reasons.

(1) delinquency in payment for utility service by a previous occupant of the premises

(2) failure to pay for merchandise, or charges for nonutility service provided by the utility

(3) failure to pay for a different type or class of utility service unless fee for such service is included on the same bill

(4) failure to pay the account of another customer as guarantor thereof, unless the utility has in writing the guarantee as a condition precedent to service

(5) failure to pay charges arising from an underbilling occurring due to any misapplication of rates more than six months prior to the current billing

(6) failure to pay charges arising from an underbilling due to any faulty metering, unless the meter has been tampered with or unless such underbilling charges are due under §23.37 of this title (relating to Meters)

(7) failure to pay an estimated bill other than a bill rendered pursuant to an approved meter-reading plan, unless the utility is unable to read the meter due to circumstances beyond its control.

(e) **Disconnection on holidays or weekends.** Unless a dangerous condition exists, or unless the customer requests disconnection, service shall not be disconnected on a day, or on a day immediately preceding a day, when personnel of the utility are not available to the public for the purpose of making collections and reconnecting service.

(f) **Disconnection due to utility abandonment.** No public utility may abandon a customer or a certified service area without written notice to its customers therein

and all similar neighboring utilities, and approval from the commission

(g) **Disconnection for ill and disabled.** No electric public utility may discontinue service to a delinquent residential customer permanently residing in an individually metered dwelling unit when that customer establishes that discontinuance of service will result in some person residing at that residence becoming seriously ill or more seriously ill if service is discontinued. Any customer seeking to avoid termination of service under this rule must make a written request supported by a written statement from a licensed physician. Both the request and the statement must be received by the utility within seven days of the issuance of the utility bill. The prohibition against service termination provided by this rule shall last 40 days from the issuance of the utility bill or such lesser period as may be agreed upon by the utility and the customer. The customer who makes such request shall sign an installment agreement which provides for payment of such service along with timely payments for subsequent monthly billings. The provisions of this subsection shall be available to a customer no more than twice in any calendar year.

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 February 9, 1984.

TRD-841748      Rhonda Colbert Ryan  
Secretary of the Commission  
Public Utility Commission of  
Texas

Effective date: March 1, 1984  
Proposal publication date: October 21, 1983  
For further information, please call (512) 458-0100.

## Special Rules

### 16 TAC §§23.51-23.54, 23.56-23.59

The Public Utility Commission of Texas adopts the repeal of §§23.51-23.54 and 23.56-23.59, without changes to the proposal published in the October 18, 1983, issue of the *Texas Register* (8 TexReg 4343).

The repeal of existing Chapter 23 and the adoption of new Chapter 23, concerning substantive rules, is necessitated by revisions to the Public Utility Regulatory Act as amended and reenacted by the 68th Legislature, 1983, providing for a public utility counsel or counselor and administrative law judges and prescribing their qualifications, powers, and duties, requiring annual audits, requiring certain reports and forecasts by utilities and the commission, providing rules and considerations for approval of building new facilities and for fixing or regulating rate to be allowed or changed by utilities, providing for hearings, relating to rate-making procedures by municipalities and appeals, providing for judicial review of proceedings of the utility commission, and adding special provisions as to the authority and power of the commission over telecommunications utilities. Renumbering, regroup-

ing, and reorganization, as well as revised wording, are adopted to assure clarity and increase specificity through the logical organization of this chapter.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and to make decisions with respect to administering 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 February 9, 1984.

TRD-841749      Rhonda Colbert Ryan  
Secretary of the Commission  
Public Utility Commission of  
Texas

Effective date: March 1, 1984  
Proposal publication date: October 21, 1983  
For further information, please call (512) 458-0100.

## Quality of Service

### 16 TAC §§23.62-23.67

The Public Utility Commission of Texas adopts new §23.65, with changes to the proposed text published in the October 21, 1983, issue of the *Texas Register* (8 TexReg 4325). Sections 23.62-23.64, 23.66, and 23.67 are adopted without changes and will not be republished.

The repeal of existing Chapter 23 and adoption of new Chapter 23, concerning substantive rules, is necessitated by revisions to the Public Utility Regulatory Act (PURA) as amended and reenacted by the 68th Legislature, 1983, providing for a public utility counsel or counselor and administrative law judges and prescribing their qualifications, powers, and duties, requiring annual audits, requiring certain reports and forecasts by utilities and the commission, providing rules and considerations for approval of building new facilities and for fixing or regulating rate to be allowed or changed by utilities, providing for hearings, relating to rate-making procedures by municipalities and appeals, providing for judicial review of proceedings of the utility commission, and adding special provisions as to the authority and power of the commission over telecommunications utilities. Renumbering, regrouping, and reorganization, as well as revised wording, are adopted to assure clarity and increase specificity through the logical organization of this chapter.

Section 23.61, concerning telephone utilities, is not adopted on a regular basis at this time, but was adopted on an emergency basis and proposed for public comment, in the November 18, 1983, issue of the *Texas Register*.

Section 23.65, concerning electric submetering, was adopted with changes. Subsection (d)(9)(A) was modified to include information on standards for electrical current transformers used in conjunction with submeters, and now reads as follows:

**Limits.** No submeter that exceeds the test calibration limit for self-contained watt hour meters as set by the American National Standards Institute, Inc. Standard C12, shall be placed in service or left in service. All electrical current transformers, potential transformers, or other such devices used in conjunction with the submeter shall be considered part of the submeter and must also meet test calibration and phase angle limits set by ANSI C12 and C57.13 for revenue billing. Whenever on installation, periodic, or other tests, a submeter or transformer is found to exceed these limits, it shall be adjusted, repaired, or replaced.

The several sections concerning quality of service standards will set standards for telephone utility production of directories, emergency operations, inspection and tests of equipment, service objectives and observing, traffic usage studies, the use of automatic dialing-announcing devices, depreciation rates, reports, and determination of dominant and nondominant carriers, electric utility location of meters, meter testing facilities and equipment, testing of meters, voltage variation, frequency variation, voltmeters and voltage surveys, and station meters, instruments, and records, water utility definitions, quality of product and adequacy of service, meters and testing, service connections, and water rationing; sewer utility definitions, adequacy of service; service pipe maintenance, charges for sewage service, service connections, and adequacy of treatment; electric submetering records and reports, billing, and submeters, arrangements between qualifying facilities and electric utilities, and wheeling service for transmission of firm power.

Concerning §23.61, Continental Telephone of Texas felt that the word "dissatisfaction" in subsection (a)(10) seems too broad and should be clarified or deleted.

AT&T felt that in subsection (i)(2)(C)(ii), the phrase "net income" should be added and that taxes should include all taxes, i.e., ad valorem taxes. Net income is necessary to measure effects of interest expense and other income or deductions. Return should be specified on net plant. In subsection (i)(2)(D), AT&T requests greater flexibility in depreciation methodology which may be used to reflect more accurately capital recovery requirements caused by such things as new technology.

Southwestern Bell felt that, in subsection (e)(7)(B), trouble reports for coin telephone CPE should not exceed six rather than four per 100 company provided stations. Its rationale was that coin phones are used more and subject to greater wear, accessible to public misuse, larcenies, and vandalism beyond the control of the company, accessible to inclement weather, and more complex than a standard phone. Central office equipment for coin phones is also more complex, and coin telephone service is unique. It is therefore unreasonable to set the same standards for coin phone

service that is used to measure service for regular customer premise equipment. Bell simply could not meet standards required.

Regarding subsection (m), Bell would limit customer types for reporting under this rule to residence, business, WATS (outward only), and WATS (inward only). SWB would also exclude information on private line services, which it feels would require a sizeable capital investment for measuring equipment to comply with the proposal. It was also noted that "average length of haul by customer type" would probably not be available for inward WATS. To insure consistent reports, detailed definitions of the terms "rate schedule" and "time of day" are in order.

Concerning §23.65, Planned Energy Systems proposes that subsection (b)(9)(A) be amended to add language which will indicate that all current transformers, potential transformers, or other such devices used in conjunction with the submeter shall be considered part of the submeter and must also meet test calibration limits set by ANSI C-12. This amendment will assure that voltage transformers are accurate, for no matter how good the quality of the meter, it can only react to the signal it receives from the transformer.

Concerning §23.66, Central Power and Light felt that 30 days' response is insufficient and will impair quality and safety of interconnection. Houston Lighting and Power felt that subsection (d)(1)(C) does not provide equal protection under the law nor is a 90-day period pragmatic.

Subsection (d)(4) allows the utility to understand avoided cost and pass on its obligation at rate payers' expense. Subsection (e)(1) and (3) discriminates on rates for cogenerated power paid to cogenerators based on technologies and fuel. Eastman Kodak requested a modification to subsection (c)(1)(A) to avoid precluding a utility from specifying avoided costs for blocks of demand smaller than 100 megawatts.

No one commented in favor of the rules. Those commenting against were Continental Telephone of Texas, AT&T, Southwestern Bell, Planned Energy Systems, Central Power and Light, Houston Lighting and Power, and Eastman Kodak.

Many of the comments filed by interested parties were found by the commission to be either similar to comments considered at previous meetings and specifically not adopted at that time or without merit. The remaining comments were adopted by the commission and are reflected in the changes made in the rules as published herein.

The new sections are adopted under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commissioner of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction and to make decisions with respect to administering the provisions of this Act.

**§23.65 Electric Submetering**

**(a) General rules**

**(1) Purpose and scope**

(A) The provisions of this section are intended to establish a comprehensive regulatory system to assure that the practices involving submetering and billing of dwelling units are just and reasonable to the tenant and the apartment owner and to establish the rights and responsibilities of both the apartment owner and tenant. The provisions of this section shall be given a fair and impartial construction to obtain these objectives and shall be applied uniformly regardless of race, color, creed, sex, or marital status.

(B) For purposes of enforcement, both utilities and apartment owners are subject to the enforcement pursuant to the Public Utility Regulatory Act, which may involve civil penalties of up to \$5,000 for each offense and criminal penalties for willful and knowing violations.

(2) Application. The provisions of this section shall apply to existing apartment houses utilizing electrical submetering as of the effective date of this section as well as those apartment houses which engage in electrical submetering at any subsequent date. By statutory requirement, after January 1, 1978, no incorporated city or town, including a home-rule city or other political subdivision of the state, may issue a permit, certificate, or other authorization for the construction or occupancy of a new apartment house or conversion to a condominium unless the construction plan provides for individual metering by the utility company or submetering by the owner of each dwelling unit for the measurement of the quantity of electricity, if any, consumed by the occupants within that dwelling unit. Therefore, the provisions of this section shall also apply to such apartment houses and condominiums in the event submetering is chosen.

(3) Severability clause. The adoption of this section will in no way preclude the Public Utility Commission of Texas from altering or amending them in whole or in part, or from requiring any other or additional service, equipment, facility, or standard, either upon complaint or upon its own motion or upon application of any utility. Furthermore, these provisions will not relieve in any way an apartment owner or tenant from any of its duties under Texas Civil Statutes, Article 1446(d), §§1-4, or other laws of this state or the United States. If any provision of this section is held invalid, such invalidity shall not affect other provisions or application of this section which can be given effect without the invalid provision or application, and to this end, the provisions of this section are declared to be severable. The provisions of this section shall not be construed so as to enlarge, diminish, modify, or alter the jurisdiction, powers, or authority of the commission or the substantive rights of any person.

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

(A) Apartment house—A building or buildings containing more than five dwelling units, all of which are rented primarily for nontransient use, with rental paid at intervals of one week or longer. Apartment house shall include residential condominiums, whether rented or owner occupied.

(B) Apartment owner—For purposes of enforcement, record keeping, and reporting, any owner, operator, or manager of any apartment house engaged in electrical submetering.

(C) Commission—The Public Utility Commission of Texas.

(D) Dwelling unit—A room or rooms suitable for occupancy as a residence containing kitchen and bathroom facilities.

(E) Electric metering—Individual apartment dwelling unit metering performed by a utility company.

(F) Electric submetering—Apartment dwelling unit metering performed by the apartment owner.

(G) Hearing—Any proceeding based on an application, petition, complaint, or motion.

(H) Master meter—A meter used to measure, for billing purposes, all electric usage of an apartment house, including common areas, common facilities, and dwelling units therein.

(1) Month or monthly—The period between any two consecutive meter readings by the utility, either actual or estimated, at approximately 30-day intervals.

**(b) Records and reports**

(1) The apartment owner shall maintain and make available for inspection by the tenant the following records:

(A) the billing from the utility to the apartment owner for the current month and the 12 preceding months.

(B) the calculation of the average cost per kilowatt-hour for the current month and the 12 preceding months.

(C) all submeter readings and tenant billings for the current month and the 12 preceding months.

(D) all submeter test results for the current month and the 12 preceding months.

(2) Records shall be made available at the resident manager's office during reasonable business hours or, if there is no resident manager, at the dwelling unit of the tenant at the convenience of both the apartment owner and tenant.

(3) All records shall be made available to the commission upon request.

**(c) Billing**

(1) Bills shall be rendered for the same billing period as that of the utility, generally monthly, unless service is rendered for less than that period. Bills shall be rendered as promptly as possible following the reading of the submeters. The submeters shall be read within three days of the scheduled reading date of the utility's master meter.

(2) The unit of measurement shall be a kilowatt-hour (kwh).

(3) The apartment owner shall be responsible for determining that the energy billed to any dwelling unit shall be only for energy consumed within that unit, and so metered.

(4) The apartment owner shall not impose any extra charges on the tenant over and above those charges which are billed by the utility to the apartment owner.

(5) The tenant's bills shall be calculated in the following manner: after the apartment electric bill is received from the utility, the apartment owner shall divide

the net total charges for electrical consumption, plus applicable tax, by the total number of kilowatt-hours to obtain an average cost per kilowatt-hour. This average kilowatt-hour cost shall then be multiplied by each tenant's kilowatt-hour consumption to obtain the charge to the tenant. The computation of the average cost per kilowatt-hour shall not include any penalties charged by the utility to the apartment owner for disconnect, reconnect, late payment, or other similar service charges.

(6) The tenant's bill shall show all of the following information:

(A) the date and reading of the submeter at the beginning and at the end of the period for which the bill is rendered;

(B) the number of kilowatt-hours metered;

(C) the computed rate per kilowatt-hour;

(D) the total amount due for electricity used;

(E) a clear and unambiguous statement that the bill is not from the electric utility, which shall be named in the statement;

(F) the name and address of the tenant to whom the bill is applicable;

(G) the name of the firm rendering the submetering bill and the name or title, address, and telephone number of the person or persons to be contacted in case of a billing dispute;

(H) the date by which the tenant must pay the bill.

(7) In the event of a dispute between the tenant and the apartment owner regarding any bill, the apartment owner shall forthwith make such investigation as shall be required by the particular case, and report the results thereof to the tenant. The investigation and report shall be completed within 30 days from the date the tenant notified the apartment owner of the dispute.

(8) The tenants of any dwelling unit in an apartment house whose electrical consumption is submetered shall be allowed by the apartment owner to review and copy the master billing for the current month's billing period and for the 12 preceding months, and all submeter readings of the entire apartment house for the current month and for the 12 preceding months.

(9) All rental agreements between the apartment owner and the tenants and dwelling units therein shall clearly state that the dwelling unit is submetered, that the bills will be issued thereon, that electrical consumption for all common areas and common facilities will be the responsibility of the apartment owner and not of the tenant, and that any disputes relating to the computation of the tenant's bill and the accuracy of the submetering device will be between the tenant and the apartment owner.

(10) Estimated bills shall not be rendered unless the meter has been tampered with or is out of order, and in such case the bill shall be distinctly marked as such.

**(d) Submeters**

**(1) Submeter requirements**

(A) Use of submeter. All electrical energy sold by an apartment owner shall be charged for by meter measurements.

(B) Installation by apartment owner. Unless otherwise authorized by the commission, each apartment owner shall be responsible for providing, installing, and

maintaining all submeters necessary for the measurement of electrical energy to its tenants.

(2) Submeter records. Each apartment owner shall keep the following records:

(A) Submeter equipment record. Each apartment owner shall keep a record of all of its submeters, showing the tenant's address and date of the last test.

(B) Records of submeter tests. All submeter tests shall be properly referenced to the submeter record provided in this section. The record of each test made shall show the identifying number of the submeter, the standard meter and other measuring devices used, the date and kind of test made, by whom made, the error (or percentage of accuracy) at each load tested, and sufficient data to permit verification of all calculations.

(3) Submeter readings. Submeter unit indication. In general, each meter shall indicate clearly the kilowatt-hours for which charge is made to the tenant.

(4) Submeter tests on request of tenant. Each apartment owner shall, upon the request of a tenant, and if the tenant so desires, in the tenant's presence or in that of the tenant's authorized representative, make a test of the accuracy of the tenant's submeter. The test shall be made during reasonable business hours at a time convenient to the tenant desiring to observe the test. If the submeter tests within the accuracy standards for self-contained watt-hour meters as established by the latest edition of American National Standards Institute, Incorporated, Standard C12 (American National Code for Electricity Metering), a charge of up to \$15 may be charged the tenant for making the test. However, if the submeter has not been tested within a period of one year, or if the submeter's accuracy is not within the accuracy standards for self-contained watt-hour meters as established by the latest edition of American National Standards Institute, Incorporated, Standard C12, no charge shall be made to the tenant for making the test. Following completion of any requested test, the apartment owner shall promptly advise the tenant of the results of the test.

(5) Bill adjustment due to submeter error. If any submeter is found to be not within the accuracy standards for self-contained watt-hour meters as established by the latest edition of American National Standards Institute, Incorporated, Standard C12, proper correction shall be made of previous readings for the period of one month immediately preceding the test, or from the time the submeter was in service since last tested, but not exceeding one month, as the submeter shall have been shown to be in error by such test and an adjusted bill shall be rendered. No refund is required from the apartment owner except to the tenant last served by the submeter prior to the testing. If a submeter is found not to register for any period, unless bypassed or tampered with, the apartment owner may make a charge for units used, but not metered, for a period not to exceed one month based on amounts used under similar conditions during periods preceding or subsequent thereto, or during the corresponding period in previous years.

(6) Bill adjustment due to conversion. If, during the 90-day period preceding the installation of electric meters or submeters, an apartment owner increases rental rates, and such increase is attributable to increased costs of utilities, then such apartment owner shall im-

mediately reduce the rental rate by the amount of such increase and shall refund all of such increase that has previously been collected within said 90-day period

(7) Location of submeters. Submeters and service switches in conjunction with the submeter shall be installed in accordance with the latest edition of American National Standards Institute, Incorporated, Standard C12, or other standards as may be prescribed by the commission, and will be readily accessible for reading, testing, and inspection, where such activities will cause minimum interference and inconvenience to the tenant.

(8) Submeter testing facilities and equipment.

(A) Qualified expert. Each apartment owner shall engage an independent qualified expert to provide such instruments and other equipment and facilities as may be necessary to make the submeter tests required by this section. Such equipment and facilities shall generally conform to American National Standards Institute, Incorporated, Standard C12, unless otherwise prescribed by the commission, and shall be acceptable to the commission and shall be available at all reasonable times for the inspection by its authorized representatives.

(B) Portable standards. Each apartment owner engaged in electrical submetering shall, unless specifically excused by the commission, provide or utilize a testing firm which provides portable test instruments as necessary for testing billing submeters.

(C) Reference standards. Each apartment owner shall provide or have access to suitable indicating electrical instruments as reference standards for insuring the accuracy of shop and portable instruments used for testing billing submeters.

(D) Testing of reference standards. Reference standards of all kinds shall be submitted once each year or on a scheduled basis approved by the commission to a standardizing laboratory of recognized standing, for the purpose of testing and adjustment.

(E) Calibration of test equipment. All shop and portable instruments used for testing billing submeters shall be calibrated by comparing them with a reference standard at least every 120 days during the time such test instruments are being regularly used. Test equipment shall at all times be accompanied by a certified calibration card signed by the proper authority, giving the date when it was last certified and adjusted. Records of certifications and calibrations shall be kept on file in the office of the apartment owner.

(9) Accuracy requirements for submeters

(A) Limits. No submeter that exceeds the test calibration limits for self-contained watt-hour meters as set by the American National Standards Institute, Incorporated, Standard C12, shall be placed in service or left in service. All electrical current transformers, potential transformers, or other such devices used in conjunction with the submeter shall be considered part of the submeter and must also meet test calibration and phase angle limits set by ANSI C12 and C57.13 for revenue billing. A nameplate shall be attached to each transformer and shall include or refer to calibration and phase angle data and other information required by ANSI C12 and ANSI C57.13 for revenue billing. Whenever on installation, periodic, or other tests, a submeter or transformer is found to exceed these limits, it shall be adjusted, repaired,

or replaced. Whenever on installation, periodic, or other tests, a submeter is found to exceed these limits, it shall be adjusted.

(B) Adjustments. Submeters shall be adjusted as close as possible to the condition of zero error. The tolerances are specified only to allow for necessary variations.

(10) Submeter tests prior to installation. No submeter shall be placed in service unless its accuracy has been established. If any submeter is removed from actual service and replaced by another submeter for any purpose whatsoever, it shall be properly tested and adjusted before being placed in service again.

(11) Testing of submeters in service. Standard electromechanical single stator watt-hour meters with permanent braking magnets shall be tested in accordance with ANSI C12 standards for periodic, variable interval, or statistical sampling testing programs. All other types of submeters shall be tested at least annually unless specified otherwise by the commission.

(12) Restriction. Unless otherwise provided by the commission, no dwelling unit may be submetered unless all dwelling units in the apartment house are submetered.

(13) Same type meters required. All submeters in an apartment house which are served by the same master meter shall be of the same type, such as induction or electronic.

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 February 9, 1984

TRD-841750 Rhonda Colbert Ryan  
Secretary of the Commission  
Public Utility Commission of  
Texas

Effective date: March 1, 1984  
Proposal publication date: October 21, 1983  
For further information, please call (512) 458-0100

## **Certification of Solar Collectors**

### **16 TAC §23.81**

The Public Utility Commission of Texas adopts new §23.81, concerning certification of solar collectors, with changes to the proposed text published in the December 16, 1983, issue of the *Texas Register* (8 TexReg 5234).

The repeal of existing Chapter 23 and the adoption of new Chapter 23, concerning substantive rules, is necessitated by revisions to the Public Utility Regulatory Act as amended and reenacted by the 68th Legislature, 1983, providing for a public utility counsel or counselor and administrative law judges and prescribing their qualifications, powers, and duties, requiring annual audits; requiring certain reports and forecasts by utilities and the commission, providing rules and considerations for approval of building new facilities and for fixing or regulating rate to be allowed or

changed by utilities, providing for hearings, relating to rate-making procedures by municipalities and appeals; providing for judicial review of proceedings of the utility commission; and adding special provisions as to the authority and power of the commission over telecommunications utilities. Renumbering, regrouping, and reorganization, as well as revised wording, are adopted to assure clarity and increase specificity through the logical organization of this chapter.

The changes in §23.81 modify subsection (b) to indicate that only solar collectors are applicable to this standard, this was done by substituting the word "collector" for "device." Language was also added to state that the standards will become effective nine months after the date of adoption.

The single section of the undesignated head "Certification of Solar Collectors" will set standards which must be met before solar collectors will be eligible for certain tax benefits.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and to make decisions with respect to administering the provisions of this Act.

**§23.81 Certification of Solar Collectors.**

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

(1) Site-built solar energy device—That definition given in 34 TAC §3.345(a)(1)

(2) Solar energy device—That definition given in 34 TAC §3.345(a)(2)

(b) To be eligible for sales tax exemptions as allowed by amendments to the Texas Tax Code, §151.325, subsection (a), made in accordance with Senate Bill 1140 as adopted by the 68th Legislature, 1983, solar energy collectors must be certified by either the Solar Rating and Certification Corporation (SRCC) or the Air Conditioning and Refrigeration Institute (ARI). This standard will be effective nine months after the date of adoption by the Public Utility Commission of Texas.

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

Issued in Austin, Texas, on February 9, 1984

TRD-841751 Rhonda Colbert Ryan  
Secretary of the Commission  
Public Utility Commission of  
Texas

Effective date March 1, 1984  
Proposal publication date December 16, 1983  
For further information, please call (512) 458-0100.

## TITLE 28. INSURANCE

### Part I. State Board of Insurance

*(Editor's note Because the State Board of Insurance's rules have not yet been published in the Texas Administrative Code (TAC), they do not have designated TAC numbers. For the time being, the rules will continue to be published under their Texas Register numbers. However, the rules will be published under the agency's correct TAC title and part.)*

### Texas Title Insurance Act Policy Forms and Premiums

059.09.07.001

The State Board of Insurance adopts amendments to Rule 059.09.07.001, the *Basic Manual of Rules Rates and Forms for the Writing of Title Insurance in the State of Texas* (manual), without changes to the proposed text published in the January 10, 1984, issue of the *Texas Register* (9 TexReg 271)

The amendments modify currently existing promulgated procedural rules concerning the issuance of title insurance policies, binders, and endorsements, promulgate new procedural rules concerning disclosure of potential conflicts of interest and/or ownership of title insurance companies and agencies, promulgate a new form to be used for tertiary reinsurance, and amend a rate rule to require compliance with new Rule P-21, concerning disclosure.

The promulgated procedural rules concerning mortgagee title policy binders on interim construction loans have been amended as follows. Rule P-6 was amended to provide that each binder will bear the full promulgated charge when binders are issued on a co-insurance basis, the endorsement instructions were modified to allow extensions of up to 36 months from the expiration date of the binder, and the endorsement instructions were modified concerning the down-dating of a binder so that exceptions appearing after the date of the binder clearly distinguish between those which are superior to and those which are subordinate to the lien to be insured in the mortgagee policy of title insurance.

The promulgated procedural rules concerning mortgagee policies of title insurance have been amended as follows. Rule P-2 was amended to allow waiver of the current survey requirement on liens on condominium units, Rule P-9 b (4) was amended to authorize the down-date endorsement to state the amount of coverage then existing under the policy, the endorsement instructions were amended concerning the down-dating of a policy so that exceptions appearing after the date of the policy will clearly distinguish between those which are superior to and those which are subordinate to the lien insured, and also to provide the language necessary to state the amount of coverage as of the date of the endorsement; Rule P-.b.(3) was amended to track the actual language found in Schedule A of the policy, to refer to the specific form and instructions to be used, and to allow



the issuance of this endorsement where a modification agreement extends the maturity date of the indebtedness for a period in excess of the applicable period of limitations while retaining the limitations stated in the policy, the endorsement instructions were amended to conform to the amendments to Rule P-9 b.(3), concerning periods of limitations following modification of an insured lien; and Rule P-9.b.(6) was amended by deletion of the requirement therein of reference to appropriate statutory or regulatory authority in the instruments creating the lien being insured as an adjustable mortgage loan

The promulgated procedural rules concerning owner policies of title insurance were amended as follows. Rule P-8 a (2) was modified to allow, upon completion of the improvements, the deletion of the mechanic's and materialman's lien exception from a policy issued prior to or during construction; a new §3 was added to Rule P-9 a., which authorizes the down-dating of an owner policy issued in an amount to include the cost of immediately contemplated improvements in contemplation that liability will increase, the endorsement instructions were amended to conform to the amendments of Rule P-8.a.(2), and Endorsement Instruction IX was added to the promulgated instructions to provide the means for down-dating an owner policy pursuant to Rule P-9.a (3).

The amendments promulgate a new rule, designated P-21, concerning additional requirements for contents of a new Schedule D of the commitment for title insurance to provide as follows. The issuing title insurance company shall disclose a list of all persons owning or controlling, directly or indirectly, 10% or more of the ownership of the company, unless such issuing company's stock is traded on a stock exchange or over-the-counter or the issuing company is a part of an insurance holding company system, the parent of which is so publicly held, the issuing title insurance company and the issuing agent (if a corporation) shall disclose the names of their respective directors, presidents, executive or senior vice-presidents, secretaries, and treasurers; the issuing agent shall also disclose a list of all persons owning or controlling, directly or indirectly, 10% or more of the ownership of the agency, with the same exceptions as those applied to the issuing company; each commitment shall include specific promulgated language, concerning advance disclosure of settlement charges, the estimated title premium, the division of premium between the company, its issuing agent and other parties, and the names of all other parties receiving portions of the premium, the amounts each receives or will receive, and the services each will render for such portion of the premium, and requiring each company and agent to file its proposed Schedule D (and all amended Schedule D's) with the State Board of Insurance prior to usage

Rate Rule R-1 was amended to provide that no portion, split, or percentage of the premium shall be paid either directly or indirectly for title insurance, title examination, or closing the transaction to any person

unless there shall have been timely compliance with Rule P-21.

Procedural Rule P-3 was amended as follows. Existing language was reworded for clarity, companies making inspections in connection with the rights of parties in possession exception are limited to their reasonable and actual costs therefor; and the term "rights of parties in possession" is defined and limited in this rule as amended.

Procedural rule P-1 was amended by adding definitions of the terms "date of the original indebtedness," "fiscal year," "company," "person," and "title insurance company."

The amendments include a new tertiary reinsurance agreement to be used in compliance with recent amendments to the Insurance Code, Article 9.19, when every domestic and foreign company that qualifies has been offered 50% of its capital stock and surplus in either primary liability or reinsurance on a single risk.

The justifications for each of the amendments to the rule (by agenda item) are as follows

**Agenda Item 20** The Insurance Code, Article 9.19, was amended at the last legislative session to provide for a second level of reinsurance, sometimes referred to as "tertiary reinsurance," for use in those situations wherein a single risk to be insured exceeds the maximum liability of all title insurance companies admitted or qualified to be admitted in Texas. This proposed form is closely based on the promulgated Form T-18, the facultative reinsurance agreement

**Agenda Item 21.** This amendment will allow a title company to accept the original survey showing individual condominium units, rather than requiring a current survey when asked to delete the survey exception from a mortgagee policy insuring a lien on a condominium unit. This will avoid unnecessary costs to the lender or borrower

**Agenda Item 22:** The amendments will accomplish three purposes. First, some wording has been changed to increase clarity and readability. Second, companies have been limited to charging only their reasonable and actual costs for inspections concerning rights of parties in possession. Finally, the term "rights of parties in possession" has been defined.

**Agenda Item 23:** This amendment specifies that each binder issued on a co-insurance basis shall bear the full charge provided for in Rule R-13

**Agenda Item 24** The proponents asserted that this amendment will allow the deletion of the completion of improvements exception from an owner policy in the same manner that it is presently deleted from mortgagee policies and under the same circumstances. The opponents objected to the adoption of this item based upon their interpretation of its conceptual premise, wherein it would be possible to ensure the acts of the owner and their belief that surety bonds would be a more appropriate mechanism for assuring such risks.

**Agenda Item 25** This agenda item is part of a package of amendments (including items 7, 8, and 9 previously adopted) which establishes a comprehensive format for insuring both lender and owner during construction, without paying twice for the same coverage and without paying for coverage not yet received. This rule permits a down-date to an owner's policy in a fashion similar to that currently available on mortgagee policies.

**Agenda Item 26** This agenda item amends the current Rule P-9 b (4) to authorize the down-date endorsement to state the amount of coverage then existing under the mortgagee policy to which it relates. In addition, this change is necessary to effect the procedure for payment of premiums under construction mortgagee policies as coverage increases under the recently adopted amendment to Rule R-2 (see Agenda Item 7).

**Agenda Item 27** This agenda item amends the current Rule P-9 b (3) to allow for the issuance of this endorsement where a modification agreement extends the maturity date of the indebtedness for a period in excess of the applicable period of limitations while retaining the limits as stated in the policy. Also, these amendments bring the permitted endorsement to a form which tracks the actual language of Schedule A of the mortgagee policy to which it is attached.

**Agenda Item 28** This agenda item amends Rule P-9 b.(6) by the deletion of certain unnecessary language concerning the types of instruments which could be covered by this endorsement. The standard documents promulgated by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation do not contain the subject language, thus making inclusion of the now deleted language unnecessary.

**Agenda Item 30** This agenda item amends current Rule P-1 by adding to that rule a definition of "original indebtedness" to clarify the operation of current Rule R-8.

**Agenda Item 31** The Insurance Code, Article 9 39, requires both title insurance agents and underwriters to conduct audits of their trust fund accounts and to submit the audit reports within 90 days of their fiscal year end. This rule defines the term "fiscal year" and establishes procedures to designate or change a fiscal year for audit purposes.

**Agenda Items 35, 36, and 37** Taken together, these agenda items provide the requirements for a uniform system of disclosure intended to inform the consuming public of interests which may give rise to conflicts of interest in the course of issuing policies of title insurance.

**Agenda Item 35** amends Rule P-1 by adding new language to certain definitions to assure this disclosure. **Agenda Item 36** promulgates a new rule, designated P-21, which provides the requirements for a new Schedule D of the commitment of title insurance requiring the issuing title insurance company to disclose a list of all persons owning or controlling, directly or

indirectly, 10% or more of the ownership of the company, unless such issuing company's stock is traded on a stock exchange or over-the-counter or the issuing company is a part of an insurance holding company system, the parent of which is so publicly held. In addition, the issuing title insurance company and the issuing agent (if a corporation) shall disclose the names of their respective directors, presidents, executive or senior vice-presidents, secretaries, and treasurers. The issuing agent shall also disclose a list of all persons owning or controlling, directly or indirectly, 10% or more of the ownership of the agency with the same exceptions as those applied to the issuing company. Further, each commitment shall include specific promulgated language concerning advance disclosure of settlement charges, the estimated title insurance premium, the division of premium between the company and its issuing agent and/or other parties, together with the disclosure of the name of other parties receiving portions of the title insurance premium, with an indication of the amount of such portion and the services rendered in consideration of such premium. This agenda item will further require each company and agent to file its proposed Schedule D (and all amended Schedule D's) with the State Board of Insurance prior to usage. **Agenda Item 37** will amend current Rule R-1 to provide that no portion, split, or percentage of the premium shall be paid, either directly or indirectly, for title insurance, title examination, or closing the transaction to any person unless there has been timely compliance with Rule P-21.

**Agenda Item 38** These amendments to Endorsement Instruction I track the recently adopted changes allowing the issuance of up to six extensions of the mortgagee title policy binder on interim construction loan.

**Agenda Item 39** The proponents asserted that this amendment to the promulgated Endorsement Instruction II-A conforms to the amendment of Rule P-8 a (2) authorizing the removal of the mechanic's lien exception in the owner policy by endorsement. The objections raised by the opponents to Agenda Item 24 were adopted by reference as objections to this agenda item.

**Agenda Item 40** This agenda item promulgates Endorsement Instructions IX to Endorsement Form T-3 in conformity with new Rule P-9 a.(3), which authorizes the down-date endorsement to an owner's policy (See Agenda Items 7-11).

**Agenda Item 41** This agenda item amends Endorsement Instructions VI to Endorsement Form T-3 to provide the mechanism for showing the coverage under a Mortgagee Policy as authorized by the amendment to Rule P-9 b (4) (See Agenda Item 25).

**Agenda Item 42** This agenda item amends Endorsement Instructions VIII to Endorsement Form T-3 to provide that exceptions appearing after the date of the mortgagee title policy binder would be listed under subparagraph (a) 3 only if such exception is superior to the insured lien, and would be listed in subparagraph (a) 4 if such exception is subordinate to the

insured lien This amendment will make the endorsement form comport with the current binder language

Agenda Item 43 The existing endorsement instructions have been rewritten for clarity The new instructions now contain specific instructions concerning policies issued prior to, on, or after March 1, 1983. An erroneous reference to a non-existent rule has been corrected The revised instructions will closely follow the language in the policy as if it had been amended on March 1, 1983

All of the adopted rule amendments will appear in and be a part of the *Basic Manual of Rule, Rates, and Forms for the Writing of Title Insurance in the State of Texas*, and will be for use by agents, insurance companies, and other interested parties

No comments were received regarding adoption of the amendments Prior to and during the November 9, 1983, public hearing, certain persons or organizations offered comments on each agenda item The comments of both the proponents and the opponents have been summarized in the justifications previously stated The names of all persons submitting comments and the reasons why the board disagreed with the opponents (organized by agenda items) are as follows

Agenda Item 20 Proponents were John F Rothermel, III (Rothermel), vice-president, Title Resources Corporation, a party, and Robert E Philo, Jr, assistant director, Title Insurance, State Board of Insurance (staff) There were no opponents

Agenda Item 21 Proponents were Robert C Sneed (Sneed), attorney, representing the Texas Land Title Association (TLTA), a party, David Young, executive vice-president, Trinity-Western Title Company, an expert witness called by the TLTA, and staff There were no opponents

Agenda Item 22 Proponents were Harry M Roberts, Jr (Roberts), attorney, representing the Title Insurance Committee of the State Bar Real Estate, Probate, and Trust Law Section, (Bar), a party, and staff There were no opponents

Agenda Item 23 Proponents were Sneed, attorney, representing the TLTA, Lamar Tims (Tims), attorney, an expert witness called by the TLTA, and staff There were no opponents

Agenda Item 24 Proponents were Roberts, attorney, representing Bar, and staff Opponents were H E Walker, attorney, Lawyers Title Insurance Corporation, a witness appearing on behalf of Title Underwriters of Texas (TUT), and Malcolm Morris, Stewart Title Guaranty Company, a witness The board disagreed with the arguments and positions of the opponents finding that the coverage was necessary and proper as title insurance

Agenda Item 25 Proponents were Roberts, attorney, representing Bar, and staff There were no opponents.

Agenda Item 26 Proponents were Roberts, attorney, representing Bar, and staff There were no opponents.

Agenda Item 27 Proponents were Roberts, attorney, representing Bar; and staff. There were no opponents.

Agenda Item 28 Proponents were Roberts, attorney, representing Bar, and staff. There were no opponents.

Agenda Item 30 Proponents were staff; Sneed, attorney, representing the TLTA, and James H. Garst (Garst), president, TUT. There were no opponents.

Agenda Item 31 Proponents were staff; and Sneed, attorney, representing the TLTA. There were no opponents.

Agenda Items 35, 36, and 37: (Note: consolidated at hearing) Proponents were Sneed, attorney, representing the TLTA, Alex Halff, president, Alamo Title Company, an expert witness called by the TLTA; Garst, president, TUT; staff; and Tims, attorney. There were no opponents

Agenda Item 38 Proponents were Sneed, attorney, representing the TLTA, Tims, attorney, an expert witness called by the TLTA, and staff. There were no opponents.

Agenda Item 39 Proponents were Roberts, attorney, representing Bar, and staff The opponent was H E Walker, attorney, Lawyers Title Insurance Corporation, a witness appearing on behalf of Title Underwriters of Texas (TUT) The board disagreed with the argument and position of the opponent for the same reasons

Agenda Item 40 Proponents were Roberts, attorney, representing Bar; and staff. There were no opponents.

Agenda Item 41 Proponents were Roberts, attorney, representing Bar; and staff There were no opponents.

Agenda Item 42 Proponents were Roberts, attorney, representing Bar, and staff. There were no opponents.

Agenda Item 43 Proponents were Roberts, attorney, representing Bar, and staff. There were no opponents.

The amendments are adopted under the Insurance Code, Article 9.07, which authorizes the State Board of Insurance to fix and promulgate premium rates and to promulgate or approve all forms to be used by title insurance companies, and the Insurance Code, Article 9.21, which authorizes the State Board of Insurance to promulgate and enforce rules and regulations prescribing underwriting standards and practices, and to promulgate and enforce all other such rules and regulations which, in the discretion of the board are deemed necessary to accomplish the purposes of the 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 February 8, 1984

TRD-841672 James W Norman  
Chief Clerk  
State Board of Insurance

Effective date March 1, 1984

Proposal publication date: January 6, 1984

For further information, please call (512) 475-2950.

**TITLE 34. PUBLIC FINANCE  
Part I. Comptroller of Public  
Accounts  
Chapter 3. Tax Administration  
Subchapter O. Sales Tax Division—State  
Taxes**

A notice appeared in the February 14, 1984, issue of the *Texas Register* indicating that the following adoptions would be serialized in this issue. Effective date of adoption for the documents is February 29, 1984.

§3.325  
(amendment)

**34 TAC §3.325**

The Comptroller of Public Accounts adopts amendments to §3.325, with changes to the proposed text published in the November 8, 1983, issue of the *Texas Register* (8 TexReg 4652).

The amendment was necessary to implement statutory changes made by the legislature.

The amendment allows an extension of the statute of limitations for filing a refund claim, as well as extending the period of assessment. Also, the time during which an administrative proceeding is pending is excluded when determining the statute of limitations for filing a refund claim. The changes to the proposal are in subsections (a)(1) and (b)(2). The addition of subparagraph (D) to subsection (a)(1) states that a refund claim cannot be made outside the four-year statute unless the transactions covered in the claim were a part of the deficiency determination. The change in subsection (b)(2) was the addition of the requirement that the purchaser agree in writing to having a tax credited to the purchaser's account rather than receiving a refund.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the authority of the Texas Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the sales tax.

**§3.325. Refunds, Interest, and Payments Under Protest.**

(a) Tax paid to state. Any person, his attorney, assignee, executor, or administrator may request from the comptroller a refund of any tax which he has remitted to the state but which was not due.

(1) The refund request must be made within

(A) four years from the date on which the tax was due and payable, or

(B) six months after a determination for the periods for which refund is claimed becomes final, or

(C) six months after any determination would have become final had payment not been made before the due date.

(D) A claim for refund of an amount paid pursuant to a deficiency determination is timely for all transactions included in the deficiency determination if made in accordance with subparagraph (B) or (C) of this paragraph. A claim for refund for items not included in a deficiency determination must be made in accordance with subparagraph (A) of this paragraph.

(2) Before the expiration of the statute of limitations, the comptroller and a taxpayer may agree in writing to an extension of the statute of limitations.

(3) An extension applies only to the periods specifically mentioned in the agreement. Any assessment or refund request pertaining to periods for which limitations have been extended must be made prior to the expiration date of the agreement. Following expiration of the agreement, the statute of limitations applies to subsequent assessments and refund requests as if no extension had been authorized.

(4) The request for refund must be made in writing and must state the specific grounds upon which the claim is founded. The request must also indicate the period for which the claimed overpayment was made.

(5) In determining the statute of limitations for filing a refund claim, the time during which an administrative proceeding is pending before the comptroller for the same period is not counted. A taxpayer may not file a sales tax refund claim for the same transaction and for the same time period as a refund claim previously denied.

(6) Failure to file a claim within the limitation prescribed by this section constitutes a waiver of any demand against the state on account of the overpayment.

(b) Tax paid to seller. A person who remits tax to a seller rather than directly to the state may not request from the comptroller a refund of any tax which that person has remitted to a seller but contends was not due. The tax must be recovered from the seller. See §3.338 of this title (relating to Allowance of Credit for Tax Paid to Suppliers) for provisions governing the allowance of credit for tax paid to a seller.

(1) A written request for a refund must be directed to the seller and must be accompanied by a properly completed exemption or resale certificate which meets all the requirements of §3.285 of this title (relating to Sales for Resale, Resale Certificates) and §3.287 of this title (relating to Exemption Certificates). The certificate should be retained by the seller to document the reason tax was refunded.

(2) After the seller has refunded or, with the purchaser's written consent, credited the tax to the account of the purchaser, the seller may then seek reimbursement from the state in accordance with the procedures outlined in subsection (a) of this section, or take a credit on the seller's next return in the amount refunded or credited to the account of the purchaser.

(c) Interest. Interest will be paid at the rate of 10% per annum on an amount found to have been erroneously paid to the comptroller for reporting periods after January 1, 1982. Refunds for reporting periods prior to January 1, 1982, will not accrue interest.

(1) Interest begins to accrue either 60 days after the date of payment or 60 days after the due date of the tax report, whichever is later.

(2) Interest stops on the date credit is allowed by the comptroller or on a date within ten days prior to the date the refund warrant is issued

(3) Credits taken by a taxpayer on the taxpayer's return do not accrue interest

(4) No taxes, penalties, or interest will be refunded to a person who has collected the taxes from another person until all taxes and interest are first refunded to the party from whom they were collected.

(4) Payments under protest. If taxes are paid under protest pursuant to the authority of the Texas Tax Code, §112.051, the amount protested will be placed in a suspense account pending resolution of the matter in issue. A written letter of protest which sets out fully and in detail each and every ground or reason why it is contended that the assessment is unlawful or unauthorized must accompany the payment. If the payment and letter of protest do not accompany one another, the payment will not be placed in a suspense account and the payment will not be deemed to have been made under protest. For the taxpayer's convenience, the comptroller will advise him of the amount received that is paid under protest and the date of the payment. If suit is not filed in accordance with the statute, the protest payment will be cleared to the general fund after the expiration of 90 days from the date of the payment.

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 February 8, 1984

TRD-841649      Bob Bullock  
Comptroller of Public Accounts

Effective date February 29, 1984  
Proposal publication date November 8, 1983  
For further information, please call (512) 475-7000

**TITLE 37. PUBLIC SAFETY AND  
CORRECTIONS  
Part IX. Commission on Jail  
Standards**

A notice appeared in the February 14, 1984, issue of the *Texas Register* indicating that the following adoptions would be serialized in this issue. Effective date of adoption for the documents is February 27, 1984.

Chapter 261 Existing Construction Rules  
Existing Jail Design, Construction, and Furnishing  
Requirements

§261.79  
(amendment)

§261.116  
(amendment)

Existing Lock-Up Design, Construction, and  
Furnishing Requirements

§261.121  
(amendment)

- §261.122  
(amendment)
- §261.123  
(amendment)
- §261.130  
(amendment)
- §261.131  
(amendment)
- §261.133  
(amendment)
- §261.137  
(amendment)
- §261.143  
(amendment)
- §261.148  
(amendment)
- §261.149  
(amendment)
- §261.150  
(amendment)
- §261.151  
(amendment)
- §261.157  
(amendment)
- §261.168  
(amendment)
- §261.171  
(amendment)
- §261.17A  
(amendment)

A notice appeared in the February 14, 1984, issue of the *Texas Register* indicating that the following adoptions would be serialized in this issue. Effective date of adoption for the documents is February 28, 1984.

Chapter 261 Existing Construction Rules  
Existing Low Risk Design, Construction, and  
Furnishing Requirements

- §261.209  
(amendment)
- §261.210  
(amendment)
- §261.211  
(amendment)
- §261.216  
(amendment)
- §261.218  
(amendment)
- §261.219  
(amendment)
- §261.226  
(amendment)
- §261.241  
(amendment)
- §261.252  
(amendment)
- §261.254  
(amendment)
- §261.257  
(amendment)

Chapter 279 Sanitation in County Jails  
Sanitation Plan

§279.1  
(amendment)

Chapter 287 Education and Rehabilitation Program  
for County Jails

§287.1  
(amendment)

Chapter 297 Compliance and Enforcement  
§297 6  
(amendment)  
§297 7  
(amendment)  
§297 9  
(new)

## **Chapter 261. Existing Construction Rules**

### **Existing Jail Design, Construction, and Furnishing Requirements**

#### **37 TAC §261.79**

The Commission on Jail Standards adopts amendments to §261 79, without changes to the proposed text published in the January 3, 1984, issue of the *Texas Register* (9 TexReg 59)

The section requires an emergency electrical power system within jails and periodic testing of the equipment so that life safety requirements may be met. The amendment requires weekly testing of equipment, rather than monthly, to be consistent with requirements listed elsewhere in these rules.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Title 18, Article 5115 1, which authorize the Commission on Jail Standards to promulgate rules affecting county jails.

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 January 30, 1984

TRD-841521 Mrs. William Cree  
Chairman  
Commission on Jail Standards

Effective date February 27, 1984  
Proposal publication date January 3, 1984  
For further information, please call (512) 475-2716.

#### **37 TAC §261.116**

The Commission on Jail Standards adopts an amendment to §261 116, without changes to the proposed text published in the January 3, 1984, issue of the *Texas Register* (9 TexReg 59)

The section requires a processing area and outlines its location, functions, and the furnishings to be provided. The amendment clarifies the location of the processing area, recommending that it be located within the security perimeter.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Title 18, Article 5115 1, which authorize the Commission on Jail Standards to promulgate rules affecting county jails.

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 January 30, 1984

TRD-841522 Mrs. William Cree  
Chairman  
Commission on Jail Standards

Effective date February 27, 1984  
Proposal publication date January 3, 1984  
For further information, please call (512) 475-2716.

### **Existing Lock-Up Design, Construction, and Furnishing Requirements**

#### **37 TAC §261.121**

The Commission on Jail Standards adopts an amendment to §261 121, without changes to the proposed text published in the January 3, 1984, issue of the *Texas Register* (9 TexReg 59)

The section requires that jails have commissary space or a program that will provide items for inmate usage not normally provided through jail services. The amendment removes the restriction of obtaining supplies from a nearby local source and provides greater latitude for jail operation.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Title 18, Article 5115 1, which authorize the Commission on Jail Standards to promulgate rules affecting county jails.

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 January 30, 1984

TRD-841523 Mrs. William Cree  
Chairman  
Commission on Jail Standards

Effective date February 27, 1984  
Proposal publication date January 3, 1984  
For further information, please call (512) 475-2716.

#### **37 TAC §261.122**

The Commission on Jail Standards adopts an amendment to §261 122, without changes to the proposed text published in the January 3, 1984 issue of the *Texas Register* (9 TexReg 59)

The section provides for storage of inmate property, supplies, mattresses, and evidence. The amendment

deletes reference to shelving, bins, and baskets, which are an integral part of the storage system.

No comments were received regarding adoption of the amendment

The amendment is adopted under Texas Civil Statutes, Title 18, Article 5115.1, which authorize the Commission on Jail Standards to promulgate rules affecting county jails.

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 January 30, 1984

TRD-841524      Mrs. William Cree  
                         Chairman  
                         Commission on Jail Standards

Effective date February 27, 1984  
Proposal publication date January 3, 1984  
For further information, please call (512) 475-2716.

### 37 TAC §261.123

The Commission on Jail Standards adopts amendments to §261.123, without changes to the proposed text published in the January 3, 1984, issue of the *Texas Register* (9 TexReg 60)

The section recommends that adequate storage space be provided for janitorial equipment and supplies to facilitate the maintenance of a sanitary jail. The amendments recommend that all supplies and equipment be secured away from inmate access and that storage for brooms and mops be provided.

No comments were received regarding adoption of the amendment

The amendment is adopted under Texas Civil Statutes, Title 18, Article 5115.1, which authorize the Commission on Jail Standards to promulgate rules affecting county jails

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 January 30, 1984

TRD-841525      Mrs. William Cree  
                         Chairman  
                         Commission on Jail Standards

Effective date February 27, 1984  
Proposal publication date January 3, 1984  
For further information, please call (512) 475-2716.

### 37 TAC §261.130

The Commission on Jail Standards adopts an amendment to §261.130, without changes to the proposed text published in the January 3, 1984, issue of the *Texas Register* (9 TexReg 60).

The section requires a guard station on each floor where 10 or more inmates are housed, for supervision purposes. The amendment accepts either a guard station or control station as fulfilling this requirement

No comments were received regarding adoption of the amendment

The amendment is adopted under Texas Civil Statutes, Title 18, Article 5115.1, which authorize the Commission on Jail Standards to promulgate rules affecting county jails

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 January 30, 1984

TRD-841526      Mrs. William Cree  
                         Chairman  
                         Commission on Jail Standards

Effective date February 27, 1984  
Proposal publication date January 3, 1984  
For further information, please call (512) 475-2716

### 37 TAC §261.131

The Commission on Jail Standards adopts an amendment to §261.131, without changes to the proposed text published in the January 3, 1984, issue of the *Texas Register* (9 TexReg 60).

The section recommends that a security station be adequately secured so that the officer and controls are protected from inmate access. The amendment limits the protection criteria to control rooms which normally house mechanical and electrical controls for the operation of the jail

No comments were received regarding adoption of the amendment

The amendment is adopted under Texas Civil Statutes, Title 18, Article 5115.1, which authorize the Commission on Jail Standards to promulgate rules affecting county jails

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 January 30, 1984

TRD-841527      Mrs. William Cree  
                         Chairman  
                         Commission on Jail Standards

Effective date February 27, 1984  
Proposal publication date January 3, 1984  
For further information, please call (512) 475-2716.

### 37 TAC §261.133

The Commission on Jail Standards adopts an amendment to §261.133, without changes to the proposed

text published in the January 3, 1984, issue of the *Texas Register* (9 TexReg 60)

The section requires certain emergency medical care equipment be maintained in each jail for emergency inmate care. The amendment explains the type of first aid kits that are acceptable for this purpose.

No comments were received regarding adoption of the amendment

The amendment is adopted under Texas Civil Statutes, Title 18, Article 5115 1, which authorize the Commission on Jail Standards to promulgate rules affecting county jails

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 January 30, 1984

TRD-841528      Mrs. William Cree  
                         Chairman  
                         Commission on Jail Standards

Effective date February 27, 1984  
Proposal publication date January 3, 1984  
For further information, please call (512) 475-2716.



**37 TAC §261.137**

The Commission on Jail Standards adopts an amendment to §261 137, without changes to the proposed text published in the January 3, 1984, issue of the *Texas Register* (9 TexReg 60)

The section requires that weapons storage capacity be provided at the entrance to the security perimeter for the storage of weapons if they are prohibited within that area. The amendment prohibits the carrying of weapons into the security perimeter except for existing reasons

No comments were received regarding adoption of the amendment

The amendment is adopted under Texas Civil Statutes, Title 18, Article 5115 1, which authorize the Com-

mission on Jail Standards to promulgate rules affecting county jails.

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 January 30, 1984

TRD-841529      Mrs. William Cree  
                         Chairman  
                         Commission on Jail Standards

Effective date February 27, 1984  
Proposal publication date January 3, 1984  
For further information, please call (512) 475-2716

**37 TAC §261.143**

The Commission on Jail Standards adopts an amendment to §261 143, without changes to the proposed text published in the January 3, 1984, issue of the *Texas Register* (9 TexReg 61)

The section provides for a safety vestibule at areas where three or more inmates are confined for officers' safety. The amendment clarifies door operation so that swinging doors may be used for this purpose

No comments were received regarding adoption of the amendment

The amendment is adopted under Texas Civil Statutes, Title 18, Article 5115 1, which authorize the Commission on Jail Standards to promulgate rules affecting county jails

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 January 30, 1984

TRD-841530      Mrs. William Cree  
                         Chairman  
                         Commission on Jail Standards

Effective date February 27, 1984  
Proposal publication date January 3, 1984  
For further information, please call (512) 475-2716

**37 TAC §261.148**

The Commission on Jail Standards adopts an amendment to §261 148, without changes to the proposed text published in the January 3, 1984, issue of the *Texas Register* (9 TexReg 61)

The section provides for a sanitary detoxification cell by requiring floor drains, water closets, lavatories and water controls. The amendment clarifies reference to drains and deletes the requirement for clear floor space

No comments were received regarding adoption of the amendment.



The amendment is adopted under Texas Civil Statutes, Title 18, Article 5115 1, which authorize the Commission on Jail Standards to promulgate rules affecting county jails

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 January 30, 1984

TRD-841531      Mrs. William Cree  
                         Chairman  
                         Commission on Jail Standards

Effective date February 27, 1984  
Proposal publication date January 3, 1984  
For further information, please call (512) 475-2716

### 37 TAC §261.149

The Commission on Jail Standards adopts amendments to §261.149, with changes to the proposed text published in the January 3, 1984, issue of the *Texas Register* (9 TexReg 61). A correction of error was published 9 Tex Reg 356

The section deals with holding cells located within the jail and adjacent to the courtroom outside the jail. It provides for secure temporary holding of inmates. The amendments permit bunks within the holding cells and require normal height seating

No comments were received regarding adoption of the amendments

The amendments are adopted under Texas Civil Statutes, Title 18, Article 5115 1, which authorize the Commission on Jail Standards to promulgate rules affecting county jails

#### §261.149 Holding Rooms (or Cells)

(a) One or more holding rooms may be provided to temporarily detain inmates pending booking, court appearance, identification, housing assignment, or discharge. Holding rooms shall include the following features and equipment

(1) Floor areas Minimum floor area of a holding room shall be 40 square feet (for single occupancy). For occupancy by more than one person, add a minimum of 18 square feet per additional person. The floor shall be constructed of material which is durable and easily cleaned. Bunk(s) may be included in the holding cell.

(2) Seating Seating shall be sufficient to provide not less than 24 linear inches per person at capacity. Seating elevation shall be normal seating height.

(3)-(4) (No change)

(b) Holding cells that are separate from the jail and utilized for direct court holding shall include the following features, equipment, and supervision.

(1) Floor areas Minimum floor area of a holding room should be 40 square feet (for single occupancy). For occupancy by more than one person, add a minimum of 18 square feet per additional person. The floor should be constructed of material which is durable and easily cleaned.

(2) Seating Seating shall be sufficient to provide not less than 24 linear inches per person at capacity.

(3) Plumbing A water closet and lavatory shall be readily accessible for each 12 inmates or increment thereof. Each holding room shall have sanitary drinking water facilities available. Plumbing fixtures should have outside water shutoffs and controls individually by cell. Permanent modesty shields shall be provided.

(4) Floor drains A holding room should have adequate floor drains.

(5) Smoke detection Smoke detection capability shall be provided. The alarm shall provide effective warning sufficient to allow evacuation of the area. Additional life safety items shall be compatible with the remainder of the building.

(6) Supervision Supervision shall be provided, and may consist of correction officers, peace officers, court bailiffs, or similar individuals. Inmates shall be observed frequently, but at least hourly.

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 January 30, 1984

TRD-841532      Mrs. William Cree  
                         Chairman  
                         Commission on Jail Standards

Effective date: February 27, 1984  
Proposal publication date January 3, 1984  
For further information, please call (512) 475-2716.

### 37 TAC §261.150

The Commission on Jail Standards adopts an amendment to §261.150, without changes to the proposed text published in the January 3, 1984, issue of the *Texas Register* (9 TexReg 61)

The section provides for separation cells which are used for administrative purposes and may hold inmates for indefinite periods of time. The amendment deletes the reference to time periods, since confinement in a separation cell is dependent upon need and classification requirements.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Title 18, Article 5115 1, which authorize the Commission on Jail Standards to promulgate rules affecting county jails.

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 January 30, 1984

TRD-841533      Mrs. William Cree  
                         Chairman  
                         Commission on Jail Standards

Effective date February 27, 1984  
Proposal publication date January 3, 1984  
For further information, please call (512) 475-2716

**37 TAC §261.151**

The Commission on Jail Standards adopts an amendment to §261.151, without changes to the proposed text published in the January 3, 1984, issue of the *Texas Register* (9 TexReg 62)

The section requires adequate lighting in inmate living areas for all normal functions. The amendment permits inmates to control lights for such activities as reading, shaving, etc

No comments were received regarding adoption of the amendment

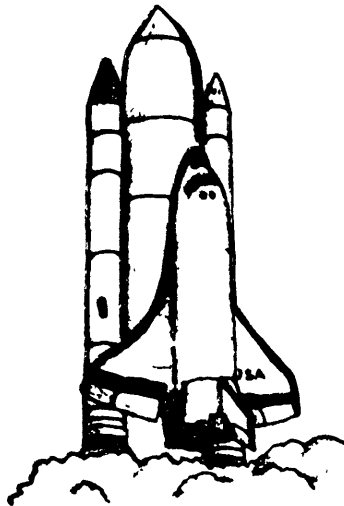
The amendment is adopted under Texas Civil Statutes, Title 18, Article 5115 1, which authorize the Commission on Jail Standards to promulgate rules affecting county jails

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 January 30, 1984

TRD-841534 Mrs. William Cree  
Chairman  
Commission on Jail Standards

Effective date February 27, 1984  
Proposal publication date January 3, 1984  
For further information, please call (512) 475-2716



**37 TAC §261.157**

The Commission on Jail Standards adopts an amendment to §261.157, without changes to the proposed text published in the January 3, 1984, issue of the *Texas Register* (9 TexReg 62)

The section requires ball-bearing hinges in heavy-duty detention doors. The amendment permits hinges designed specifically for the doors

No comments were received regarding adoption of the amendment

The amendment is adopted under Texas Civil Statutes, Title 18, Article 5115 1, which authorize the Com-

mission on Jail Standards to promulgate rules affecting county jails.

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 January 30, 1984

TRD-841535 Mrs. William Cree  
Chairman  
Commission on Jail Standards

Effective date February 27, 1984  
Proposal publication date January 3, 1984  
For further information, please call (512) 475-2716

**37 TAC §261.168**

The Commission on Jail Standards adopts an amendment to §261.168, without changes to the proposed text published in the January 3, 1984, issue of the *Texas Register* (9 TexReg 62)

The section prohibits the use of drop cords and extension cords within the jail for inmate safety. The amendment clarifies the reference to cords and requires that appliances be plugged directly into a receptacle

No comments were received regarding adoption of the amendment

The amendment is adopted under Texas Civil Statutes, Title 18, Article 5115 1, which authorize the Commission on Jail Standards to promulgate rules affecting county jails

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 January 30, 1984

TRD-841536 Mrs. William Cree  
Chairman  
Commission on Jail Standards

Effective date February 27, 1984  
Proposal publication date January 3, 1984  
For further information, please call (512) 475-2716

**37 TAC §261.171**

The Commission on Jail Standards adopts an amendment to §261.171, without changes to the proposed text published in the January 3, 1984, issue of the *Texas Register* (9 TexReg 62)

The section recommends minimum size for observation panels when used to view inmate areas. This capability assists in the supervising of inmates. The amendment deletes the reference to specific size and permits panels of sufficient size to view the area

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Title 18, Article 5115 1, which authorize the Commission on Jail Standards to promulgate rules affecting county jails

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 January 30, 1984

TRD-841537      Mrs. William Cree  
                         Chairman  
                         Commission on Jail Standards

Effective date February 27, 1984  
Proposal publication date January 3, 1984  
For further information, please call (512) 475-2716.

### 37 TAC §261.174

The Commission on Jail Standards adopts an amendment to §261 174, without changes to the proposed text published in the January 3, 1984, issue of the *Texas Register* (9 TexReg 63)

The section requires emergency electrical power and testing periodically to meet life safety requirements. The amendment requires weekly testing, rather than monthly, to be consistent with requirements listed elsewhere in these sections

No comments were received regarding adoption of the amendment

The amendment is adopted under Texas Civil Statutes, Title 18, Article 5115 1, which authorize the Commission on Jail Standards to promulgate rules affecting county jails

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 January 30, 1984

TRD-841538      Mrs. William Cree  
                         Chairman  
                         Commission on Jail Standards

Effective date February 27, 1984  
Proposal publication date January 3, 1984  
For further information, please call (512) 475-2716

### Existing Low Risk Design, Construction, and Furnishing Requirements

#### 37 TAC §261 209

The Commission on Jail Standards adopts an amendment to §261 209, without changes to the proposed text published in the January 3, 1984, issue of the *Texas Register* (9 TexReg 63)

The section requires either space or a program be provided for each jail so that items not available through

normal sources are available for inmate purchase. The amendment provides inmates greater latitude in obtaining commissary items by deleting references to obtaining supplies from nearby sources

No comments were received regarding adoption of the amendment

The amendment is adopted under Texas Civil Statutes, Title 18, Article 5115 1, which authorize the Commission on Jail Standards to promulgate rules affecting county jails

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 January 30, 1984

TRD-841588      Mrs. William Cree  
                         Chairman  
                         Commission on Jail Standards

Effective date February 28, 1984  
Proposal publication date January 3, 1984  
For further information, please call (512) 475-2716.

#### 37 TAC §261.210

The Commission on Jail Standards adopts an amendment to §261 210, without changes to the proposed text published in the January 3, 1984, issue of the *Texas Register* (9 TexReg 63)

The section requires that storage space be provided within the jail for inmate property, supplies, and mattresses. The amendment deletes reference to shelving, bins, and baskets, which are an integral part of the storage area

No comments were received regarding adoption of the amendment

The amendment is adopted under Texas Civil Statutes, Title 18, Article 5115 1, which authorize the Commission on Jail Standards to promulgate rules affecting county jails

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 January 30, 1984

TRD-841589      Mrs. William Cree  
                         Chairman  
                         Commission on Jail Standards

Effective date February 28, 1984  
Proposal publication date January 3, 1984  
For further information, please call (512) 475-2716.

#### 37 TAC §261.211

The Commission on Jail Standards adopts an amendment to §261.211, without changes to the proposed text published in the January 3, 1984, issue of the *Texas Register* (9 TexReg 63)

The section requires that janitorial storage space be provided to assist in maintaining a sanitary jail. The amendment recommends that storage areas be secured and broom and mop racks be provided.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Title 18, Article 5115.1, which authorize the Commission on Jail Standards to promulgate rules affecting county jails.

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 January 30, 1984

TRD-841590      Mrs. William Cree  
                         Chairman  
                         Commission on Jail Standards

Effective date: February 28, 1984  
Proposal publication date: January 3, 1984  
For further information, please call (512) 475-2716

text published in the January 3, 1984, issue of the *Texas Register* (9 TexReg 64)

The section requires that an exercise area be provided for inmate recreation. This section further recommends that the area be secured and sanitary facilities be provided. The amendment recommends a minimum size for the exercise area so that activities requiring muscular activity may be provided.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Title 18, Article 5115.1, which authorize the Commission on Jail Standards to promulgate rules affecting county jails.

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 January 30, 1984

TRD-841592      Mrs. William Cree  
                         Chairman  
                         Commission on Jail Standards

Effective date: February 28, 1984  
Proposal publication date: January 3, 1984  
For further information, please call (512) 475-2716.

**37 TAC §261.216**

The Commission on Jail Standards adopts an amendment to §261.216, without changes to the proposed text published in the January 3, 1984, issue of the *Texas Register* (9 TexReg 63).

The section requires a guard station be maintained on each floor where 10 or more inmates are housed so that supervision is provided. The amendment accepts either a guard station or a control station as meeting this requirement.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Title 18, Article 5115.1, which authorize the Commission on Jail Standards to promulgate rules affecting county jails.

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 January 30, 1984

TRD-841591      Mrs. William Cree  
                         Chairman  
                         Commission on Jail Standards

Effective date: February 28, 1984  
Proposal publication date: January 3, 1984  
For further information, please call (512) 475-2716



**37 TAC §261.219**

The Commission on Jail Standards adopts an amendment to §261.219, without changes to the proposed text published in the January 3, 1984, issue of the *Texas Register* (9 TexReg 64).

The section provides that a litter and first aid equipment be maintained at each jail for emergency treatment of inmates. The amendment describes first aid equipment that may be maintained for emergency treatment of inmates.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Title 18, Article 5115.1, which authorize the Com-

**37 TAC §261.218**

The Commission on Jail Standards adopts an amendment to §261.218, without changes to the proposed

mission on Jail Standards to promulgate rules affecting county jails

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 January 30, 1984

TRD-841593      Mrs. William Cree  
                         Chairman  
                         Commission on Jail Standards

Effective date February 28, 1984  
Proposal publication date January 3, 1984  
For further information, please call (512) 475-2716

### 37 TAC §261 226

The Commission on Jail Standards adopts an amendment to §261 226, with changes to the proposed text published in the January 3, 1984, issue of the *Texas Register* (9 TexReg 64)

The section requires that weapons storage capability be provided at the entrance to the security perimeter, where the carrying of weapons has been prohibited. The amendment requires that weapons be prohibited within the security perimeter except for emergency reasons.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Title 18, Article 5115 1, which authorize the Commission on Jail Standards to promulgate rules affecting county jails.

**§261 226 Weapon Storage** Separate secure storage space shall be provided for disposition of weapons at all entrances to the security perimeter. Weapons shall not be permitted beyond the security perimeter, except when required to meet emergencies. Competent authority shall specifically authorize weapons entry when deemed appropriate.

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 January 30, 1984

TRD 841594      Mrs. William Cree  
                         Chairman  
                         Commission on Jail Standards

Effective date February 28, 1984  
Proposal publication date January 3, 1984  
For further information, please call (512) 475-2716

### 37 TAC §261 241

The Commission on Jail Standards adopts an amendment to §261 241, without changes to the proposed text published in the January 3, 1984, issue of the *Texas Register* (9 TexReg 64)

The section refers to ball-bearing hinges for heavy-duty detention doors. The amendment deletes reference to ball bearing hinges and emphasizes the use of hinges that are adequate for the weight of the door.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Title 18, Article 5115 1, which authorize the Commission on Jail Standards to promulgate rules affecting county jails.

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 January 30, 1984

TRD-841595      Mrs. William Cree  
                         Chairman  
                         Commission on Jail Standards

Effective date February 28, 1984  
Proposal publication date January 3, 1984  
For further information, please call (512) 475-2716

### 37 TAC §261 252

The Commission on Jail Standards adopts an amendment to §261 252, without changes to the proposed text published in the January 3, 1984, issue of the *Texas Register* (9 TexReg 65)

The section prohibits the use of drop cords and extension cords within the facility and requires that appliances be plugged directly into a receptacle. The amendment deletes the reference to drop cords.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Title 18, Article 5115 1, which authorize the Commission on Jail Standards to promulgate rules affecting county jails.

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 January 30, 1984

TRD 841596      Mrs. William Cree  
                         Chairman  
                         Commission on Jail Standards

Effective date February 28, 1984  
Proposal publication date January 3, 1984  
For further information, please call (512) 475-2716.

### 37 TAC §261 254

The Commission on Jail Standards adopts an amendment to §261 254, with changes to the proposed text published in the January 3, 1984, issue of the *Texas Register* (9 TexReg 65)

The section specifies a minimum size for observation panels used within the inmate housing area for inmate observation and supervision. The amendment deletes the reference to specific size and requires that observation panels be of a sufficient size to view the area

No comments were received regarding adoption of the amendment

The amendment is adopted under Texas Civil Statutes, Title 18, Article 5115 1, which authorize the Commission on Jail Standards to promulgate rules affecting county jails

**§261.254. Observation Panels** When used, observation panels shall provide a clear opening of sufficient size to view the area and be glazed with appropriate thickness security glass or equivalent. They should be provided with a shutter.

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 January 30, 1984

TRD-841597 Mrs. William Cree  
Chairman  
Commission on Jail Standards

Effective date February 28, 1984  
Proposal publication date January 3, 1984  
For further information, please call (512) 475-2716.

**37 TAC §261.257**

The Commission on Jail Standards adopts an amendment to §261 257, without changes to the proposed text published in the January 3, 1984, issue of the *Texas Register* (9 TexReg 65)

The section requires that an emergency electrical power system be provided and that it be tested periodically to satisfy life safety requirements. The amendment requires testing of the system to be consistent with requirements contained elsewhere in these rules

No comments were received regarding adoption of the amendment

The amendment is adopted under Texas Civil Statutes, Title 18, Article 5115 1, which authorize the Commission on Jail Standards to promulgate rules affecting county jails

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 January 30, 1984

TRD-841598 Mrs. William Cree  
Chairman  
Commission on Jail Standards

Effective date February 28, 1984  
Proposal publication date January 3, 1984  
For further information, please call (512) 475-2716.

**Chapter 279. Sanitation in County  
Jails  
Sanitation Plan**

**37 TAC §279.1**

The Commission on Jail Standards adopts an amendment to §279 1, without changes to the proposed text published in the January 3, 1984, issue of the *Texas Register* (9 TexReg 66)

The section requires that water, sewage, and food preparation areas be tested periodically for sanitary purposes. The amendment permits the acceptance of the test normally done by municipalities, rather than a separate inspection of sanitary facilities

No comments were received regarding adoption of the amendment.

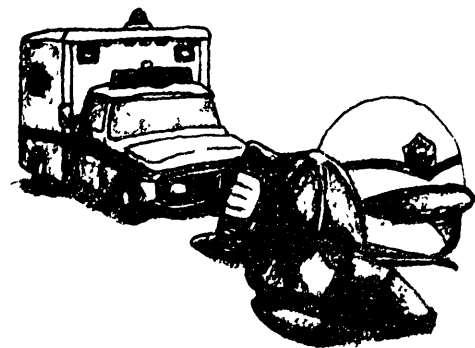
The amendment is adopted under Texas Civil Statutes, Title 18, Article 5115 1, which authorize the Commission on Jail Standards to promulgate rules affecting county jails

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 January 30, 1984

TRD-841599 Mrs. William Cree  
Chairman  
Commission on Jail Standards

Effective date February 28, 1984  
Proposal publication date January 3, 1984  
For further information, please call (512) 475-2716



**Chapter 287. Education and  
Rehabilitation Programs for County  
Jails**

**37 TAC §287 1**

The Commission on Jail Standards adopts an amendment to §287 1, without changes to the proposed text published in the January 3, 1984, issue of the *Texas Register* (9 TexReg 67)

The section requires that a rehabilitation and education plan be developed for each facility. This plan outlines available resources within the area that may be available for inmate usage. The amendment recog-

nizes that resources vary at different locations and accepts plans and programs consistent with community resources

No comments were received regarding adoption of the amendment

The amendment is adopted under Texas Civil Statutes, Title 18, Article 5115 1, which authorize the Commission on Jail Standards to promulgate rules affecting county jails

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 January 30, 1984

TRD-841600 Mrs. William Cree  
Chairman  
Commission on Jail Standards

Effective date February 28, 1984  
Proposal publication date January 3, 1984  
For further information, please call (512) 475-2716

### 37 TAC §297.7

The Commission on Jail Standards adopts an amendment to §297.7, without changes to the proposed text published in the January 3, 1984, issue of the *Texas Register* (9 TexReg 67)

The section requires that litigation brought against a county would be tried without a jury. The amendment permits a jury trial if the affected county requests such trial.

No comments were received regarding adoption of the amendment

The amendment is adopted under Texas Civil Statutes, Title 18, Article 5115 1, which authorize the Commission on Jail Standards to promulgate rules affecting county jails.

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 January 30, 1984

TRD 841602 Mrs. William Cree  
Chairman  
Commission on Jail Standards

Effective date February 28, 1984  
Proposal publication date January 3, 1984  
For further information, please call (512) 475-2716

## Chapter 297. Compliance and Enforcement

### 37 TAC §297.6

The Commission on Jail Standards adopts an amendment to §297.6, without changes to the proposed text published in the January 3, 1984, issue of the *Texas Register* (9 TexReg 67)

The section outlines procedures for transfer of prisoners to another county in the event that a non-complying jail is issued a remedial order and movement of prisoners is required. The amendment changes the administration process of transfer of prisoners based on issuance of a remedial order and is consistent with recent legislative change.

No comments were received regarding adoption of the amendment

The amendment is adopted under Texas Civil Statutes, Title 18, Article 5115 1, which authorize the Commission on Jail Standards to promulgate rules affecting county jails

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 January 30, 1984

TRD-841601 Mrs. William Cree  
Chairman  
Commission on Jail Standards

Effective date February 28, 1984  
Proposal publication date January 3, 1984  
For further information, please call (512) 475-2716

### 37 TAC §297.9

The Commission on Jail Standards adopts new §297.9, without changes to the proposed text published in the January 3, 1984, issue of the *Texas Register* (9 TexReg 67)

The new section permits a commissioner's court to contract with a private organization for the confinement of low-risk prisoners. The new section effects a recent legislative change regarding the incarceration of low-risk inmates.

No comments were received regarding adoption of the new section

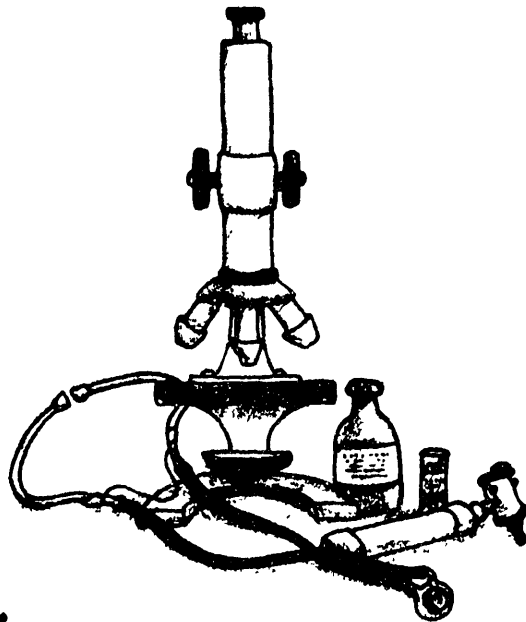
The new section is adopted under Texas Civil Statutes, Title 18, Article 5115 1, which authorize the Commission on Jail Standards to promulgate rules affecting county jails

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 January 30, 1984

TRD-841603 Mrs. William Cree  
Chairman  
Commission on Jail Standards

Effective date February 28, 1984  
Proposal publication date January 3, 1984  
For further information, please call (512) 475-2716.



## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Resources

#### Chapter 9. Food Stamps

##### Subchapter II. Resources

40 TAC §9 3404, §9 3405

The Texas Department of Human Resources (DHR) adopts amendments to §9 3404 and §9 3405, concerning exempt and nonexempt resources. These amendments are adopted because of regulations issued by the United States Department of Agriculture (USDA) on December 14, 1982, to be effective February 1, 1983. The USDA issued the regulations to require DHR to include Individual Retirement Accounts (IRAs) and Keogh plans as resources in determining eligibility of people applying for or receiving food stamps. These amendments are adopted under federal requirements to be effective February 1, 1983. In addition, DHR is correcting §9 3404 to show paragraphs (15) (19) that were administratively deleted in error effective April 1, 1982. These paragraphs have remained in full force and effect since their original adoption.

The amendments are adopted under the Human Resources Code, Title 2, Chapter 22 and Chapter 33, which authorizes the department to administer public assistance programs.

**§9 3404 Exempt Resources.** Only the following are not considered household resources in determining eligibility.

- (1) (No change )
- (2) Personal property—
  - (A) Household goods—Household goods are exempt, including items such as furniture and appliances.
  - (B) Personal effects—Personal effects are exempt, including items such as clothing and jewelry.

(C) Burial plot—One burial plot is exempt for each household member (including disqualified household members).

(3) Life insurance and pension funds—The cash value of life insurance policies and pension funds is exempt. This does not include Individual Retirement Accounts (IRAs) or Keogh plans.

(4)-(14) (No change )

(15) Resources previously considered income—Resources, such as those of students or self-employed persons, which have previously been prorated as income are exempt.

(16) Indian lands—Indian lands owned jointly with the tribe or land that can be sold only with the approval of the Bureau of Indian Affairs are exempt as resources.

(17) Handling of excluded funds—Money excluded from resources and kept in a separate account is not considered in determining the household's total resources. Such money retains its exempt status indefinitely, unless combined in an account with money which is not excluded. If excluded and nonexcluded money is combined, the excluded funds remain exempt for six months from the date the funds were combined. The six-month limit begins for each separate deposit of exempt funds on the date it is combined with nonexcluded funds. If excluded money is placed in a separate account which is interest-bearing, the interest is counted as income in the month received. After the month of receipt, the interest would become a countable resource to the household. Any funds in the combined account are counted as a resource upon expiration of the six-month period. Money which has been excluded from consideration as a resource because it was previously prorated as income shall, if combined with nonexcluded funds, retain this exemption for the period of time over which it was prorated.

(18) Payments or allowances made under any federal law for the purpose of energy assistance are excluded from consideration as a resource.

(19) HUD retroactive tax and utility cost subsidy payments issued as a result of *Underwood v Harris* are disregarded in the month of receipt and in the following month.

**§9 3405 Nonexempt Resources.** The following are considered resources in determining eligibility.

- (1)-(5) (No change )
- (6) Individual Retirement Accounts (IRAs) and Keogh Plans—Workers count IRAs and Keogh plans as resources, even if there is a penalty for early withdrawal. Workers deduct the early withdrawal penalty and count the remainder as a resource. Workers do not count Keogh plans as resources if there is a contractual relationship among several people who share the same fund. A contractual relationship exists if one of the people who share the fund cannot withdraw without legal obligation to the others. Workers must examine the terms of funds shared by more than one person to determine if one of them can withdraw without legal obligation. Workers may consult the regional attorney to determine the legal relationships involved. The exception does not apply to IRAs or other one-person funds. Funds shared by several people are



counted as a resource, regardless of contractual relationship, if all the people are members of the same household.

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 February 9, 1984

TRD-841737 Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Effective date February 1, 1983—§9 3404(1)-(14)  
and §9 3405

April 1, 1982—§9 3404(15)-(19)

Proposal publication date N/A

For further information, please call (512) 441-3355,  
ext 2037

## Chapter 23. Nursing Facility Administration

### Subchapter UUUU. Support Documents

#### 40 TAC §23 9801

The Texas Department of Human Resources adopts an amendment to §23 9801, with changes to the proposed text published in the January 6, 1984, issue of the *Texas Register* (9 TexReg 172)

References to 1.07% in the text are changed to 1.07. The department announced this correction in the January 13, 1984, issue of the *Texas Register* (9 TexReg 354)

The Boren Amendment to the Omnibus Budget Reconciliation Act of 1980 requires the reimbursement methodology to produce results that will reimburse providers who operate their businesses in an economical and efficient manner. While the 60th percentile is "reasonably cost related," the department no longer believes that the results of this methodology are adequate to allow providers to operate in an economical and efficient manner.

Section 23 9801 is amended to specify that the reimbursement rates are determined by using the median provider's projected per diem expense times 1.07 from each cost area within each class of service. The resulting cost area amounts are totaled to determine the per diem reimbursement rates. The department uses the rate setting methodology to determine the per diem rate for skilled and intermediate care facilities.

The Texas Health Care Association and the Texas Association of Private ICF-MR Providers commented in favor of the proposal.

The amendment is adopted under the Human Resources Code, Title 2, Chapter 22 and Chapter 32, which authorizes the department to administer public assistance programs.

#### §23.9801. Reimbursement Methodology for Rates for Skilled Nursing Facilities and Intermediate Care Facilities

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

(c) Cost-finding methodology The cost-finding methodology recasts reported expense data in a consistent manner to determine per diem allowed costs. Certain adjustments are made in allowable costs in the cost-finding process to ensure that costs used for rate setting are required for long-term care, derived from the marketplace, and incurred from economic and efficient use of resources.

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

(d) Rate-setting methodology Reimbursement rates for each class of service are determined by selecting the median provider's projected per diem expense times 1.07 from each cost area within each class of service. The resulting cost area amounts are totaled to determine the per diem reimbursement rate.

(1) (No change.)

(2) Cost area projected reimbursement Class rates are determined by selecting the median provider's projected per diem expense times 1.07.

(A) Patient care cost area

(i)-(iii) (No change.)

(B) Dietary care cost area

(C) Facility cost area

(D) Administration cost area.

(3) Reimbursement rate determination for each class of service. Each rate is determined by summing the four cost area amounts from within each reimbursement class selected.

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

(4) (No change.)

(e) (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 February 8, 1984

TRD-841682 Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Effective date February 29, 1984

Proposal publication date January 6, 1984

For further information, please call (512) 441-3355,  
ext 2037

## Chapter 29. Purchased Health Services

### Hospital Services

#### 40 TAC §29.601

The Texas Department of Human Resources adopts amendments to §29 601, concerning payment for hospital services, in its purchased health services chapter, without changes to the text as proposed in the December 13, 1983, issue of the *Texas Register* (8 TexReg 5147)

The rule is amended to clarify the department's reimbursement methodology for hospital services. The rule is also amended to be consistent with the requirements of the Texas State Plan for Medical Assistance under Title XIX of the Social Security Act. The amendments do not address the amount, duration, or scope of services provided to eligible recipients under the Texas Medical Assistance Program (Medicaid).

The rule on payment for hospital services establishes the areas of reimbursement and limits on reimbursement, including target rates, payments per discharge, and penalties.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Human Resources Code, Title 2, Chapter 22 and Chapter 32, which authorizes the department 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 February 8, 1984

TRD-841683      Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Effective date February 29, 1984

Proposal publication date December 13, 1983

For further information, please call (512) 441-3355,  
ext 2037

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## State Board of Insurance Exempt Filings

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### State Board of Insurance 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 approved a filing by CUMIS Insurance Society, Inc., of a standard and uniform rate increase for their Credit Union Discovery Bond NCUA 581.

The filing is accompanied by supporting data consisting of the following.

Section A contains a rate level analysis indicating the need for the 25% rate increase after consideration of investment income and various exhibits supporting the data incorporated in the rate level analysis. Section B explains and details the smoothing of loss and loss adjustment expense loads and the leveling of underwriting expense loads. Section C explains the calculation of premiums for various deductible options. Section D contains new manual pages 1-16, which replace like numbered pages currently on file. Section E shows Texas experience.

The overall rate level change will fall within the board's current interim procedure for handling investment income in rate making, and the statistical data support the increase.

This filing becomes effective 15 days after it is published in the *Texas Register*.

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.

Issued in Austin, Texas, on February 9, 1984

TRD-841757      James W. Norman  
Chief Clerk  
State Board of Insurance

Effective date March 4, 1984

For further information, please call (512) 475-2950

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. Although some notices may be received too late for publication before the meeting is held, all those filed are published in the *Register*. Notices concerning state agencies, colleges, and universities must contain the date, time, and location of the meeting, and an agenda or agenda summary. Published notices concerning county agencies include only the date, time, and location of the meeting. These notices are published alphabetically under the heading "Regional Agencies" according to the date on which they are filed.

Any of the governmental entities named above must have notice of an emergency meeting, or 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. However, notices of emergency additions or revisions to a regional agency's agenda will not be published since the original agenda for the agency was not published.

All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol. These notices may contain more detailed agendas than space allows to be published in the *Register*.

# Open Meetings

## **Texas Animal Health Commission**

**Friday, February 24, 1984, 9 a.m.** The Texas Animal Health Commission will meet in the conference room, 210 Barton Springs Road, Austin. According to the agenda summary, the commission will approve the minutes of previous meetings and actions of the executive director; conduct a hearing to adopt amendments to the Texas bovine brucellosis regulation and amendments to the permanent quarantine area (commonly known as the buffer zone or systematic area); hear a report of the Finance Committee on federal indemnity paid in Texas; consider emergency poultry regulations concerning laryngotracheitis; and hold an administrative hearing regarding David Maresh.

**Contact:** Jo Anne Conner, 210 Barton Springs Road, Austin, Texas 78711, (512) 475-4111.

**Filed:** February 10, 1984, 4:40 p.m.  
TRD-841792

## **Texas Antiquities Committee**

**Friday, February 10, 1984, 3:30 p.m.** The Texas Antiquities Committee met in emergency session in the conference room, 105

West 16th Street, Austin. According to the agenda, the committee met in executive session to discuss the Platoro Collection. The emergency status was necessary because immediate decisions needed to be made concerning the Platoro Collection.

**Contact:** Cindy Smetak, 105 West 16th Street, Austin, Texas, (512) 475-6328.

**Filed:** February 10, 1984, 12:50 p.m.  
TRD-841766

**Monday, February 13, 1984, 2 p.m.** The Texas Antiquities Committee met in emergency session in the conference room, 105 West 16th Street, Austin. According to the agenda, the committee met in executive session to discuss the Platoro Collection. The emergency status was necessary because immediate decisions had to be made concerning this collection.

**Contact:** Cindy Smetak, 105 West 16th Street, Austin, Texas, (512) 475-6328.

**Filed:** February 13, 1984, 9:37 a.m.  
TRD-841801

## **Coordinating Board, Texas College and University System**

**Thursday, February 23, 1984, 10:30 a.m.** The Administrative Council of the Coordinating

Board, Texas College and University System, will meet in Room 209, Bevington A. Reed Building, 200 East Riverside Drive, Austin. According to the agenda summary, the council will review the Institutional Program, consider a report from a special ad hoc committee, and hear the executive secretary's report.

**Contact:** James McWhorter, P.O. Box 12788, Austin, Texas 78711.

**Filed:** February 9, 1984, 10:30 a.m.  
TRD-841711

## **Texas Department of Corrections**

**Monday, February 20, 1984, 9 a.m.** The Board of the Texas Department of Corrections rescheduled a meeting to be held in Room 103, Administration Building, Huntsville. According to the agenda summary, the board will meet in executive session, pursuant to Texas Civil Statutes, Article 6252-17, §2(e) and §2(g), to discuss the pending/contemplated litigation resulting from construction audit/projects; a preliminary report on personnel and administrative policy revisions and employee litigation; and, with board attorneys, Ruiz litigation.

tion issues, bidding on the Eastham Dairy Project, and State of Texas v. Danchak. The board will then reconvene in open session to hear a report by the assistant director for construction concerning construction projects. The meeting was originally scheduled for February 13, 1984.

**Contact:** D. V. McKaskle, P.O. Box 99, Huntsville, Texas 77340, (409) 295-6371, ext. 160.

**Filed:** February 10, 1984, 5:22 p.m.  
TRD-841799

### **Texas School for the Deaf**

**Friday, February 17, 1984, 3:30 p.m.** The Governing Board of the Texas School for the Deaf will meet in the board room, 1102 South Congress Avenue, Austin. According to the agenda summary, the board will review the January 14, 1984, minutes; consider action concerning consultant contracts, hike and bike trail, admission criteria, Textbook Committee and recommendations, personnel and legal matters, and professional contracts; hear the health services report and the monthly financial report; discuss the 809 admission update and the emerging educational philosophy of TSD; hear individuals from the audience wishing to make reports; and hear reports from board members.

**Contact:** Sheila O'Leary, 1102 South Congress Avenue, Austin, Texas 78704, (512) 442-7821, ext. 303.

**Filed:** February 9, 1984, 2:51 p.m.  
TRD-841736

### **Texas Diabetes Council**

**Wednesday, February 22, 1984, 10 a.m.** The Texas Diabetes Council will meet in Room G-107, Texas Department of Health, 1100 West 49th Street, Austin. According to the agenda, the council will discuss the previous meeting minutes, the adoption of rules for the council, and the drawing of lots for staggered terms on the council; continue consideration of the diabetes state plan; and consider the budget for the next biennium and establishing an Advisory Committee.

**Contact:** Willard M. Drake, Jr., M.D., 1100 West 49th Street, Austin, Texas, (512) 458-7534.

**Filed:** February 10, 1984, 4:09 p.m.  
TRD-841790

### **Interagency Council on Early Childhood Intervention**

**Tuesday, February 21, 1984, 8:30 a.m.** The Interagency Council on Early Childhood Intervention will meet at 1101 East Anderson Lane, Austin. According to the agenda, the council will hear public comments and a staff report; approve the January meeting minutes; consider the 1986-1987 budget, budget requests, and a request for proposal process; and review and/or appoint an advisory committee member. The council also will meet in executive session.

**Contact:** Mary Elder, 1100 West 49th Street, Austin, Texas, (512) 458-7321.

**Filed:** February 10, 1984, 4:09 p.m.  
TRD-841789

### **Select Committee on Public Education**

**Monday, February 20, 1984, 9 a.m.** The Subcommittee on Educating the Child of the Select Committee on Public Education will meet in emergency session in the East Tower, Amfac Hotel, Dallas/Fort Worth Airport, Dallas. According to the agenda, the subcommittee will conduct a work session to consider subcommittee charges. The emergency status is necessary to allow the subcommittee's work to continue on schedule.

**Contact:** Sally Williams, 7171 Forest Lane, Dallas, Texas 75230, (214) 661-6526.

**Filed:** February 13, 1984, 4:24 p.m.  
TRD-841857

### **Texas Education Agency**

**Tuesday, February 14, 1984, 8 a.m.** The Texas Elementary and Secondary School Planning Council of the Texas Education Agency (TEA) met in emergency session in Room 101-E, TEA North Building, 1200 East Anderson Lane, Austin. According to the agenda, the council heard a report from the commissioner of education concerning the purchase of microcomputers, bidding, and administrative fees; heard from the Texas Education Computer Cooperative; the Committee on Interagency Coordination, concerning the management information project, the Advisory Committee on Integrated Telecommunications Systems, and a request for legislative proposals to be submitted to the 69th Texas Legislature; heard reports from the Committee on Finance and

Program Administration, concerning the 1980 census impact on federal funding, the funding status of various federal programs, the standard application system for service centers, building use fees and indirect costs, workshops on Bulletin 679, and special education topics. The emergency session was necessary because the agenda items were not received in time.

**Contact:** Ernest Chambers, 201 East 11th Street, Austin, Texas 78701, (512) 475-6400.

**Filed:** February 10, 1984, 3:08 p.m.  
TRD-841783

### **Texas Employment Commission**

**Tuesday, February 21, 1984, 9 a.m.** The Texas Employment Commission (TEC) will meet in Room 644, TEC Building, 15th Street and Congress Avenue, Austin. According to the agenda summary, the commission will discuss prior meeting notes and internal procedures of the Office of Commission Appeals, consider and act on higher level appeals in unemployment compensation cases on Docket 8, and set the date of the next meeting.

**Contact:** Courtenay Browning, TEC Building, 15th Street and Congress Avenue, Room 608, Austin, Texas, (512) 397-4415.

**Filed:** February 13, 1984, 3:29 p.m.  
TRD-841852

### **Good Neighbor Commission**

**Friday, February 17, 1984, 1:30 p.m.** The Good Neighbor Commission rescheduled a meeting to be held at One South, Hilton Hotel, Laredo. According to the agenda, the commission will elect officers, hear the staff, chairman's, and administrative committee reports, and select the next meeting date and place. The meeting was originally scheduled for Friday, January 13, 1984, as published at 9 TexReg 337.

**Contact:** Bob Watson, P.O. Box 12077, Austin, Texas 78711, (512) 475-3581.

**Filed:** February 9, 1984, 2:42 p.m.  
TRD-841734

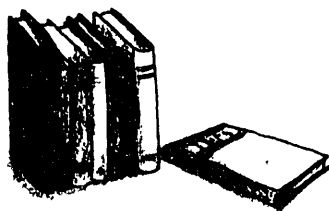
### **Office of the Governor**

**Friday, February 17, 1984, 10:30 a.m.** The Texas Crime Stoppers Advisory Council of the Criminal Justice Division of the Office of the Governor will meet in Room 503-G,

Sam Houston Building, 201 East 14th Street, Austin. According to the agenda, the council will approve the minutes and hear reports on local Crime Stoppers Programs and on current operations.

**Contact:** Tex B Martin, P.O. Box 12428, Austin, Texas 78711, (512) 475-2303 or (800) 252-TIPS.

**Filed:** February 9, 1984, 2:48 p.m.  
TRD-841735



**Texas Department of Health**

**Saturday, February 18, 1984, 9:30 a.m.** The Texas Board of Health of the Texas Department of Health will meet in Room T-610, 1100 West 49th Street, Austin. According to the agenda summary, the board will consider approval of the January 21, 1984, minutes; the commissioner's report; the proposed repeal of water hygiene rules and the repeal of federal regulations on immunization and venereal disease program grants; proposed amendments to the hazardous waste management rules and new rules for the Texas Emergency Medical Services Advisory Council; the adoption of amendments to the hazardous waste management rules under federal mandate; final adoption of new rules for the submission of research protocols for tetrahydrocannabinol and the repeal of existing rules, new rules for special senses and communication disorders, amendments to rules on procedures for long-term care facilities, the repeal of rules deviating from uniform grant and contract management standards, and amendments to the *Texas Regulations for the Control of Radiation*, concerning fees for certificates of registration, radioactive material(s), licenses, emergency planning and implementation, and other regulatory services; a request for the approval of physicians to participate in the Crippled Children's Services Program; a Budget Committee report on the request for approval to transfer funds from other general administration line items to the superintendent line item to pay specialty certification at the San Antonio State Chest Hospital; a Personnel Committee report on a request for exten-

sion of employment beyond the age of 70; a commendatory resolution for Freda Hale; announcements and comments requiring no board action; and the setting of the March meeting date. The board also will meet in executive session.

**Contact:** Gary A. Fuchs, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

**Filed:** February 10, 1984, 4:09 p.m.  
TRD-841788

**Texas Health Facilities Commission**

**Thursday, February 23, 1984, 1:30 p.m.** The Texas Health Facilities Commission will meet in Suite 305, Jefferson Building, 1600 West 38th Street, Austin. According to the agenda summary, the commission will consider the following applications.

- Certificates of Need
  - Parkland Memorial Hospital, Dallas  
AH83-1114-303
  - Permian Basin Bialysis Center, Odessa  
AS83-0928-181
  - The Pinelands Hospital, Nacogdoches  
AH83-0929-183
  - The Eyes of Texas Surgi-Center, Inc., Odessa  
AS83-0930-190

**Contact:** Judith A. Monaco, P.O. Box 50049, Austin, Texas 78763, (512) 475-6940.

**Filed:** February 13, 1984, 9:50 a.m.  
TRD-841809

**Texas Housing Agency**

**Tuesday, February 21, 1984, 2 p.m.** The Board of Directors of the Texas Housing Agency will meet in the conference room, Suite 700, 411 West 13th Street, Austin. According to the agenda summary, the board will hold an orientation to review agency programs and operations.

**Contact:** Earline Jewett, P.O. Box 13166, Austin, Texas, 78711, (512) 475-0812.

**Filed:** February 13, 1984, 4:51 p.m.  
TRD-841859

**State Board of Insurance**

**Tuesday, February 21, 1984, 9 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will conduct a public hearing in Room 353, 1110 San

Jacinto Street, Austin. According to the agenda, the section will consider Docket 7582—whether the certificate of authority of Truman National Life Insurance Company, North Kansas City, Missouri, should be revoked.

**Contact:** J.C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

**Filed:** February 13, 1984, 1:19 p.m.  
TRD-841818

**Tuesday, February 21, 1984, 2 p.m.** The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. According to the agenda summary, the board will decide on the jewelers block filings by the Insurance Services Office; hear the commissioner's and fire marshal's reports; discuss personnel matters and board orders on several different matters; consider a rule to require the Texas Catastrophe Property Insurance Association to notify any person or insurer who is dissatisfied with an act, ruling, or decision of the association of their right of appeal under the Insurance Code, Article 21.49-3, §9; and discuss internal procedures of the board respecting complaints or appeals of acts, rulings, or decisions of the Texas Catastrophe Property Insurance Association.

**Contact:** Pat Wagner, 1110 San Jacinto Street, Austin, Texas, (512) 475-2950.

**Filed:** February 13, 1984, 4:26 p.m.  
TRD-841856

**Tuesday, February 21, 1984, 3:30 p.m.** The Commissioner's Hearing Section of the State Board of Insurance will conduct a public hearing in Room 353, 1110 San Jacinto Street, Austin. According to the agenda, the section will consider Docket 7583—whether the surplus lines agent's license held by Crump Insurance Services, Inc., doing business as Ligon, Gump, and Ligon, Inc., Dallas, should be canceled or revoked.

**Contact:** John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

**Filed:** February 13, 1984, 1:19 p.m.  
TRD-841819

**Wednesday, February 22, 1984, 9 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will reopen a public hearing in Room 353, 1110 San Jacinto Street, Austin. According to the agenda, the section will consider Docket 7416—whether the Group I legal reserve life insurance agent's license held by Abel Cuellar

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Escobedo, Plano, should be canceled or revoked.

**Contact:** J.C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

**Filed:** February 13, 1984, 1:19 p.m.  
TRD-841821

The Commissioner's Hearing Section of the State Board of Insurance will conduct public hearings in Room 342, 1110 San Jacinto Street, Austin. Days, times, and dockets follow.

**Wednesday, February 22, 1984, 9 a.m.** Docket 7598—reinsurance agreement whereby Hassell and Foster Life Insurance Company, Palestine, has been totally reinsured by Landmark Life Insurance Company, Brownwood.

**Contact:** Tom I. McFarling, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-1076.

**Filed:** February 13, 1984, 1:19 p.m.  
TRD-841820

**Wednesday, February 22, 1984, 11 a.m.** Docket 7584—whether the surplus lines agent's license held by Jensvold and Lefevre, Inc., Houston, should be canceled or revoked.

**Contact:** John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

**Filed:** February 13, 1984, 1:19 p.m.  
TRD-841822

**Wednesday, February 22, 1984, 1:30 p.m.** Docket 7581—application for original charter of Colonial Casualty Insurance Company, Fort Worth.

**Contact:** John Brady or J.C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287 or (512) 475-4353, respectively.

**Filed:** February 13, 1984, 1:19 p.m.  
TRD-841823

**Wednesday, February 22, 1984, 3:30 p.m.** Docket 7585—whether the surplus lines agent's license held by Michael A. Janosek Insurance Agency, Dallas, should be canceled or revoked.

**Contact:** J.C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

**Filed:** February 13, 1984, 1:19 p.m.  
TRD-841824

**Thursday, February 23, 1984, 9 a.m.** Docket 7572—application for original charter of CN Life Insurance Company, Dallas

**Contact:** John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

**Filed:** February 13, 1984, 1:20 p.m.  
TRD-841825

**Thursday, February 23, 1984, 1:30 p.m.** Docket 7594—application of Southern National Life Insurance Company, Dallas, for approval of charter amendment changing the authorized capital stock of the company from 375,000 shares of common stock, \$1.00 par value per share, to 1,500 shares of no par value common stock.

**Contact:** J.C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

**Filed:** February 13, 1984, 1:20 p.m.  
TRD-841826

**Thursday, February 23, 1984, 3:30 p.m.** Docket 7586—whether the surplus lines agent's license held by Insuredata Agency, Inc., Dallas, should be canceled or revoked.

**Contact:** Tom I. McFarling, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-1076.

**Filed:** February 13, 1984, 1:20 p.m.  
TRD-841827

**Friday, February 24, 1984, 9 a.m.** Docket 7565—whether the title insurance agent's license held by Thomas Norton, Missouri City, should be canceled or revoked.

**Contact:** Tom I. McFarling, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-1076.

**Filed:** February 13, 1984, 1:18 p.m.  
TRD-841828

**Friday, February 24, 1984, 1:30 p.m.** Docket 7596—application for original charter of Title Resources Guaranty Company, Plano.

**Contact:** John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

**Filed:** February 13, 1984, 1:20 p.m.  
TRD-841829

**Monday, February 27, 1984, 9 a.m.** Docket 7544—whether the certificate of authority of Dependable Insurance Company, Inc., Jacksonville, Florida, should be revoked.

**Contact:** Tom I. McFarling, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-1076.

**Filed:** February 13, 1984, 1:20 p.m.  
TRD-841830

**Monday, February 27, 1984, 11 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will conduct a public hearing in Room 353, 1110 San Jacinto Street, Austin. According to the agenda, the section will consider Docket 7587—whether the surplus lines agent's license held by Insurance Enterprises, Inc., San Antonio, should be canceled or revoked.

**Contact:** John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

**Filed:** February 13, 1984, 1:19 p.m.  
TRD-841831

**Monday, February 27, 1984, 3:30 p.m.** The Commissioner's Hearing Section will conduct a public hearing in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the section will consider Docket 7588—whether the surplus lines agent's license held by Jack Donald Hunter, doing business as Jack D. Hunter and Associates, Arlington, should be canceled or revoked.

**Contact:** John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

**Filed:** February 13, 1984, 1:19 p.m.  
TRD-841832

## Texas State Library and Archives Commission

**Thursday, February 23, 1984, 2 p.m.** The Records Management and Preservation Advisory Committee of the Texas State Library and Archives Commission will meet at the Lorenzo de Zavala Archives and Library Building, 12th and Brazos Streets, Austin. According to the agenda, the committee will approve the January 10, 1984, minutes; draft a document of committee accomplishments to be presented to the legislature prior to March 1, 1984; and consider other business.

**Contact:** M. Allen Naff, 1811 Airport Boulevard, Austin, Texas 78721, (512) 475-0851.

**Filed:** February 10, 1984, 9:56 a.m.  
TRD-841755

## Texas Low-Level Radioactive Waste Disposal Authority

**Thursday, February 16, 1984, 10 a.m.** The Texas Low-Level Radioactive Waste Disposal Authority submitted an emergency revised agenda for a meeting held in Room

100-C, John H. Reagan Building, 105 West 15th Street, Austin. According to the revised agenda, the authority approved the minutes of the previous meeting; heard the general manager's report and communications on finances, legal matters, the approval of an engineering contract amendment with Dames & Moore, and special programs, including the ratification of socioeconomic study contracts; considered the adoption of the Board Policies Code; discussed the publication of private donor rules, the approval of the staff signature authority, and the election of board officers; and heard public comments. The authority also met in executive session, pursuant to Texas Civil Statutes, Article 6252-17, §2(f). The emergency status was due to the need for prompt action by the authority to enable the engineering contractor to finish Phase II of his siting study, and to expedite the completion of the socioeconomic studies, as required by law.

**Contact:** Lawrence R. Jacobi, Jr., P.E., 1300-C East Anderson Lane, Suite 175, Austin, Texas 78752, (512) 835-6795.

**Filed:** February 14, 1984, 8:24 a.m.  
TRD-841860

#### **Board of Nurse Examiners**

**Tuesday-Thursday, February 21-23, 1984, 8 a.m. daily.** The Board of Nurse Examiners will meet at the Sunrise Motor Hotel, 7622 IH 35 North, Austin. According to the agenda summary, the board heard the treasurer's report; hearings concerning disciplinary, informal, consent orders, and reinstatements; an education report concerning survey visits, annual reports and faculty petitions; a report of executive secretary concerning rule changes, lawsuits, and the 75th anniversary of board; a report on the February exam; and miscellaneous items.

**Contact:** Margaret Rowland, 1300 East Anderson Lane, C-225, Austin, Texas 78752, (512) 835-4880.

**Filed:** February 10, 1984, 11:01 a.m.  
TRD-841758

#### **Board of Pardons and Paroles**

**Monday-Friday, February 27-March 2, 1984, 9 a.m. daily.** The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will review cases of inmates

for parole consideration; take action on requests for executive clemency; review and act upon reports regarding administrative releasees; review procedures affecting the daily operation of staff; consider and act regarding needed administrative rule changes; take action upon gubernatorial directives; take action concerning certifying and contracting with community residential facilities; and consider and act in personnel matters.

**Contact:** John W. Byrd, 8610 Shoal Creek Boulevard, Austin, Texas, (512) 459-2716.

**Filed:** February 13, 1984, 10:27 a.m.  
TRD-841811

#### **Texas Board of Private Investigators and Private Security Agencies**

**Tuesday, February 21, 1984, 9:30 a.m.** The Board of the Texas Board of Private Investigators and Private Security Agencies will meet in Room 100B, John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda summary, the board will approve the November 22, 1983, meeting minutes; discuss and possibly adopt board rules; discuss and possibly recognize the *Security Officers Guide* by the Security Education Group; approve staff actions; and discuss and possibly act on requests for exemption and board licensing policies. The board also will meet in executive session to discuss old business.

**Contact:** Clema D. Sanders, P.O. Box 13509, Austin, Texas 78711, (512) 475-3944.

**Filed:** February 10, 1984, 3:39 p.m.  
TRD-841784

#### **Texas State Board of Public Accountancy**

**Wednesday, February 15, 1984, 9:30 a.m.** The Continuing Education Committee of the Texas State Board of Public Accountancy met in emergency session in the executive room, 2001 Club, 2001 Bryan Tower, Dallas. According to the agenda, the committee reviewed minutes; heard a report on sponsor registration; reviewed exemption requests; discussed proposed guidelines relating to change from public to nonpublic or from nonpublic to public accounting during a reporting period, discussed credit for published articles and books; reviewed correspondence received; discussed frequently asked questions; and

considered other pertinent items. The emergency status was necessary because several items needed attention prior to the February board meeting, so the committee meeting was scheduled for a date when a majority of the committee could be in attendance.

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

**Filed:** February 9, 1984, 2:05 p.m.  
TRD-841727

#### **Texas Public Building Authority**

**Thursday, February 16, 1984, 10 a.m.** The Texas Public Building Authority met in emergency session in Room 100E, John H. Reagan Building, 105 West 15th Street, Austin. Items on the agenda included the approval of the previous meeting's minutes, a review of legal fees, and the consideration of the executive director. The emergency status was due to a change in room number from 100D to 100E.

**Contact:** Christy Moore, 400 West 15th Street, Suite 404, Austin, Texas 78701, (512) 474-0992.

**Filed:** February 10, 1984, 4:01 p.m.  
TRD-841787

#### **Texas Department of Public Safety**

**Thursday, February 23, 1984, 10 a.m.** The Public Safety Commission of the Texas Department of Public Safety will meet in the commission room, 5805 North Lamar Boulevard, Austin. According to the agenda, the commission will approve minutes and discuss budget matters, personnel matters, and other unfinished business.

**Contact:** James B Adams, 5805 North Lamar Boulevard, Austin, Texas, (512) 465-2000, ext. 3700.

**Filed:** February 13, 1984, 2:58 p.m.  
TRD-841849

#### **Public Utility Commission of Texas**

**Wednesday, February 15, 1984, 10 a.m.** The Hearings Division of the Public Utility Commission of Texas met in a rescheduled emergency session in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the division conducted pre-

hearing conferences in Docket 5543—petition of Diamond Shamrock Chemicals Company for an investigation of Houston Lighting and Power Company, and Docket 5553—petition of Capitol Cogeneration Company against Houston Lighting and Power Company. The emergency status was necessary so that discovery deadlines could be met and discovery disputes resolved immediately after the commission decision on the appeal of the interim order issued in these dockets. The prehearing conference was originally scheduled for February 14, 1984, as published at 9 TexReg 706.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** February 13, 1984, 3:48 p.m.  
TRD-841855

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

**Thursday, February 23, 1984, 9 a.m.** A prehearing conference in Docket 5591—application of Southwest Water Services, Inc., for a rate increase

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

**Filed:** February 9, 1984, 2:05 p.m.  
TRD-841728

**Friday, March 9, 1984, 10 a.m.** A rescheduled hearing in Docket 5364—application of Spring Valley Water Company, doing business as Spring Valley Utility Company, for water and sewer certificates of convenience and necessity in Parker County, and Docket 5442—application of the City of Willow Park for a water certificate of convenience and necessity in Parker County. The meeting originally was scheduled for February 9, 1984.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** February 13, 1984, 11:01 a.m.  
TRD-841812

**Wednesday, April 4, 1984, 9:30 a.m.** A rescheduled hearing in Docket 5556—application of Central Telephone Company-Midstate for approval of measured service rates for the Decatur Exchange.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** February 9, 1984, 2:05 p.m.  
TRD-841729

**Thursday, April 5, 1984, 10 a.m.** A hearing in Docket 4938—applications of Community Utility Company, Inc., and Gulf Coast Utilities Company, Inc., for certificates of convenience and necessity within Brazoria County.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** February 10, 1984, 11:02 a.m.  
TRD-841759

### **Railroad Commission of Texas**

**Monday, February 13, 1984, 9 a.m.** Divisions of the Railroad Commission of Texas submitted emergency revised agendas for meetings held in Room 309, 1124 IH 35 South, Austin. Divisions and agendas follow.

The Oil and Gas Division considered a motion for rehearing in Docket 3-66,369—the Railroad Commission District 3 proper plugging of Trinity River Authority of Texas, T D. Stanford Lease, Well 1 and Well 3, Borick-Wells (Yegua 3020) and (Yegua 3120), Fields, Polk County. The emergency status was necessary because this item was properly noticed for the meeting of February 6, 1984, and was passed.

**Contact:** Dilma M. Scimeca, P.O. Drawer 12967, Austin, Texas 78711 (512) 445-1229.

**Filed:** February 10, 1984, 11:11 a.m.  
TRD-841762

The Transportation Division considered various matters falling within the Railroad Commission of Texas' transportation regulatory jurisdiction. The emergency status was necessary because these matters were properly posted for the meeting of February 6, 1984, and were passed.

**Contact:** Sandy Yates, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1330.

**Filed:** February 10, 1984, 11:11 a.m.  
TRD-841763

Addition to the above agenda:

Consideration of motor bus service between Midland and Presidio on U.S. Highway 80. The emergency status was necessary because there is currently no motor bus service to the involved area, and such bus service is

necessary to ensure the continued availability of medical supplies and services.

**Contact:** Sandy Yates, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1330.

**Filed:** February 10, 1984, 11:11 a.m.  
TRD-841764

**Monday, February 13, 1984, 3:30 p.m.** The Transportation Division submitted an emergency revised agenda for a meeting held in Room 309, 1124 IH 35 South, Austin. According to the revised agenda, the division considered an oral argument in Docket 025665ZZT—application of Oil Field Haulers Association, Inc., to amend items 220, 700, 710, 740, and 760 revising rates and provisions for machinery, pipe, heavy, or bulky articles, OFHA Tariff 6-Y, and to establish distance rate items on machinery, etc., and oilfield pipe, etc., subject to increased minimum weights; and Docket 024978ZZT—application of K.L. Breeden Trucking to establish 30,000- and 36,000-pound minimums for machinery, heavy, and bulky articles, etc., a 40,000-pound minimum for iron or steel oil well tubing, pipe, or casing, and distance rate scales in new items in OFHA Tariff 6-Y. The emergency status was necessary to expedite final action in this proceeding, which may result in reduced shipping rates to the public. The commission sought to promulgate interim rates which were enjoined by the applicant.

**Contact:** Sandy Yates, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1330.

**Filed:** February 10, 1984, 11:11 a.m.  
TRD-841765

### **Texas Real Estate Commission**

**Monday, February 20, 1984, 9:30 a.m.** The Texas Real Estate Commission will meet in the conference room, 1101 Camino La Costa, Austin. According to the agenda summary, the commission will elect officers; hear the minutes of the January 16, 1984, meeting and staff reports for December; consider motions for rehearing and/or probation, approval of a residential condominium earnest money contract and condominium resale certificate for field testing, and a proposed amendment to 22 TAC §535.111 and §535.112, concerning the use of post office box numbers on broker licenses; discuss education matters; and rehear the matter of Rodney Morgan Lewis' application to license Linda Ann Bush as a real estate salesman. The commission will



also meet in executive session to discuss pending litigation.

**Contact:** Camilla S. Shannon, P.O. Box 12188, Austin, Texas 78711, (512) 459-1123.

**Filed:** February 10, 1984, 11:02 a.m.  
TRD-841760

### **School Land Board**

**Tuesday, February 21, 1984, 10 a.m.** The School Land Board will meet in Room 831, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board will approve the minutes of the previous meeting; discuss pooling applications and pooling agreement amendment applications; hear a report on City of Galveston drilling and use restrictions; consider coastal public lands—easement applications, cabin permit rate reduction requests, and cabin permit transfer requests; and hear a status report on the City of Corpus Christi's plan for annexation of state lands on Mustang Island.

**Contact:** Linda K. Fisher, 1700 North Congress Avenue, Room 835, Austin, Texas 78701, (512) 475-4307.

**Filed:** February 13, 1984, 4:10 p.m.  
TRD-841853

### **Boards for Lease of State-Owned Lands**

**Tuesday, February 21, 1984, 3 p.m.** The Board for Lease of Texas Indian Commission of the Boards for Lease of State-Owned Lands will meet in Room 831, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board will approve the previous meeting minutes and discuss a pooling agreement amendment application.

**Contact:** Linda K. Fisher, 1700 North Congress Avenue, Room 835, Austin, Texas 78701, (512) 475-4307.

**Filed:** February 13, 1984, 4:10 p.m.  
TRD-841854

### **State Commission on Standards for the Teaching Profession**

**Thursday and Friday, February 23 and 24, 1984, 8 p.m. and 8:30 a.m. respectively.** The Committee on Certification Programs and Requirements of the Commission on Stan-

dards for the Teaching Profession submitted a revised agenda for meetings to be held in Room 105, Texas Education Agency North Building, 1200 East Anderson Lane, Austin. According to the revised agenda, the positions of learning resource specialist and reading specialist have been added to the list of elementary teacher, secondary teacher, and all-level teacher as those for which the committee will be reviewing the professional certificate/special service position requirements. The positions of counselor, educational diagnostician, and associate school psychologist/school psychologist have been removed from the list that will be considered by the committee at this time.

**Contact:** Edward M. Vodicka, 201 East 11th Street, Austin, Texas 78701, (512) 834-4042.

**Filed:** February 13, 1984, 4:24 p.m.  
TRD-841858

### **Veterans Land Board**

**Thursday, February 16, 1984, 3:30 p.m.** The Veterans Land Board of the General Land Office met in emergency session in Room 831, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board approved the January 20, 1984, minutes and lenders for the Veterans Housing Assistance Program; authorized the issuance of State of Texas veterans bonds, Series 1984-A, and the giving of notice of sale and taking of other action as is consistent with the sale of additional bonds as the board determines is warranted; and discussed general business. The emergency status was necessary to authorize the issuance of the bonds.

**Contact:** Harmon Lisnow, Stephen F. Austin Building, Room 738, 1700 North Congress Avenue, Austin, Texas 78701, (512) 475-3766.

**Filed:** February 10, 1984, 1:07 p.m.  
TRD-841767

### **Texas Water Commission**

**Tuesday, February 21, 1984, 10 a.m.** The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider applications for bond issues, release from escrow, use of surplus funds, change order, water quality pro-

posed permits, amendments and renewals, examiner's proposals for decisions on applications, and the filing and setting of a hearing date.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** February 10, 1984, 1:42 p.m.  
TRD-841773

Addition to the above agenda:

Application by the City of Carthage for a resolution by the commission certifying that the city has the necessary water right authorizing it to appropriate and use the surface water to be provided by a project approved by the Texas Water Development Board on September 16, 1982. The emergency status is necessary because the loan commitment of the Texas Water Development Board will expire on February 24, 1984, and it is necessary for the commission to consider the referenced application as soon as possible.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** February 14, 1984, 9:37 a.m.  
TRD-841862

**Wednesday, February 29, 1984, 9:30 a.m.** The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will consider application TA-4819 of Seaway Pipeline, Inc., for a temporary permit to divert and use 300 acre-feet of water for a one-year period from the Brazos River, Brazos River Basin, for industrial purposes in Fort Bend County.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** February 10, 1984, 1:42 p.m.  
TRD-841774

**Monday, March 19, 1984, 10 a.m.** The Texas Water Commission will meet in Room 152, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will consider Application 4433 of Alvin W. Robertson and wife, Nana W. Robertson, seeking a permit to divert and use 300 acre-feet of water per annum directly from the Wichita River, tributary of the Red River, Red River Basin, for irrigation purposes in Wichita County.

Addition to the above agenda:

Application 4434 of Alvin C. Santleben and Carmen Santleben seeking a permit to divert and use 156 acre-feet of water per annum directly from the Medina River, tributary of San Antonio River, San Antonio River

## Texas Register

Basin, for irrigation purposes in Medina County.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** February 13, 1984, 2:19 p.m.  
TRD-841844, 841845

**Wednesday, March 21, 1984, 9 a.m.** The Texas Water Commission will meet in Room 518, Administration and Conference Building, Texas Woman's University, Denton. According to the agenda summary, the commission will consider the application of Edward B. Sneller, doing business as Country View Estates Mobile Home Park, Route 2, Box 235, Iowa Park, Texas 76367, to the Texas Department of Water Resources for proposed Permit 12815-01 to authorize the disposal by evaporation and percolation of treated domestic wastewater effluent at a volume not to exceed 5,000 gallons per day from the Country View Estates Mobile Home Park. The proposed facility will consist of three septic tanks for solids removal followed by two evaporation/percolation ponds for disposal. No discharge of pollutants into the waters of the state is authorized.

Addition to the above agenda:

Application of Asbury Development Corporation, 13777 North Central Expressway 302, Dallas, Texas 75234, to the Texas Department of Water Resources for proposed Permit 12846-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 32,000 gallons per day from the proposed Hickory Creek Mobile Estate Wastewater Treatment Plant, which is to serve a mobile home park. The applicant proposes to construct a package wastewater treatment plant to replace the existing septic tank system that presently serves the mobile home park.

**Contact:** Gwendolyn H. Webb, P.O. Box 13087, Austin, Texas 78711, (512) 475-1418.

**Filed:** February 10, 1984, 1:42 p.m.  
TRD-841770, 841772

**Wednesday, March 21, 1984, 9 a.m.** The Texas Water Commission will meet in the commissioners court, Brazoria County courthouse, Angleton. According to the agenda summary, the commission will consider the application of Bluebonnet Environmental Systems, Inc., P.O. Box 581, Coldspring, Texas 77331, to the Texas Department of Water Resources for proposed Permit 12809-01 to authorize a discharge of treated domestic sewage effluent at a volume not to exceed an average flow of 25,000 gallons per day from the proposed Willow

Manor Mobile Home Park Sewage Treatment Plant, which is to serve a mobile home park.

**Contact:** James R. Larkins, P.O. Box 13087, Austin, Texas 78711, (512) 475-1468.

**Filed:** February 10, 1984, 1:43 p.m.  
TRD-841771

**Thursday, March 22, 1984, 10 a.m.** The Texas Water Commission will meet in Room 152, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider the application of Cameron County Fresh Water Supply District 1, Port Road, Port Isabel, Texas 78578, to the Texas Department of Water Resources for an amendment to Permit 10350-01 to authorize a change from disposal by irrigation at a rate not to exceed 500,000 gallons per day to discharge of treated domestic wastewater effluent into the waters of the state at a volume not to exceed an average flow of 1.5 million gallons per day from the Port Isabel Sewage Treatment Plant. The applicant proposes to modify existing facilities and incorporate them with new treatment units to increase capacity and produce a higher quality effluent. The applicant shall operate under previous Permit 10350-01, which was approved January 24, 1973, until completion of the new wastewater treatment facilities covered by this permit.

**Contact:** Phillip J. Paine, P.O. Box 13087, Austin, Texas 78711, (512) 475-1468.

**Filed:** February 9, 1984, 2:06 p.m.  
TRD-841730

**Monday, March 26, 1984, 9 a.m.** The Texas Water Commission will meet in Room 152, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider the application of Crockett County Water Control and Improvement District 1, Box 117, Ozona, Texas 76943, to the Texas Department of Water Resources for an amendment to Permit 10059-01 to authorize an increase in the discharge of treated domestic wastewater effluent from a volume not to exceed an average flow of 400,000 gallons per day to 500,000 gallons per day. The proposed amendment would also revise limitations for suspended solids from 30 mg/l to 90 mg/l, delete the requirement for a fecal coliform bacteria level, and authorize disposal by irrigation at a rate not to exceed 4.5 acre-feet/acre/year. The applicant proposes to construct a new wastewater treatment plant to serve the needs of the City of Ozona. Until completion of the

new facility the applicant shall comply with the effluent limitations and other terms of Permit 10059-01 issued November 26, 1975.

**Contact:** James K. Rourke, Jr., P.O. Box 13087, Austin, Texas 78711, (512) 475-1339.

**Filed:** February 9, 1984, 2:06 p.m.  
TRD-841731

**Thursday, March 29, 1984, 10 a.m.** The Texas Water Commission will conduct a rescheduled hearing in the council chambers, second floor, Conroe City Hall, 505 West Davis, Conroe. According to the agenda summary, the commission will consider the application of Magna Corporation/Baker International, P.O. Box 33387, Houston, Texas 77054, to the Texas Department of Water Resources for an amendment to Permit 01969 to authorize an increase in the disposal of treated wastewater from a volume not to exceed an average flow of 5,800 gallons per day to 25,000 gallons per day of process and treated domestic wastewater from a specialty surface-active agent manufacturing plant. The applicant proposes to add land application, by irrigation on 33 acres of land, as part of the treatment process, and also to move sampling points downstream of the irrigated fields. Rainfall runoff, at volumes variable with rainfall, may be discharged from the irrigated fields through Outfalls 001 and 002. Any water that cannot be irrigated due to adverse weather will be hauled to a permitted waste disposal well for disposal. The meeting originally was scheduled for February 7, 1984, as published at 9 TexReg 190.

**Contact:** Teresa B. Salamone, P.O. Box 13087, Austin, Texas 78711, (512) 475-1418.

**Filed:** February 13, 1984, 2:19 p.m.  
TRD-841846

Addition to the above agenda:

Application of Donald M. Lepere, doing business as Logtowne, Ltd., 5330 North Freeway, Suite 101, Houston, Texas 77002, to the Texas Department of Water Resources for proposed Permit 12838-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 25,000 gallons per day from the proposed Logtowne Wastewater Treatment Plant, which is to serve a residential subdivision.

**Contact:** Teresa B. Salamone, P.O. Box 13087, Austin, Texas 78711, (512) 475-1418.

**Filed:** February 13, 1984, 2:19 p.m.  
TRD-841847

**Thursday, March 29, 1984, 10 a.m.** The Texas Water Commission will meet in the

classroom, Rolling Hills Water Treatment Plant, 2500 Southeast Loop 820, Fort Worth. According to the agenda summary, the commission will consider the application of Charles Jackson, Jim Justice, Sr., and Calvin A. Barker, Jr., doing business as Dove Estates Joint Venture, 1204 Ross Avenue, Dallas, Texas 75202, to the Texas Department of Water Resources for proposed Permit 12801-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 37,000 gallons per day from the proposed Dove Estates Wastewater Treatment Plant, which is to serve the needs of a proposed single-family subdivision.

**Contact:** Kaylene A. Ray, P.O. Box 13087, Austin, Texas 78711, (512) 475-1339.

**Filed:** February 13, 1984, 2:19 p.m.  
TRD-814848

### **Texas Department of Water Resources**

**Wednesday, March 21, 1984, 1:30 p.m.** The Texas Department of Water Resources will conduct a public hearing in the North Room, Community Center Building, 600 West California, Gainesville. According to the agenda summary, the department will receive testimony concerning revisions of the waste load evaluation for the Elm Fork Trinity River (Segment 9824)

**Contact:** Clyde E. Bohmfalk, P.O. Box 13087, Austin, Texas 78711, (512) 475-3454.

**Filed:** February 10, 1984, 1:41 p.m.  
TRD-841769

### **Regional Agencies Meetings Filed February 10**

**The Region IV Education Service Center,** Board of Directors, will meet in the board room, 7200 West Tidwell, Houston, on February 21, 1984, at 6 p.m. Information may be obtained from Tom Pate, Jr., P.O. Box 863, Houston, Texas 77001, (713) 462-7708.

**The Region VIII Education Service Center,** Board of Directors, will meet in Room 107, 100 North Riddle, Mount Pleasant, on February 23, 1984, at 7 p.m. Information may be obtained from Scott Ferguson, 100 North Riddle Street, Mount Pleasant, Texas 75455, (214) 572-8551.

**The Region XX Education Service Center,** Board of Directors, will meet in the board room, 1314 Hines Avenue, San Antonio, on February 21, 1984, at 3 p.m. Information may be obtained from Dr. Dwain M. Estes, 1314 Hines Avenue, San Antonio, Texas 78208, (512) 271-7611.

**The Heart of Texas Private Industry Council,** Executive Committee, met in the conference room, 320 Franklin Avenue, Waco, on February 15, 1984, at 6 p.m. Information may be obtained from Anita Tharpe, 925 Columbus, Waco, Texas 76701, (817) 754-5421, ext. 78.

**The Lone Star Municipal Power Agency** will meet in the board room, First National Bank, 1300 11th Street, Huntsville, on February 20, 1984, at 5 p.m. Information may be obtained from Donald L. Howell, Vinson & Elkins, 2835 First City Tower, Houston, Texas 77002, (713) 651-2318.

**The Central Appraisal District of Johnson County,** Board of Directors, will meet at 109 North Main Street, Cleburne, on February 22, 1984, at 7:30 p.m. Information may be obtained from Don Gilmore, 109 North Main Street, Cleburne, Texas 76031, (817) 645-3986.

**The Central Appraisal District of Rockwall County,** Board of Directors, met in the appraisal office, 106 North San Jacinto, Rockwall, on February 14, 1984, at 7:30 p.m. Information may be obtained from Eugene "Bo" Daffin, 106 North San Jacinto, Rockwall, Texas 75087, (214) 722-2034.

**The West Central Texas Council of Governments,** Private Industry Council, met at the Thunderbird Lodge, 840 East Highway 80, Abilene, on February 16, 1984, at 10:30 a.m. Information may be obtained from Tom K. Smith, 1025 East North 10th Street, Abilene, Texas 79601, (915) 672-8544.

TRD-841752

### **Meetings Filed February 13**

**The Austin-Travis County Mental Health and Mental Retardation Center,** Board of Trustees Personnel Committee, rescheduled a meeting held in the board room, 1430 Collier Street, Austin, on February 16, 1984, at 5:30 p.m. Information may be obtained from Cynthia C. Garcia, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141, ext. 50.

**The Bastrop County Appraisal District,** Board of Directors, will meet in the commissioners courtroom, 805 Pecan Street, Bastrop, on February 17, 1984, at 2 p.m. Information may be obtained from Roy E. Humble, 705 Spring Street, Bastrop, Texas 78602, (512) 321-4316.

**The Capital Area Rural Transportation System (CARTS),** Board of Directors, met in the conference room, Suite 100, 2520 IH 35 South, Austin, on February 16, 1984, at 10 a.m. Information may be obtained from Nancy Kowieski, 2201 Post Road, #103, Austin, Texas 78704, (512) 443-0904.

**The Coastal Bend Council of Governments,** Coastal Bend Regional Community Development Block Grant Review Committee, met in the conference room, 2910 Leopard, Corpus Christi, on February 16, 1984, at 2 p.m. Information may be obtained from John P. Buckner, P.O. Box 9909, Corpus Christi, Texas 78469, (512) 883-5743

**The Concho Valley Council of Governments,** Executive Committee, met in emergency session at 5002 Knickerbocker Road, San Angelo, on February 15, 1984, at 7 p.m. Information may be obtained from Robert R. Weaver, P.O. Box 60050, San Angelo, Texas 76906, (915) 944-9666.

**The Dewitt County Appraisal District,** Board of Directors, met in emergency session at 103 Bailey Street, Cuero, on February 15, 1984, at 5:45 p.m. Information may be obtained from Wayne K. Woolsey, P.O. Box 4, Cuero, Texas 77954, (512) 275-5753

**The Region IX Education Service Center,** Board of Directors, will meet at 301 Loop 11, Wichita Falls, Texas 76305, on February 23, 1984, at 2 p.m. Information may be obtained from Dr. Jim O. Rogers, 301 Loop 11 Wichita Falls, (817) 322-6928

**The Ellis County Tax Appraisal District,** Appraisal Review Board, will meet at 406 Sycamore Street, Waxahachie, on February 28, 1984, at 9 a.m. Information may be obtained from Gray Chamberlain, P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552

**The Heart of Texas Council of Governments,** Executive Committee, will meet in the conference room, 320 Franklin, Waco, on February 23, 1984, at 12:30 p.m. Information may be obtained from Mary McDow, 320 Franklin, Waco, Texas 76701, (817) 756-6631.

**The Hockley County Appraisal District,** Board of Directors, will meet in the board room, 913 Austin Street, Levelland, on February 20, 1984, at 7 p.m. Information may be obtained from Keith Toomire, P.O. Box 1090, Levelland, Texas 79336, (806) 894-9654.

**The Houston-Galveston Area Council,** Board of Directors, will meet in the large conference room, 3701 West Alabama, Houston, on February 21, 1984, at 9:30 a.m. Information may be obtained from Charlene McCarthy, P.O. Box 22777, Houston, Texas 77027, (713) 627-3200, ext. 335.

**The Jasper County Appraisal District,** Appraisal Review Board, will meet in the Courthouse Annex, 102 North Austin, Jasper, on February 23, 1984, at 9 a.m. The Board of Directors will meet on the same day at the Buna Independent School District Administration Building, State Highway 62, Buna, at 7 p.m. Information may be obtained from David W. Luther, Jasper County Courthouse Annex, Jasper, Texas 75951, (409) 384-2544.

**The Limestone County Appraisal District,** Board of Directors, met in the appraisal district office, Limestone County Courthouse, Groesbeck, on February 15, 1984, at 7 p.m. Information may be obtained from Clydene Hyden, P.O. Drawer 831, Groesbeck, Texas 76642, (817) 729-3009.

**The Lower Neches Valley Authority,** Board of Directors, will meet at 7850 Eastex Freeway, Beaumont, on February 21, 1984, at 10:30 a.m. Information may be obtained from J.D. Nixon, P.O. Drawer 3464, Beaumont, Texas, (409) 892-4011.

**The Pecan Valley Mental Health and Mental Retardation Region,** Board of Trustees, met in a rescheduled emergency session at 906 Lingleville Road, Stephenville, on February 15, 1984, at 8 a.m. Information may be obtained from Dr. Theresa Mulloy, Ed.D., P.O. Box 973, Stephenville, Texas 76401, (817) 965-7806.

**The Central Appraisal District of Rockwall County,** Appraisal Review Board, met in

emergency session at 106 North San Jacinto, Rockwall, on February 15, 1984, at 8:30 a.m. Information may be obtained from Eugene "Bo" Daffin, 106 North San Jacinto, Rockwall, Texas 75087, (214) 722-2034.

**The South Plains Health Provider Organization, Inc.,** Board of Directors, will meet at 715 Amarillo Street, Plainview, on February 20, 1984, at 8 p.m. Information may be obtained from Sue Terry, 706 Canyon, Plainview, Texas 79072, (806) 293-8561.

**The Upshur County Appraisal District,** Board of Directors, will meet at the appraisal district office, Trinity and Warren Streets, Gilmer, on February 20, 1984, at 7 p.m. Information may be obtained from Louise Stracener, P.O. Box 31, Gilmer, Texas, (214) 843-3041.

**The West Texas Council of Governments,** Board of Directors, will meet on the eighth floor, Two Civic Center Plaza, El Paso, on February 17, 1984, at 9:30 a.m. (Mountain Standard Time). Information may be obtained from Bernie Guy, Two Civic Center Plaza, El Paso, Texas 79999, (915) 541-4689.

TRD-841800

#### Meetings Filed February 14

**The Capital Area Planning Council,** Executive Committee, will meet in Suite 100, 2520 IH 35 South, Austin, on February 21, 1984, at 2 p.m. Information may be obtained from Richard G. Bean, 2520 IH 35 South, Suite 100, Austin, Texas 78704, (512) 443-7653.

**The Central Counties Center for Mental Health and Mental Retardation Services,** Board of Trustees, will meet at 302 South 22nd Street, Temple, on February 21, 1984, at 7:45 p.m. Information may be obtained from Steven B. Schnee, Ph.D., P.O. Box 518, Temple, Texas 76503, (817) 778-4841.

**The Region II Education Service Center,** Board of Directors, will meet in the admin-

istrative conference room, 209 North Water, Corpus Christi, on February 28, 1984, at 6:30 p.m. Information may be obtained from Gerald V. Cook, 209 North Water, Corpus Christi, Texas 78401-2599, (512) 883-9288.

**The Region XIII Education Service Center,** Board of Directors, will meet in Conference Room 200, 7703 North Lamar Boulevard, Austin, on February 20, 1984, at noon. Information may be obtained from Dr. Joe Parks, 7703 North Lamar Boulevard, Austin, Texas 78752, (512) 458-9131.

**The North Texas Municipal Water District,** Board of Directors, will meet at 505 East Brown Street, Wylie, on February 28, 1984, at 4 p.m. Information may be obtained from Carl W. Riehn, P.O. Drawer C, Wylie, Texas, 75098, (214) 442-5404, ext. 200.

**The Permian Basin Regional Planning Commission,** Board of Directors, met in emergency session in the PBRPC Offices, Midland, on February 15, 1984, at 1:30 p.m. Information may be obtained from Pam Hammit, P.O. Box 6391, Midland, Texas 79701, (915) 563-1061.

**The Sabine Valley Regional Mental Health and Mental Retardation Center,** Board of Trustees, will meet at 3412 Highway 259 North, Kilgore, on February 18, 1984, at 2:15 p.m. Information may be obtained from R. R. Cookston, Ed.D., P.O. Box 6800, Longview, Texas 75608, (214) 297-2191.

**The Upper Leon River Municipal Water District,** Board of Directors, will meet in the filter plant general office, Proctor Lake, Comanche County, on February 23, 1984, at 6:30 p.m. Information may be obtained from Zollie D. Skaggs, Box 67, Comanche, Texas, (817) 879-2258.

**The Wise County Appraisal District,** Appraisal Review Board, will meet at 206 South State, Decatur, on February 24, 1984, at 10 a.m. Information may be obtained from Angela Caraway, P.O. Box 509, Decatur, Texas 76234, (817) 627-3081.

TRD 841861

The *Register* is required by statute to publish applications to purchase control of state banks (filed by the banking commissioner), notices of rate ceilings (filed by the consumer credit commissioner), changes in interest rate and applications to install remote service units (filed by Texas Savings and Loan commissioner), and consultant proposal requests and awards (filed by state agencies, regional councils of government, and the Texas State Library and Archives Commission).

In order to aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows. This often includes applications for construction permits (filed by the Texas Air Control Board), applications for amendment, declaratory ruling, and notices of intent (filed by the Texas Health Facilities Commission), applications for waste disposal permits (filed by the Texas Water Commission), and notices of public hearing.

# In Addition

## Texas Air Control Board Applications for Construction Permits

The Texas Air Control Board gives notice of applications for construction permits received during the period of January 30-February 3, 1984.

Information relative to the applications listed below, including projected emissions and the opportunity to comment or to request a hearing, may be obtained by contacting the office of the executive director at the central office of the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

A copy of all material submitted by the applicant is available for public inspection at the central office of the Texas Air Control Board at the address stated above, and at the regional office for the Air Quality Control Region within which the proposed facility will be located.

Listed are the names of the applicants and the cities in which the facilities are located; type of facilities; location of the facilities (if available); permit numbers; and type of application—new source or modification.

Gaylord Construction Company, Huntsville; hot mix asphalt concrete, Huntsville, Walker County; 5753A, modification

Tyler Pipe Industries, Tyler; impact molding process; Tyler, Smith County; 9425; new source

Issued in Austin, Texas, on February 6, 1984

TRD-841667 Ramon Dasch  
Director of Hearings  
Texas Air Control Board

Filed: February 8, 1984

For further information, please call (512) 451-5711, ext. 354

## BACT/LAER Clearinghouse Participation

During the second, third, and fourth quarters of 1983, the Texas Air Control Board has submitted 27 reports to the U.S. Environmental Protection Agency for inclusion in the BACT/LAER Clearinghouse Compilation of Control Technology Determinations. The Clearinghouse data is intended to assist state and local air pollution control agencies throughout the country in making more knowledgeable determinations with regard to Best Achievable Control Technology (BACT) and Lowest Achievable Emission Rate (LAER). The information submitted by the Texas Air Control Board concerned the following permit numbers and process types.

BACT/LAER Clearinghouse Process Type and Code Number	Process Description	Permit or Exemption Number
External Combustion— Other (1 6)	Carbon Black Dryer	9011
Solid Waste Disposal— Other (2 3)	Methane Digester	X4141
Natural Gas Turbines (3 1)	Gas Turbine Cogeneration Unit	9199 9200
Natural Gas Compressors (3 2)	Natural Gas Compressors	X3990 X4051 X3903 9153
Surface Coating of Miscellaneous Metal Parts (4.7)	Aluminum Extrusion Painting Facility	8696
Solvent Degreasing (4 9)	Vapor Degreaser and Paint Booths	3641
Graphic Arts (4.12)	Offset Printing	9131
Organic Evaporation Loss—Other (4.14)	Reflective Glass Coating Applicator	X4293
Petroleum Refining—	Refinery Modernization	9193- 9196

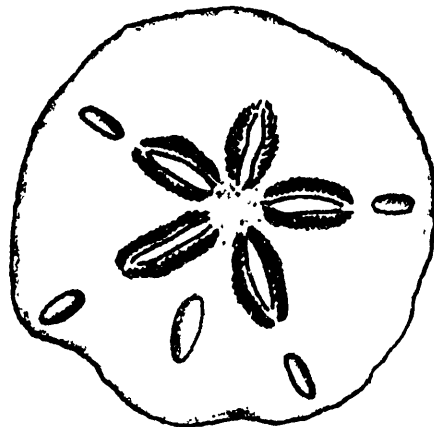
Gas Processing (5 12)	Cryogenic Natural Gas Processing Plant	X3832
Oil and Gas Field Field Services (5 15)	Bulk Barite Terminal	X3973
Ethlene and Polyethylene (6 24)	Low Density Polyethylene	9176
Chemical Processes—Other (6 62)	Chromic Acid Mfg	9212
Feed and Grain Mills and elevators (7 3)	Feed mill	9245
Secondary Aluminum (8.8)	Grain elevators	9222
Steel Foundries (8.14)	Aluminum Shot Mfg.	9183
	Argon-Oxygen Decarburization Furnace	9130
Storage Battery	Lead-Acid Battery Mfg	9080
Production/Reclamation (8 16)		
Lead Oxide and Pigment Products (8.17)	Lead Oxide Mfg	7644
Metallurgical—Other (8 22)	Chrome Plating	X3715 X4027
Bricks, Ceramics; and Clay Products (9 2)	Brick and Tile Mfg	9042
General Mfg (11 0)	Oil Well Sucker Rods	9137

Anyone who would like additional information about the BACT/LAER Clearinghouse or the reports previously listed should contact Michael Stafford at the Texas Air Control Board Central Office, 6330 Highway 290 East, Austin, Texas 78723, (512) 451-5711.

Issued in Austin, Texas, on February 8, 1984.

TRD-841761 Bill Stewart  
Executive Director  
Texas Air Control Board

Filed: February 10, 1984  
For further information, please call (512) 451-5711, ext. 354.



**Banking Department of Texas  
Application To Acquire Control of  
a State Bank**

Texas Civil Statutes, Article 342-401a, requires any person who intends to buy control of a state bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a par-

ticular bank. A hearing may be held if the application is denied by the commissioner.

On February 8, 1984, the banking commissioner received an application to acquire control of First State Bank, Harper, by Ron McCormick, Harper; Hugh Bearden, Rockwall; Jackie Fisher, Waco; and H. L. Southard, Avalon.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on February 10, 1984

TRD-841753 Archie P. Clayton III  
General Counsel  
Banking Department of Texas

Filed: February 10, 1984  
For further information, please call (512) 475-4451.

**Texas Department of  
Community Affairs  
Proposed Final Statement**

The Texas Department of Community Affairs (TDCA) has prepared a proposed final statement of the Texas Community Development Program for fiscal year 1984. The TDCA reserves the right to make subsequent modifications to the proposed statement at its discretion.

The Housing and Community Development Amendments of 1981 provide authorization to state governments to distribute federal Community Development Block Grant (CDBG) funds to local governments in nonentitlement areas.

The proposed statement contains the general state policies and procedures for implementation of this program. The goals and objectives pertaining to the Texas Community Development Program (TDCP) are consistent with congressional and applicable federal regulations for this program.

The purpose of the Texas Community Development Program is the development of viable communities by providing decent housing and a suitable environment and expanding economic opportunities, principally for persons of low and moderate income.

The goals of the Texas Community Development Program are to improve public facilities to meet basic human needs, principally for low and moderate income residents; to improve housing conditions, principally for persons of low and moderate income; to expand economic opportunities by creating or retaining jobs, principally for low and moderate income persons; and to provide assistance and public facilities to eliminate conditions hazardous to the public health and of an emergency nature.

**Eligible Activities.** Eligible activities under the program are listed in the federal Housing and Community Development Act of 1974, §105(a), as amended through 1983.

All proposed activities must either benefit low and moderate income persons; aid in the elimination of slums or blight; or meet other community development needs of particular urgency.

The Texas Department of Community Affairs will review all proposed project activities to determine their eligibility.

**Ineligible Activities.** In general, any type of activity not described or referred to in the federal Housing and Community Development Act of 1974, §105(a), as amended, is ineligible. Specific activities ineligible under the Texas Community Development Program include construction of buildings and facilities used for the general conduct of government (city halls, courthouses, jails, etc.); new housing construction, except in cases of replacement housing when individuals are displaced by TCDP activities; the financing of political activities; purchases of construction equipment; income payments, such as housing allowances; and most operation and maintenance expenses.

**Eligible Applicants.** Eligible applicants are general purpose units of local government which are not participating or designated as eligible to participate in the entitlement portion of the federal Community Development Block Grant Program.

General purpose units of local government are defined as towns, cities, and counties. Cities with a population of less than 50,000 are eligible, unless they are participating in the entitlement program. All counties except Harris and Tarrant are eligible applicants.

**Primary Beneficiary.** The primary beneficiaries of the Texas Community Development Program will be low and moderate income persons. Low and moderate income families are those earning less than 80% of the area median family income, as defined under the Housing and Urban Development Section 8 Assisted Housing Program (§102(c)).

**Allocation System.** Assistance is available in four funding categories under the Texas Community Development Program.

- (1) community development project fund;
  - (a) regional allocation;
  - (b) state discretionary;
- (2) economic development project fund;
- (3) planning/capacity building fund; and
- (4) emergency fund.

**Definition of Funds.** Community development funds will be available for public facilities and housing assistance. All applications under this fund must be for single-purpose projects as defined in the Program Procedures Manual. Funds will be available through shared scoring between the TDCA and Regional Review Committees with regional allocations to each of the 24 state planning regions, and through statewide discretionary awards for applications not funded under the regional allocation competition.

Economic development funds will be available on a statewide competition basis for projects which create or retain permanent employment opportunities.

Planning/capacity building funds are available for local governments to develop strategies and build or improve local capacity or prepare other needed planning elements. Selection will be on a statewide competitive basis.

Emergency funds are available for TCDP eligible activities in localities where the president or governor has declared a state or emergency/disaster.

**Distribution of Funds.**

Fund	Total Amount	Percent
Administration	\$ 1,137,720	2.0
Emergency	\$ 1,877,238	3.3
Planning	\$ 568,860	1.0
Economic Development	\$ 8,760,444	17.4
Community Development Projects		
Regional Allocation	\$40,730,376	69.6
Discretionary	\$ 3,811,362	6.7
Total	\$56,886,000	100.0

**Regional Target Allocations.** Funds for projects under the Community Development Project Fund will be targeted among the 24 state planning regions. Funds targeted to the regions are to be made by a formula based on population, extent of poverty, and extent of unemployment. Targeting, based on these factors to the extent possible, will be made on data applicable only to non-entitlement eligible applicants of the Texas Community Development Program.

**Application.** The following information explains the application types, cycles, and review process. Two types of applications are permitted under the Texas Community Development Program

**Single Jurisdiction Applications—**

Eligible applicants (as defined in Part I) may submit one application per fund on their own behalf. Submitting jurisdictions are accountable to the State of Texas for TCDP financial compliance and program performance. Local accountability cannot be assigned to third parties.

**Joint Applications—**

Joint applications will be accepted from two or more units of local governments where the application clearly demonstrates that activities will mutually benefit the residents of the communities applying for funds. Any community participating in a joint application may not submit a single jurisdiction application. One of the participating communities must be primarily accountable to the state for financial compliance and program performance. A joint application cannot exceed the contract amount ceilings for its project category.

**Application Cycles.**

Type	Submit	Comments
Community Development Project Fund	Annual	Applicants can submit only one for public facilities or housing per year from this fund.
Economic Development Project Fund	Quarterly	Applicants can apply during any given quarter, but can receive only one contract a year from this fund.

Community Development Planning/Capacity Building Fund	Semi-annual	Applicants can apply semi-annually, but can receive only one contract a year from this fund, provided that the activity is not in the same area as an existing community development project.
Emergency	As Required	For eligible activities, based on a declaration by the president or governor for state of emergency or disaster

**Contract Amount.** Maximum and minimum contract awards for any single project allowable under the Texas Community Development Program are as follows.

Fund	Contract Award	
	Maximum	Minimum
Community Development Project		
Regional Allocation	\$500,000	\$50,000
Discretionary	\$500,000	\$50,000
Economic Development Project	\$500,000	\$50,000
Emergency Fund	NONE	NONE
Planning/Capacity Building Fund	\$ 25,000	NONE

**Project Length.** All project funding commitments will be made from a single fiscal year's allocation. Projects must be completed within two years from the effective date of the contract agreement.

**Regional Review Committees (RRC).** Composition—There will be a Regional Community Development Review Committee in each of the 24 state planning regions. Each committee will consist of 12 members appointed by the governor.

**Role**—The RRC will review and score all applications within their region for community development projects. Furthermore, the RRC will review and comment on Economic Development and Planning/Capacity Building Fund applications. The scores and comments will be sent to the Texas Department of Community Affairs. RRC's may elect to utilize staff of regional planning commissions to assist with project review responsibilities.

**State Review Committee (SRC).** A State Community Development Review Committee composed of 12 members, appointed by the governor, will oversee the Texas Community Development Program. The role and makeup of the SRC will be consistent with Senate Bill 315, 68th Legislature, 1983.

**Clearinghouse Review.** Regional review of projects will be consistent with guidelines adopted by the governor's office for review and comment per federal Executive Order 12372 and Texas Civil Statutes, Article 1011m (Texas Civil Statutes).

**Citizen Participation.** All applicants will provide for a citizen's participation process before submitting applications.

**Project Selection Criteria.** A community must meet the following requirements to receive a contract award:

- (1) demonstrate the ability to effectively and efficiently manage and administer the proposed project, including meeting all proposed benefits outlined in the application;
- (2) demonstrate the financial management capacity to operate and maintain any improvements made in conjunction with the proposed project;
- (3) levy a local property tax or local sales tax option;
- (4) demonstrate satisfactory performance on prior TCDDP contracts; and
- (5) resolve all outstanding compliance and audit findings.

All projects under the Community Development Project Fund, Economic Development Project Fund, and Community Development Planning/Capacity Building Fund will be evaluated and rated in accordance with a numerical system based on four major criteria groups. These groups are distress conditions within the applying jurisdiction; benefit to low and moderate income persons; program design; and other considerations. The final assignment of points for an applicant will be the total of points received in the four criteria groups.

Public comments regarding this proposed final statement will be considered through either public presentation at one of the 27 regional public hearings or in writing to the Texas Department of Community Affairs, Box 13066, Austin, Texas 78711 (Attention: Community Development Division), by March 6, 1984.

Issued in Austin, Texas, on February 10, 1984

TRD-841785

Douglas C. Brown  
General Counsel  
Texas Department of Community Affairs

Filed: February 10, 1984

For further information, please call (512) 443-4100, ext. 210.

## Public Hearings

The Texas Department of Community Affairs announces the following 27 public hearings to solicit comments on the proposed final statement for the Texas Community Development Program for fiscal year 1984. Topics to be discussed include the purpose and goals of the program, eligible applicants and activities, the fund allocation system, the application process, recent federal changes, project selection criteria, and proposed procedural changes.

Public comments may be presented at any of the following hearings, or may be submitted to the Texas Department of Community Affairs in writing by March 6, 1984 (Attention: Community Development Division).

The following is a list of each of the 27 public hearings by region, date, time, and location.

Alamo	March 2, 1984, 2 p.m.	118 Broadway, Fourth Floor Conference Room, San Antonio.
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**Ark-Tex** February 27, 1984, 7:30 p.m. Delta Community Center, 221 East Bonham, Cooper.

February 28, 1984, 1:30 p.m. Chamber of Commerce, 1604 North Jefferson, Mount Pleasant.

February 28, 1984, 7:30 p.m. New Boston Community Center, 301 North Front Street (Highway 82), New Boston.

**Brazos Valley** February 27, 1984, 7 p.m. Brazos Center, 3232 Briarcrest Drive, Bryan/College Station 77801

**Capital Area** March 2, 1984, 1:30 p.m. Joe C Thompson Center, Room 2-122, University of Texas, Austin.

**Central Texas** March 1, 1984, 1:30 p.m. 302 East Central Belton, Belton

**Coastal Bend** February 29, 1984, 1:30 p.m. commissioners courtroom, Nueces County Courthouse, 901 Leopard Street, Corpus Christi, Texas 78403.

**Concho Valley** February 27, 1984, 10 a.m. Concho Valley Council, 5002 Knickerbocker, San Angelo, Texas 76906

**Deep East Texas** February 27, 1984, 10 a.m. city hall, 212 East Pilar, Nacogdoches, Texas 75961

**East Texas** March 5, 1984, 7 p.m. East Texas Council of Governments, 3800 Stone Road, Kilgore.

**Golden Crescent** March 5, 1984, 6:30 p.m. Town Hall Meeting Room 1, Victoria National Bank, 101 South Main DeLeon Plaza, Victoria, Texas 77902

**Heart of Texas** February 27, 1984, 7 p.m. Heart of Texas Council of Governments, 320 Franklin Avenue, Waco, Texas 76701.

**Houston-Galveston Area** March 1, 1984, 1:30 p.m. H-GAC Building, Large Conference Room, 3701 West Alabama, Houston, Texas 77027.

**Lower Rio Grande Valley** March 2, 1984, 1:30 p.m. McAllen City Hall, Second Floor Commissioners Room, 311 North 15th Street, McAllen, Texas 78510.

**Middle Rio Grande** March 2, 1984, 1 p.m. Reading Room Civic Center, 300 East Main, Uvalde

**Nortex** February 28, 1984, 2 p.m. 2101 Kemp Boulevard, Nortex Conference Room, Wichita Falls, Texas 76309

**North Central Texas** February 29, 1984, 7 p.m. Centerpoint 2 Office Building, 616 Six Flags Drive, Arlington

**Panhandle** March 1, 1984, 1:30 p.m. 415 West Eighth Street, Amarillo, Texas 79105

**Permian Basin** March 1, 1984, 9 a.m. Permian Basin Conference Room, Midland Airport

**South East Texas** February 29, 1984, 2 p.m. Lamar University, John Gray Institute, Seminar Room, 855 Florida Street, Beaumont

**South Plains** March 2, 1984, 1:30 p.m. 3424 Avenue H. Lubbock, Texas 79408.

**South Texas** March 6, 1984, 2 p.m. Zapata Community Center, Highway 83 South, Zapata.

**Texoma** February 28, 1984, 7 p.m. 1000 Grayson Drive, Dennison, Texas 75020.

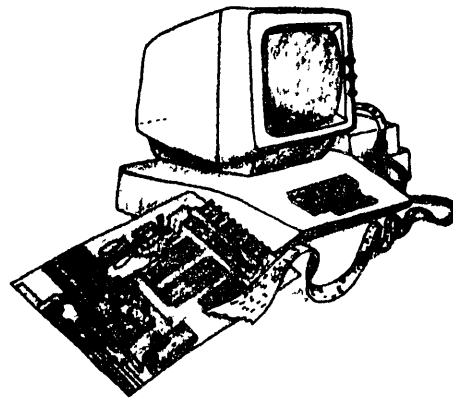
**West Central Texas** February 29, 1984, 10 a.m. Security State Bank, 815 North Judge Ely Boulevard, Abilene.

**West Texas** March 2, 1984, 10 a.m. El Paso City Hall, Tenth Floor Conference Room, El Paso

Issued in Austin, Texas, on February 10, 1984

TRD-841786 Douglas C Brown  
General Counsel  
Texas Department of Community Affairs

Filed: February 10, 1984  
For further information, please call (512) 443-4100, ext. 210.



## Office of Consumer Credit Commissioner Rate Bracket Adjustment

Pursuant to the provisions of House Bill 1228, 67th Legislature of Texas, regular session, 1981, the consumer credit commissioner of Texas has ascertained the following dollar amounts of the brackets and ceilings in Texas Civil Statutes, Article 5069, by use of the formula and method described in Texas Civil Statutes, Title 79, Article 2.08, as amended (Texas Civil Statutes, Article 5069-2.08).

The ceiling amount in Article 3.01(1) is changed to \$7,250.

The amounts of the brackets in Article 3.15(1) are changed to \$870 and \$7,250, respectively.

The ceiling amount in Article 3.16(6) is changed to \$290.

The amounts of the brackets in Article 6.02(9)(a) are changed to \$1,450 and \$2,900, respectively.

The amount of the bracket in Article 6.03(3) is changed to \$1,450.

The ceiling amount in Article 51.12 is changed to \$7,250.

The amounts of the brackets in Article 51.12 are changed to \$87, \$290, and \$870, respectively.

The previously stated dollar amounts of the brackets and ceilings shall govern all applicable credit transactions and loans made on or after July 1, 1984, and extending through June 30, 1985.

Issued in Austin, Texas, on February 6, 1984.

TRD-841681 Sam Kelley  
Commissioner  
Office of Consumer Credit  
Commissioner

Filed: February 8, 1984  
For further information, please call (512) 475-2111.

### Texas Department of Health Licensing Actions for Radioactive Materials

The Texas Department of Health has taken actions with regard to licenses for the possession and use of radioactive materials as listed in the following table. The subheading labeled "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

#### NEW LICENSES ISSUED:

Location	Name	License #	City	Amend-ment #	Date of Action
Anahuac	Chambers County Hospital	11-3538	Anahuac	0	01/16/84
Buna	Buna Medical Center	10-3536	Buna	0	01/16/84
Dallas	Animal Radiology Clinic	05-3535	Dallas	0	01/10/84
Dallas	O. Theodore New, D P M	05-3542	Dallas	0	01/16/84
Dumas	Memorial Hospital	01-3540	Dumas	0	01/13/84
Liberty	Yettie Kersting Memorial Hospital	07-3539	Liberty	0	01/16/84
Throughout Texas	Tyler Surveys, Inc	12-3533	Andrews	0	01/11/84
Throughout Texas	J & L Perforators	04-3534	Abilene	0	01/11/84
Winnie	Medical Center of Winnie	11-3537	Winnie	0	01/16/84

#### AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License #	City	Amend-ment #	Date of Action
Beaumont	Colonial Pipeline Company	10-2482	Atlanta, GA	6	01/05/84
Beaumont	Radiology Consultants of Beaumont, P A	10-2060	Beaumont	21	01/12/84
Channelview	Patterson Inspection Services, Inc	11-3148	Channelview	3	01/10/84
Clyde	Satterfield Surveys, Inc	04-2307	Clyde	4	01/17/84
Dallas	Atomic Energy of Canada Limited	05-2623	Dallas	5	01/20/84

Deer Park	Shell Development Company	11-2116	Houston	11	01/20/84
Denison	Texoma Medical Center	05-1600	Denison	9	01/11/84
Denton	North Texas State University	05-99	Denton	20	01/11/84
Garland	Shiloh Park Hospital	05-2618	Garland	6	01/11/84
George West	United States Steel Corporation	08-2449	George West	12	01/17/84
Hallsville	Southwestern Electric Power Company	07-3297	Hallsville	2	01/20/84
Harlingen	Valley Baptist Medical Center	08-1909	Harlingen	19	01/17/84
Hebbronville	Cathness Mining Corporation	08-2922	Hebbronville	2	01/19/84
Houston	Shell Development Company	11-2116	Houston	11	01/20/84
Houston	Hermann Hospital	11-650	Houston	24	01/20/84
Houston	Mosby Clinic	11-3486	Houston	1	01/12/84
Houston	McGovern Allergy Clinic, P.A	11-2043	Houston	3	01/11/84
Houston	Humana Hospital Sharpstown	11-1737	Houston	15	01/17/84
Lubbock	St Mary of the Plains Hosp & Rehabilitation Center	02-1547	Lubbock	25	01/11/84
Lubbock	Texas Tech University	02-1536	Lubbock	30	01/12/84
Mesquite	Charter Suburban Hospital	05-2428	Mesquite	10	01/17/84
Pasadena	Colonial Pipeline Company	10-2482	Atlanta, GA	6	01/05/84
Pasadena	Phillips Pipe Line Company	11-2083	Alvin	4	01/20/84
Plano	Arco Oil and Gas Company	05-134	Dallas	32	01/10/84
Port Arthur	Texaco, U S A.	10-227	Port Arthur	17	01/20/84
Throughout Texas	Gerald Bauer Logging Company, Inc.	05-3436	Corpusciana	1	01/19/84
Throughout Texas	Pro-Log	02-1828	Denver City	6	01/20/84
Throughout Texas	O I Corporation	06-3344	College Station	1	01/10/84
Throughout Texas	Houston Fire and Safety Equipment Company	11-2150	Houston	5	01/10/84
Throughout Texas	Service Fracturing Company	01-2840	Pampa	3	01/10/84
Throughout Texas	Tracerco Corporation	11-3096	South Houston	16	01/10/84
Throughout Texas	Pengo Industries, Inc.	05-2644	Fort Worth	16	01/19/84
Throughout Texas	William John Porter	11-3520	Richmond	1	01/10/84

#### RENEWALS OF EXISTING LICENSES ISSUED:

Location	Name	License #	City	Amend-ment #	Date of Action
Austin	Kallestad Laboratories, Inc	06-2846	Austin	6	01/17/84
Bishop	Virginia Chemicals, Inc	10-2423	Bishop	4	01/20/84
Brownwood	Minnesota Mining & Manufacturing Co	04-918	St Paul, MN	14	01/20/84
Carlos	Texas Municipal Power Agency	06-2913	Bryan	5	01/11/84
Deer Park	The Upjohn Company	11-510	LaPorte	31	01/10/84
Denton	Denton Osteopathic Hospital	05-3286	Denton	1	01/17/84
Houston	Lone Star Industries, Inc	11-414	Houston	10	01/20/84
Kingsville	Kleberg Memorial Hospital	08-2917	Kingsville	3	01/17/84
LaPorte	The Upjohn Company	11-510	LaPorte	31	01/10/84
Nacogdoches County	J.A. Hereford Industries, Inc	10-2885	Woden	1	01/19/84
Throughout Texas	Columbia Scientific Industries	06-1381	Austin	36	01/20/84
Throughout Texas	Texas Testing Laboratories, Inc.	05-94	Dallas	39	01/10/84

Victoria	E I du Pont de Nemours & Company	08-386	Victoria	44	01/10/84
Wharton	Gulf Coast Medical Center	11-1388	Wharton	19	01/13/84

**TERMINATIONS OF LICENSES ISSUED:**

Location	Name	License #	City	Amendment #	Date of Action
Port Arthur	Great Lakes Carbon Corporation	10-2440	Port Arthur	3	01/20/84
Texas City	Industrial Testing Laboratories, Inc	11-2241	Texas City	6	01/11/84

In issuing new licenses and amending and renewing existing licenses, the Department of Health, Bureau of Radiation Control, has determined that the applicants are qualified by reason of training and experience to use the material in question for the purposes requested in accordance with *Texas Regulations for Control of Radiation* in such a manner as to minimize danger to public health and safety of property and the environment; the applicants' proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property and the environment; the issuance of the license(s) will not be inimical to the health and safety of the public or the environment; and the applicants satisfy any applicable special requirements in the *Texas Regulations for Control of Radiation*.

This notice affords the opportunity for a hearing on written request of a licensee, applicant, or "person affected" within 30 days of the date of publication of this notice. A "person affected" is defined as a person who is resident of a county, or a county adjacent to the county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation. A licensee, applicant, or "person affected" may request a hearing by writing David K. Lacker, Chief, Bureau of Radiation Control (Director, Texas Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756.

Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated.

Copies of these documents and supporting materials are available for inspection and copying at the office of the Bureau of Radiation Control, Texas Department of Health, 1212 East Anderson Lane, Austin, Texas, from 8 a.m. to 5 p.m. Monday through Friday (except holidays).

Issued in Austin, Texas, on February 8, 1984.

TRD-841698 Robert A. MacLean, M.D.  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Filed: February 9, 1984  
For further information, please call (512) 835-7000.

## Texas Health Facilities Commission

### Applications before the Texas Health Facilities Commission for Petition for Reissuance of Certificate of Need

The Texas Health Facilities Commission gives notice of application (including a general project description) for petition of reissuance of certificate of need which have been filed with the commission.

The commission may require a hearing on a petition for reissuance of certificate of need when it is determined that good cause exists for such a hearing. A request for a hearing on a petition for reissuance of certificate of need must be submitted to the commission within 15 days after publication of notice and show reason why a hearing should be held. Requests for a hearing are to be mailed to the chairman of the commission, P.O. Box 50049, Austin, Texas 78763, and must be postmarked no later than the day prior to the last day allowed for filing requests for hearing.

The petition will be approved only if the commission determines that it qualifies under the criteria of Texas Civil Statutes, Article 4418h, §3.13, and 25 TAC §§509.81-509.85 and §§513.51-513.53.

In the following list, the applicant is listed first, the file number second, and the relief sought and description of the project third.

Lake Forest Village, Inc. (formerly John Knox Village Medical Center), Denton

AN79-0426-015A(093083)

CN/AMD—Notice of an amended amendment application. Request for a fourth extension of the completion deadline from September 30, 1983 to March 30, 1985, in Certificate of Need AN79-0426-015 which authorized the certificate holder to construct a 60-bed skilled nursing facility to be part of a life-care retirement community being developed in Denton.

Greenpark Radiology, a Texas joint venture, Houston

A084-0202-074

NIE—Request for a declaratory ruling that a certificate of need is not required for Greenpark Radiology, a Texas joint venture, to acquire by lease a CT 8800 whole body scanner system. The proposed equipment will be located in private physicians offices located at 7515 South Main, Houston, and utilized on an outpatient basis and for inpatients on a temporary basis to address natural disasters, major accidents, and facility equipment failure.

American Health Investors of Dallas, Inc., a Georgia corporation

AH84-0206-078

NIEH—Request for a declaratory ruling that a certificate of need is not required for American Health Investors of Dallas, Inc., a Georgia corporation,

to acquire by purchase Kessler Hospital, an existing 36-bed general acute care hospital located in Dallas, from Kessler Hospital, Inc.

Hymark Investments, Inc., a Utah corporation, or Hymark, Inc., a to-be-formed Texas corporation, Plano  
AN84-0131-065

NIEH—Request for a declaratory ruling that a certificate of need is not required for Hymark Investments, Inc., or Hymark, Inc., to acquire by lease Delta Nursing Home, an existing 62-bed nursing facility with 38 ICF and 24 personal care beds located in Cooper, Texas, from Central Care Systems, Inc.

Hymark Investments, Inc., a Utah corporation, or Hymark, Inc., a to-be-formed Texas corporation, Plano  
AN84-0131-066

NIEH—Request for a declaratory ruling that a certificate of need is not required for Hymark Investments, Inc., or Hymark, Inc., to acquire by lease Stonebrook Nursing Home, an existing 91-bed ICF nursing facility located in Nocona, from Stonebrook Properties, Inc. Upon acquisition, the name will be changed to Hymark Health Care Nursing Center.

Jewell Enterprises, Inc., Arlington  
AN84-0203-076

NIEH—Request for a declaratory ruling that a certificate of need is not required for Jewell Enterprises, Inc., to acquire by purchase Valle Hi Nursing Home, an existing 59-bed ICF nursing facility located in Alpine, from Southwestern Medical Centers, Inc.

Stonebrook Properties, Inc., Arlington  
AN84-0203-075

NIEH—Request for a declaratory ruling that a certificate of need is not required for Stonebrook Properties, Inc. to acquire by lease Valle Hi Nursing Home, an existing 59-bed ICF nursing facility located in Alpine, from Jewell Enterprises, Inc.

Los Hermanos, a Texas general partnership for Wind Crest Nursing Center, Inc., doing business as Wind Crest Nursing Center, Copperas Cove  
AN83-0802-077A(020284)

CN/AMD—Request for an amendment of Certificate of Need AN83-0802-077, which authorized the certificate holder to offer skilled nursing services through the reclassification of 48 ICF beds to skilled. The certificate holder requests authorization to reclassify only 30 ICF beds to skilled, resulting in 90 ICF beds and 30 skilled beds in the existing 120-bed ICF facility.

Beverly Enterprises, doing business as Southeast Nursing Center, San Antonio  
AN82-1117-193A(020684)

CN/AMD—Request for an extension of the completion deadline from December 14, 1984, to March 14, 1985, in Certificate of Need AN82-1117-193 which authorized the certificate holder to provide

skilled nursing services through the reclassification of 34 intermediate beds to skilled.

Issued in Austin, Texas, on February 13, 1984

TRD-841810 Judith Monaco  
Assistant General Counsel  
Texas Health Facilities  
Commission

Filed: February 13, 1984

For further information, please call (512) 475-6940.

## State Property Tax Board Amendment to Consultant Contract Award

Pursuant to Texas Civil Statutes, Article 6252-11c, the State Property Tax Board furnishes this contract amendment. The consultant proposal request for these contracts appeared in the July 8, 1983, issue of the *Texas Register* (8 TexReg 2571). The initial posting of contract awards for these contracts appeared in the September 16, 1983, issue of the *Texas Register* (8 TexReg 3714).

Several contracts listed in that notice of contract award have been amended to require additional responsibilities from the consultant(s). This notice indicates, for each consultant listed, the contract value posted in the original contract award and the new contract value subsequent to the contract amendment.

**Description of Services.** The consultants will serve as on-site reviewers in the board's 1983 property value study. Consultants will develop, based upon site visits, appraisals of sample properties, and other available data, preliminary estimates of total market value within an appraisal district and school district for each of eight categories of property.

**Contract Period.** The beginning date of each contract is September 7, 1983, and the ending date is April 30, 1984.

**Due Date of Reports.** The final reports prepared by consultants under these contracts will be submitted prior to April 30, 1984.

Consultant and Address	Initial Contract Award	Amended Contract Award
Bob Loe P.O. Box 61 Canyon, Texas 79105	\$20,375	\$25,125
Larry Kokel P O Box 153 Walburg, Texas 78673	\$17,625	\$20,625
Travis Loe 141 T-Anchor View Canyon, Texas 79015	\$21,125	\$25,750
Jake Lyon P.O. Box 213 Petersburg, Texas 79250	\$13,375	\$18,125

Don Dickerson 215 East Lufkin Avenue Lufkin, Texas 75901	\$16,625	\$21,000
Ross Fry Clay C A.D. 101 East Omega Street Henrietta, Texas 76365	\$19,125	\$25,750
Mike Morris P.O. Box 1226 Seguin, Texas 78155	\$12,250	\$13,125
A C Schwethelm P O. Box 248 Comfort, Texas 78013	\$ 9,000	\$11,500
John Johnson 1209 Sea Lane Corpus Christi, Texas 78412	\$ 9,875	\$16,750
Bob McAdams 218 Pecan Lane. Van Vleck, Texas 77482	\$14,625	\$19,350
Gus Wimp 6725 Cherrywood Beaumont, Texas 77706	\$12,500	\$14,500
Clyde Roberts P.O. Box 661 Kerville, Texas 78028	\$15,625	\$24,000

Issued in Austin, Texas, on February 8, 1984.

TRD-841699      Ron Patterson  
Executive Director  
State Property Tax Board

Filed: February 9, 1984  
For further information, please call (512) 837-8622.

## Public Utility Commission of Texas Consultant Proposal Request

This request for consulting services is filed pursuant to the provisions of Texas Civil Statutes, Article 6252-11c.

The Public Utility Commission of Texas (PUC) requests proposals from qualified firms, public agencies, or individuals to provide engineering reviews for technical assistance (TA) reports which will be submitted to the PUC as part of the U.S. Department of Energy's grant program for schools and hospitals. Technical assistance reports are comprehensive engineering studies which analyze recommended capital retrofit energy efficiency projects for institutional buildings. Approximately 125 TA reports will be reviewed for Cycle VI of the program.

**Description of Services To Be Performed.** The contractor selected will possess a comprehensive knowledge of energy using systems for institutional buildings, energy auditing, and energy savings calculations; a broad understanding of the PUC's Institutional Conservation Program; and a specific understanding of the federal and state regulations governing the preparation of the TA report.

The contractor's review of each TA report will include an evaluation of the document for technical accuracy,

soundness of engineering principles, and project cost assessment; the preparation of a written critique on the document, including suggested changes and improvements; and the assessment of an overall technical review score for the report. The contractor will also be expected to contact applicants as necessary to resolve technical problems and other inconsistencies in the reports and be available to the PUC staff for consultation on problems as they develop.

**Selection Criteria.** Proposals will be judged by the contractor's ability to demonstrate experienced and qualified personnel to complete the project; contractor's previous work and experience relative to this type of project; contractor's ability to provide objective assessments of the studies to be evaluated (to avoid any possible conflict of interest, firms currently involved in preparing TA reports for Cycle VI applicants are not encouraged to apply); contractor's proposed method of evaluation; and contractor's ability to complete the review in a timely manner. The technical review period will extend from May 14-June 4, 1984.

To assemble the strongest and most objective review team, the PUC will consider contracting with individuals from several engineering firms. Prospective contractors should also feel free to make proposals to evaluate a specific type of report (school or hospital) or all the reports. Final selection of a contractor or contractors will be based on the recommendations of a review committee.

If, upon conclusion of the evaluation of proposals received pursuant to this solicitation, two or more proposals are ranked so closely that a final selection cannot reasonably be made, the review committee may request each proposer to provide the PUC with additional information. Such information may include written materials not specified in this solicitation or clarifications of proposals. Proposers may also be requested to meet with the PUC staff in Austin to review or clarify their proposals prior to the final selection of a contractor.

Contractor selection will be made on or before April 11, 1984. The contract period will extend from the date of signing to June 30, 1984.

**Contact Person.** Further information concerning this project may be obtained by contacting Mel Roberts, Coordinator of the Institutional Conservation Program, Energy Efficiency Division, Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, (512) 458-0313.

**Due Date.** Written proposals should be sent by registered mail or by courier and must arrive no later than 5 p.m. on March 14, 1984. Five copies of the proposal should be sent to Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, Attention: Sandy Becker.

Issued in Austin, Texas, on January 18, 1984

TRD-841669      Rhonda Colbert Ryan  
Secretary of the Commission  
Public Utility Commission of  
Texas

Filed: February 8, 1984  
For further information, please call (512) 458-0100.

## Consultant Contract Award

This consultant contract award is filed under the provisions of Texas Civil Statutes, Article 6252-11c. The consultant proposal request was published in the December 16, 1983, issue of the *Texas Register* (8 TexReg 5296).

The project will study utility inventory procedures and maintenance systems, in addition to preparing, submitting, and defending testimony detailing the conclusions of the study, and training commission accountants in the preparation of future studies.

**Name and Address of the Consultant.** The contract is awarded to Alan S. Jones, President, Inventory Management Consulting, P.O. Box 14119, Columbus, Ohio 43214.

**Total Value and Dates of Contract.** The term of this contract is to begin January 23, 1984, and shall terminate by July 1, 1984, and will not exceed \$18,000.

**Due Dates of Documents.** All drafts and reports prepared by the consultant under this contract shall be submitted upon completion throughout the period of performance of this contract.

Issued in Austin, Texas, on February 7, 1984.

TRD-841732      Lewis A. Gray  
Director of Administration  
Public Utility Commission of  
Texas

Filed: February 9, 1984  
For further information, please call (512) 458-0100.

## Texas Savings and Loan Department Applications for a Branch Office and Hearing Thereon

Application has been made to the savings and loan commissioner of Texas by BrazosBanc Savings Association of Texas, Bryan, Brazos County, for approval to establish a branch office at 3004 FM 1960 East, Houston, Harris County. A hearing on the application is set for 9 a.m. on February 27, 1984, in the offices of the Savings and Loan Department of Texas, 1004 Lavaca, Austin. This is a continuance on the hearing of November 7, 1983, at which time the parties appeared and stated their positions. The nature and purpose of this hearing is to accumulate a record of pertinent information and data in support of the application and in opposition to the application, from which record the commissioner shall determine whether to grant or deny the application, and may be continued from day to day at the same location if not concluded on the day said hearing commences.

This application is filed and hearing held pursuant to authority and jurisdiction granted by Texas Civil Statutes, Article 852a, §2.13 and §11.11. The particular rules in-

volved are 7 TAC §§51.1-51.13, 53.3, and 53.4. Such rules are on file with the *Texas Register*, Office of the Secretary of State, or may be seen at the department's offices.

The applicant association asserts that operation of the proposed branch office will not unduly harm any other association operating in the vicinity; that there is a public need for the proposed branch office; that the volume of business in the community in which the proposed branch office will operate is such as to yield a profit to the association in a reasonable time, and certain other assertions per 7 TAC §53.3 and §53.4.

Issued in Austin, Texas, on February 10, 1984.

TRD-841796      Russell R. Oliver  
General Counsel  
Texas Savings and Loan  
Department

Filed: February 10, 1984  
For further information, please call (512) 475-7991.

Application has been made to the savings and loan commissioner of Texas by Heart O'Texas Savings Association, San Saba, San Saba County, for approval to establish a branch office of the association at 117 East Fifth Street, Iraan, Pecos County. A hearing on the application is set for 9 a.m. on February 16, 1984, in the offices of the Savings and Loan Department of Texas, 1004 Lavaca, Austin. This is a continuance on the hearing of November 7, 1983, at which time the parties appeared and stated their positions. The nature and purpose of this hearing is to accumulate a record of pertinent information and data in support of the application and in opposition to the application, from which record the commissioner shall determine whether to grant or deny the application, and may be continued from day to day at the same location if not concluded on the day the hearing commences.

This application is filed and hearing held pursuant to authority and jurisdiction granted by Texas Civil Statutes, Article 852a, §2.13 and §11.11. The particular rules involved are 7 TAC §§51.1-51.13, 53.3, and 53.4. Such rules are on file with the *Texas Register*, Office of the Secretary of State, or may be seen at the department's offices.

The applicant association asserts that operation of the proposed branch office will not unduly harm any other association operating in the vicinity; that there is a public need for the proposed branch office; that the volume of business in the community in which the proposed branch office will operate is such as to yield a profit to the association in a reasonable time, and certain other assertions per 7 TAC §53.3 and §53.4.

Issued in Austin, Texas, on February 10, 1984.

TRD-841797      Russell R. Oliver  
General Counsel  
Texas Savings and Loan  
Department

Filed: February 10, 1984  
For further information, please call (512) 475-7991.

Application has been made to the savings and loan commissioner of Texas by Balcones Savings Association, San Marcos, Hays County, for approval to establish a branch office nine-tenths mile north of Town Square, Wimberley, Hays County. A hearing on the application was set for 9 a.m. on February 14, 1984, in the offices of the Savings and Loan Department of Texas, 1004 Lavaca, Austin. This is a continuance on the hearing of November 7, 1983, at which time the parties appeared and stated their positions. The nature and purpose of this hearing is to accumulate a record of pertinent information and data in support of the application and in opposition to the application, from which record the commissioner shall determine whether to grant or deny the application, and may be continued from day to day at the same location if not concluded on the day the hearing commences.

This application is filed and hearing held pursuant to authority and jurisdiction granted by Texas Civil Statutes, Article 852a, §2.13 and §11.11. The particular rules involved are 7 TAC §§51.1-51.13, 53.3, and 53.4. Such rules are on file with the *Texas Register*, Office of the Secretary of State, or may be seen at the department's offices.

The applicant association asserts that operation of the proposed branch office will not unduly harm any other association operating in the vicinity; that there is a public need for the proposed branch office; that the volume of business in the community in which the proposed branch office will operate is such as to yield a profit to the association in a reasonable time, and certain other assertions per 7 TAC §53.3 and §53.4.

Issued in Austin, Texas, on February 10, 1984

TRD-841798      Russell R. Oliver  
                         General Counsel  
                         Texas Savings and Loan  
                         Department

Filed: February 10, 1984  
For further information, please call (512) 475-7991.

## **Application For Change of Name and Hearing Thereon**

An application has been filed with the savings and loan commissioner of Texas by Cypress Savings and Loan Association, Pittsburg, Camp County, for change of name to Cypress Banc Savings Association.

A hearing on this application is set for 9 a.m. on February 23, 1984, in the offices of the Savings and Loan Department, 1004 Lavaca, Austin. This application is filed and hearing is held pursuant to authority and jurisdiction granted by Texas Civil Statutes, Article 852a, §§2.12, 2.13, and 11.11.

The applicant association asserts that no other association authorized to do business in this state has the name sought, nor is the proposed name so similar to any other as to be calculated to deceive.

Anyone desiring to protest this application may do so by writing the commissioner at P.O. Box 1089, Austin, Texas

78767, and by appearing at the scheduled hearing on February 23, 1984.

If no protest is registered prior to or at the time the application is called, hearing may be dispensed with; if protest is registered, and existing when called, hearing on the application will be continued to a later date at the same location for the purpose of receiving testimony and evidence from the parties and to accumulate a record of pertinent information and data in support of the application and in opposition to the application.

Issued in Austin, Texas, on February 10, 1984.

TRD-841793      Russell R. Oliver  
                         General Counsel  
                         Texas Savings and Loan  
                         Department

Filed: February 10, 1984  
For further information, please call (512) 475-7991.

## **Application to Merge and Hearing Thereon**

Application has been made to the savings and loan commissioner of Texas by Mercury Savings Association of Wichita Falls and Gulf Coast Savings Association of Richmond for approval to merge, pursuant to the Texas Savings and Loan Act, Texas Civil Statutes, Article 852a, §10.03. A plan of merger and related documents have been filed with the commissioner.

A hearing on this application has been set for Wednesday, February 29, 1984, at 9 a.m. pursuant to authority and jurisdiction granted by Texas Civil Statutes, Article 852a, §§2.13, 10.03, and 11.11.

The applicants assert that the plan of merger is equitable to the members of the associations and the plan does not impair the usefulness and success of other properly conducted associations.

A party desiring to present testimony or evidence in opposition to this application may do so by appearing at the scheduled hearing. Parties desiring to oppose the application should notify the commissioner at least 10 days prior to the date of hearing at P.O. Box 1089, Austin, Texas 78767. If no appearance in opposition is made at the time this application comes on for hearing, the hearing may be dispensed with by the commissioner.

Issued in Austin, Texas, on January 26, 1984.

TRD-841795      Russell R. Oliver  
                         General Counsel  
                         Texas Savings and Loan  
                         Department

Filed: February 10, 1984  
For further information, please call (512) 475-7991.

## Charter Application and Hearing Thereon

Application has been made to the savings and loan commissioner of Texas for the approval of a charter for New Mission Savings Association of El Paso, 1111 Hawkins Boulevard, El Paso, El Paso County. A hearing on the application will be held at 2 p.m. on February 29, 1984, in the offices of the Savings and Loan Department of Texas, 1004 Lavaca Street, Austin, pursuant to authority and jurisdiction granted by the Texas Savings and Loan Act, Texas Civil Statutes, Article 852a.

The nature and purpose of the hearing is to accumulate a record of pertinent information and data in support of the application and in opposition to the application, from which record the commissioner shall determine whether to grant or deny the application.

The particular sections of the statute involved are §§2.01-2.09 and 11.11. The particular rules involved are 7 TAC §§51.1-51.13. Such rules are on file with the *Texas Register*, Office of the Secretary of State, or may be seen at the department's offices.

The applicants for charter assert that the prerequisites, where applicable, set forth in §§2.02-2.06 of the Act, have been met; the character responsibility and general fitness of the persons named in the articles of incorporation are such as to command confidence and warrant belief that the business of the proposed association will be honestly and efficiently conducted and that the proposed association will have qualified full-time management; there is a public need for the proposed association, and the volume of business in the community in which the proposed association will conduct its business is such as to indicate a profitable operation; and the operation proposed association will not unduly harm any existing association.

Anyone desiring to oppose this application may do so by appearing at the scheduled hearing; however, it is requested and advisable that persons who plan to oppose this application, notify the commissioner of their intentions, in writing, at P.O. Box 1089, Austin, Texas 78767, at least 10 days prior to the scheduled hearing.

Issued in Austin, Texas, on February 8, 1984

TRD-841794            Russell R. Oliver  
                                 General Counsel  
                                 Texas Savings and Loan  
                                 Department

Filed: February 10, 1984

For further information, please call (512) 475-7991.

## Texas Water Commission Applications for Waste Disposal Permits

The Texas Water Commission gives public notices of waste disposal permit applications issued during the period of February 6-10, 1984.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 475-2678.

Listed is the name of the applicant and the city in which each facility is located; type of facility; location of the facility; permit number; and type of application—new permit, amendment, or renewal.

### Period of February 6-10, 1984

North Texas Municipal Water District, Wylie; sewage treatment facility; along Buffalo Creek on the south side of FM Road 3097 approximately 1.5 miles northwest of the intersection of FM Road 3097 and FM Road 549 in Rockwall County; 12047-01; amendment  
Weldon Alders, Mont Belvieu; wastewater treatment plant; southwest of FM Road 1409 crossing Big Caney Creek approximately 9.5 miles south of Dayton in Liberty County; 12866-01; new permit

River Valley Travel, Inc., c/o James Fred Porter, Junction; development which includes a motel, restaurant, etc. 1,600 feet south of the intersection of IH 10 and FM Road 2169 at the community of Segovia in Kimble County; 02689; new permit

City of Bartlett; contact aeration plant and sludge drying beds; on the south side of Town Branch, approximately 800 feet east of State Highway 95 in Bell County; 10880-01; amendment

Harris County Municipal Utility District 159; Houston; wastewater treatment facility; approximately 3,500 feet north of Greens Bayou and approximately 4,000 feet east from the intersection of FM Road 149 and FM Road 1960 in Harris County; 12145-01; amendment

Phil R. Kensinger; Houston; wastewater treatment plant; approximately two miles southeast of the intersection of Garth Road and FM Road 1942 (Crosby-Barbers Hill Road), approximately three miles northeast of Garth Road and IH 10 in Harris County; 12889-01; new permit

City of Houston; wastewater treatment plant; approximately 600 feet west and 1,300 feet south of the crossing of Brays Bayou by Bellaire Boulevard in the City of Houston, Harris County; 10495-92; renewal



San Angelo By-Products, Inc., A Division of Darling-Delaware, Inc., San Angelo; rendering plant and hide processing station; on the north side of FM Road 380 approximately 7.5 miles east of the City of San Angelo, Tom Green County; 01594; amendment

Onion Creek Development Company, a joint venture of Lumberman's Investment Corporation and C&D Investments, Austin; residential subdivision; approximately 4.5 miles south of the City of Austin and approximately one mile east of the intersection of IH 35 and FM Road 1626 in Travis County; 11467-01; renewal

Doyle Hickerson, Round Rock; commercial and residential areas; approximately 1.7 miles southeast of the City of Pflugerville and approximately one mile southeast of the intersection of Dessau Road and FM Road 1825 on the east bank of Gilleland Creek in Travis County; 11931-02; new permit

City of Pflugerville; wastewater treatment plant; approximately 3,200 feet southeast of the intersection of FM Road 685 and FM Road 1825, approximately 6,000 feet northeast of the intersection of Dessau Road and Killingsworth Road in Travis County; 11845-01; amendment

B. C. Water, Inc., El Campo; residential/resort development; approximately ¼ mile north of the Calhoun City line, west of a small water impoundment and approximately 18,500 feet southwest of the State Highway 35 and Five Mile Branch crossing in Jackson County; 12880-02; new permit

B. C. Water, Inc., El Campo; residential/resort development; approximately 12,000 feet southwest of the point where State Highway 35 crosses Five Mile Branch in Jackson County; 12880-01; new permit

Air Force Village Foundation, Inc., San Antonio; retirement community; approximately two miles west of Loop 1604 and 3,500 feet north of U.S. Highway 90 West 14 miles west of the City of San Antonio in Bexar County; 12868-01; new permit

U. S. Department of the Interior, Big Bend National Park; wastewater treatment plant; approximately 3,300 feet northwest of the Chisos Mountain Lodge in the Basin in Big Bend National Park, Brewster County; 12865-01; new permit

The Paks Corporation, Junction; cedar wood oil plant; on the east side of FM Road 2169 approximately 1.3 miles north of the intersection of FM Road 2169 with U.S. Highway 290 in Kimble County; 01391; renewal

Coflexip and Services, Inc., Houston; office building and storage yard; at 16661 Jacintoport Boulevard, in Harris County; 12874-01; new permit

Harris County Water Control and Improvement District 109, Houston; wastewater treatment plant; ap-

proximately 17 miles northwest of Midtown Houston, about 4½ miles west of IH 45 and 1.3 miles southwest of the intersection of Stuebner-Airline Road and Bammel-North Houston Road, at 1345 Bammel-North Houston Road in Harris County; 11026-01; renewal  
Del Small; Rosenberg; mobile home park and small shopping center; at 7422 Hand Road, in Fort Bend County; 12881-01; new permit

Issued in Austin, Texas, on February 10, 1984.

TRD-84180; Mary Ann Hefner  
Chief Clerk  
Texas Water Commission

Filed: February 13, 1984

For further information, please call (512) 475-4514.

## Texas Department of Water Resources Consultant Contract Award

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Water Resources furnishes this notice of consultant contract award. The request was published in the August 23, 1983, issue of the *Texas Register* (8 TexReg 3281).

**Description of Services.** The contract is for the preparation of basemaps and compilation of support information which will assist spill response decision making and planning efforts. The effort will involve plotting the locations of response features onto work maps and corresponding overlays. In addition, support information will be recorded and a standard legend will be prepared and attached to each basemap.

**Contractor.** The contractor is Murfee Engineering Company Incorporated, 1101 South Capital of Texas Highway, Austin, Texas 78727.

**Total Value and Terms of Contract.** The contract begins January 16, 1984, and ends August 31, 1984. Payments under this contract shall not exceed \$37,000.

**Due Dates of Reports.** Progress reports shall be provided upon request.

Issued in Austin, Texas, on February 9, 1984.

TRD-841768 Susan Plettman  
General Counsel  
Texas Department of Water  
Resources

Filed: February 10, 1984

For further information, please call (512) 475-7845.