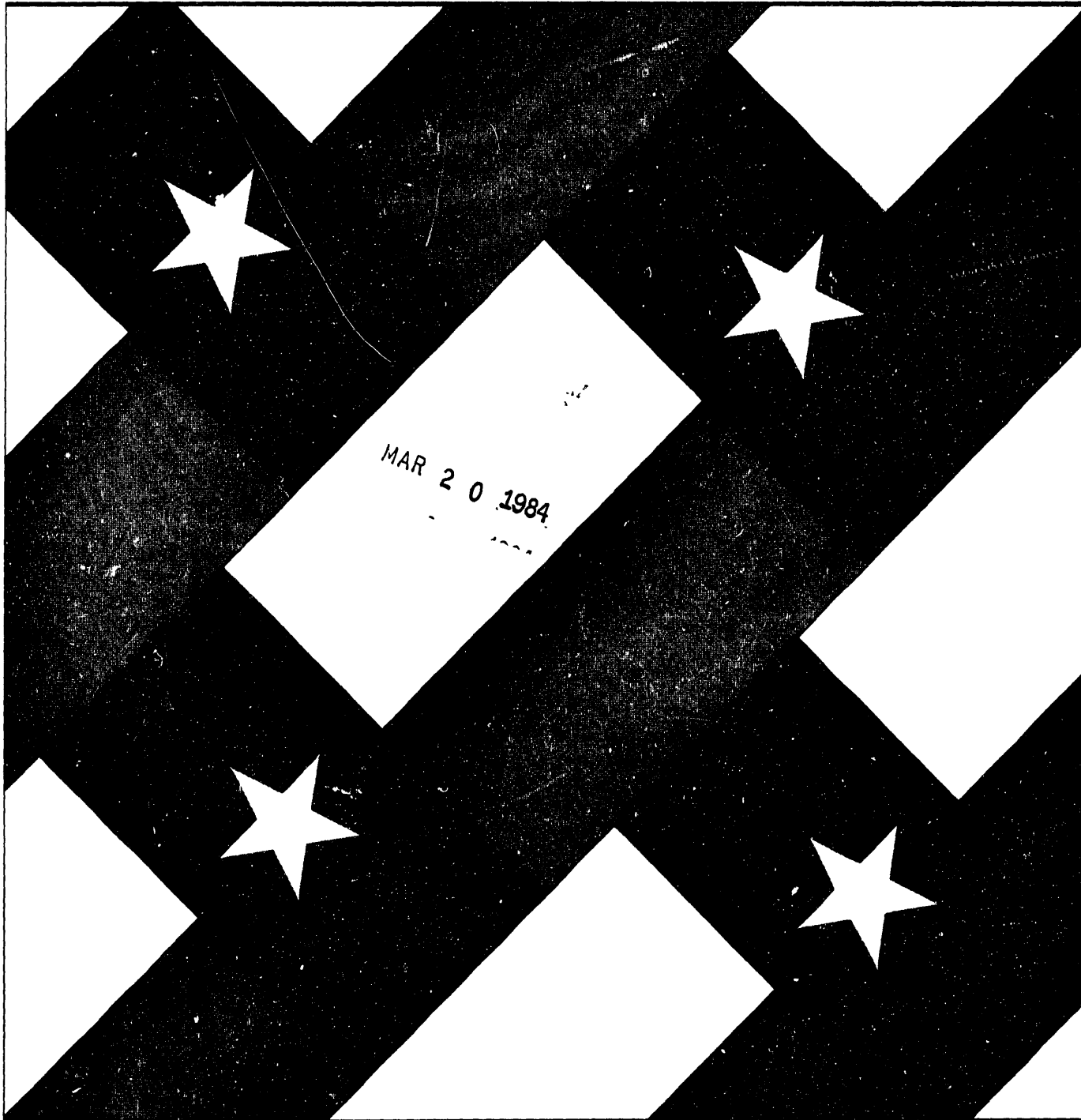


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# Texas Register

Volume 9, Number 19, March 13, 1984

Pages 1461 - 1506



## Highlights

The The Texas Animal Health Commission adopts on an emergency basis an amendment concerning indemnity rates  
Effective date - March 5 page 1464  
The Railroad Commission of Texas adopts on an emergency basis a new section concerning

emergency motor bus and package express authority.  
Effective date - March 6 page 1464  
The Texas Department of Health adopts amendments concerning procedures on long-term care facilities  
Effective date - March 28 page 1472

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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- 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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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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# Emergency Rules

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.

## TITLE 4. AGRICULTURE Part II. Texas Animal Health Commission Chapter 35. Brucellosis Subchapter A. Eradication of Brucellosis 4 TAC §35.6

The Texas Animal Health Commission adopts on an emergency basis an amendment to §35.6, concerning indemnity rates.

The United States Department of Agriculture has advised this commission that federal funds allocated for payment of indemnity to persons owning brucellosis reactor animals will be exhausted by August of this year, likewise funds for payment of fee basis work to veterinary practitioners in this state will be depleted by the end of April 1984. Therefore, the commission took emergency action to reduce the amount of indemnity allowed for brucellosis reactors in Texas to a flat rate of \$43 per head and directed that the subsequent savings be redirected into other areas of the Brucellosis Program.

By implementing this emergency amendment to the section, an estimated \$314,000 will be available during the remainder of the federal fiscal year to maintain the Fee Basis Program and to provide necessary resources to support the accelerated work in the "C" area of the state.

This emergency action is necessary to provide adequate funds to insure continued progress in the "C" area of the state.

The amendment is adopted on an emergency basis under the Agriculture Code, Texas Civil Statutes, Chapter 161 and Chapter 163, which grant rule-making authority and set forth the duty of this agency to protect domestic animals in the state from disease.

### §35.6. *Indemnity Rates.*

- (a) (No change)
- (b) Rates. **\$43 per head flat rate.**
  - [(1) Grade beef—\$50.
  - [(2) Grade dairy—\$250.
  - [(3) Purebred—\$500 ]

Issued in Austin, Texas, on February 24, 1984.

TRD-842627      John W. Holcombe, DVM  
Executive Director  
Texas Animal Health Commission

Effective date: March 5, 1984

Expiration date: July 3, 1984

For further information, please call (512) 475-4111

## TITLE 16. ECONOMIC REGULATION Part I. Railroad Commission of Texas Chapter 5. Transportation Division Subchapter Z. Emergency Authority 16 TAC §5.586

The Railroad Commission of Texas adopts on an emergency basis new §5.586, concerning emergency motor bus and package express authority.

Greyhound Lines, Inc., holder of Motor Bus Certificate 00001B and Limited Common Carrier Certificate 3983 will cease all operations to various points within the State of Texas between San Antonio and Houston during the week of March 5, 1984. The cessation of service has been authorized by the Interstate Commerce Commission under the Bus Regulatory Reform Act of 1982.

The carrier (Greyhound Lines, Inc ) had previously served numerous intrastate points in common with other intrastate bus companies. In addition, Greyhound Lines, Inc , served the involved points between San Antonio and Houston which no other intrastate motor bus carrier was authorized to serve. These points will be without motor bus service and package express service on motor busses.

From February 10-April 13, 1983, the commission, in Docket 00001BNQ5SC, held public hearings to determine the need for motor bus and package express service to the involved points in connection with Greyhound's application to discontinue service to 58 Texas points. That application included consideration of service to the involved points. At the conclusion of those hearings, the commission made findings of fact and conclusions of law that there was a demonstration of public need for the continuation of the service.

By this order the commission hereby incorporates the findings of fact and conclusions of law relative to public need found in Docket 00001BQ5SC. Subsection (b) of this section is subject to the provisions of the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(d). The wording "shall remain in effect until canceled by order of the commission" is intended to allow the commission to withdraw the section at any time during the effectiveness of the emergency filing.

The commission has determined that the cessation of service by Greyhound will create an imminent peril to the public health, safety, and welfare. A number of Texas cities, towns, and other points are effectively isolated from the commerce of the state, since they cannot ship or receive goods by general commodity common carrier. A number of individuals rely on Greyhound for transportation to receive chemotherapy or dialysis treatments available only in major metropolitan areas. The Greyhound bus is the only method of transportation for a number of these individuals, and discontinuance of this service would be life-threatening. Many businesses depend on Greyhound to deliver much needed freight quickly and reliably. Without this service, businesses in many small communities would be cut off from the mainstream of Texas commerce. Other citizens rely on the bus as their only mode of transportation when traveling to visit family and friends or for other purposes. A large number of elderly and poor persons simply have no other way to travel to distant points and, without the bus, would become even more isolated and immobile than they already are.

The commission concludes, therefore, that an emergency rule making under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(d), is warranted.

Accordingly, §5 586, captioned emergency motor bus and package express authority, is promulgated pursu-

ant to the previously referenced provisions and the authority vested in the commission by the Texas Motor Bus Act, Texas Civil Statutes, Article 911a, §7, and the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, as well as the authority vested in the commission by the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a.

*§5.586. Emergency Motor Bus and Package Express Authority.*

(a) Beginning on March 6, 1984, River City Coaches and Kerrville Bus Company, Inc., are authorized to transport passengers and their baggage as well as package express exclusively in motor busses along the following points:

(1) from San Antonio to Houston, serving intermediate points named herein, over the following route: from San Antonio over IH 10 to its intersection with U.S. Highway 90A, thence over U.S. Highway 90A to Seguin; from Seguin to Gonzales over U.S. Highway 90A; from Gonzales to Waelder over 97; from Waelder to Flatonia over U.S. Highway 90, from Flatonia to Schulenberg over U.S. Highway 90, from Schulenberg to Weimer over U.S. Highway 90, from Weimer to Columbus over U.S. Highway 90, from Columbus over U.S. Highway 90 to its intersection with FM Road 102, thence over FM Road 102 to Eagle Lake; from Eagle Lake to East Bernard over U.S. Highway 90A, from East Bernard to Rosenberg over U.S. Highway 90A; from Rosenberg to Richmond over U.S. Highway 90A; from Richmond to Sugar Land over U.S. Highway 90A; from Sugar Land to Stafford over U.S. Highway 90A, from Stafford to Missouri City over U.S. Highway 90A; from Missouri City to Houston over U.S. Highway 59, and

(2) from Houston to San Antonio, serving intermediate points named herein, over the following route: from Houston to Stafford over U.S. Highway 59; from Stafford to Rosenberg over U.S. Highway 90A; from Rosenberg to East Bernard over U.S. Highway 90A; from East Bernard to Eagle Lake over U.S. Highway 90A; from Eagle Lake to Columbus over FM Road 102; from Columbus to Weimer over U.S. Highway 90; from Weimer to Schulenberg over U.S. Highway 90; from Schulenberg to Flatonia over U.S. Highway 90, from Flatonia to Waelder over U.S. Highway 90, from Waelder to Luling over U.S. Highway 90; from Luling to Seguin over U.S. Highway 90; and from Seguin to San Antonio over U.S. Highway 90.

(b) This authority is temporary and granted on an emergency basis under this section and shall remain in effect until canceled by order of the commission.

(c) This section shall take effect upon filing with the Office of the Secretary of State.

Issued in Austin, Texas, on March 6, 1984

TRD-842688

Mack Wallace, Chairman  
Jim Nugent, Commissioner  
Railroad Commission of Texas

Effective date March 6, 1984

Expiration date July 4, 1984

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

# Proposed Rules

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 and local government and small businesses; 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.

## TITLE 4. AGRICULTURE Part II. Texas Animal Health Commission Chapter 35. Brucellosis Subchapter A. Eradication of Brucellosis 4 TAC §35.6

*(Editor's note: The Texas Animal Health Commission proposes for permanent adoption the amendment it adopts on an emergency basis in this issue. The text of the amendment is published in the Emergency Rules section of this issue.)*

The Texas Animal Health Commission proposes an amendment to §35.6, concerning indemnity rates.

The United States Department of Agriculture advised the commission that federal funds allocated for payment of indemnity to persons owning brucellosis reactor animals will be exhausted by August of this year, likewise funds for payment of fee basis work to veterinary practitioners in this state will be depleted by the end of April 1984.

The proposed amendment will reduce the amount of indemnity allowed for brucellosis reactors in Texas to a flat rate of \$43 per head, and the subsequent savings will be redirected into other areas of the Brucellosis Program.

This amendment will allow an estimated \$314,000 to be used during the remainder of the federal fiscal

year to maintain the Fee Basis Program and to provide necessary resources to support the accelerated work in the "C" area of the state.

The proposed amendment is simultaneously adopted on an emergency basis in this issue of the *Register*.

Ken Welch, administration 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.

Mr. Welch 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 an increased productivity from available federal funds which should result in an acceleration of progress in the brucellosis eradication activities. The anticipated economic cost to individuals who are required to comply with the rule as proposed is a reduction in the amount of indemnity paid to producers with reactor animals from March 1984 to July 1984. After that time it is estimated indemnity funds will be exhausted.

Comments on the proposal may be submitted to Jo Anne Conner, Texas Animal Health Commission, P.O. Box 12966, Austin, Texas 78711.

The amendment is proposed under the Agriculture Code, Texas Civil Statutes, Chapter 161 and Chapter 163. These statutes provide the commission with authority to propose rules and set forth the duties of the

commission to protect domestic animals in the state from disease

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 24, 1984

TRD-842628      John W. Holcombe, DVM  
Executive Director  
Texas Animal Health Commission

Earliest possible date of adoption  
April 13, 1984

For further information, please call (512) 475-4111.

## **TITLE 10. COMMUNITY DEVELOPMENT**

### **Part I. Texas Department of Community Affairs Chapter 5. Job Training Subchapter C. Financial Management 10 TAC §5.301**

The Texas Department of Community Affairs (TDCA) proposes new §5.301, concerning the administration of the Texas Job Training Partnership Act (JTPA) Program. Specifically, the TDCA proposes to adopt by reference the *JTPA Financial Management Manual*, which sets forth policies and procedures necessary to ensure the accountability for JTPA funds. Copies of the proposed section may be examined in the offices of the TDCA, Fiscal Management Division, 2015 IH 35 South, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.

A. M. Mahrous, Fiscal Management Division 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.

Clyde McQueen, Training and Employment Development Division director, 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 compliance with the requirements set forth in the federal Job Training Partnership Act, Public Law 97-300, §104, and with the requirements set forth in the Texas Job Training Partnership Act, Texas Civil Statutes, Article 4413(52), §8(c)(10). 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 Douglas C. Brown, General Counsel, Texas Depart-

ment of Community Affairs, P.O. Box 13166, Austin, Texas 78711.

The new section is proposed under Public Law 97-300, §164, and Texas Civil Statutes, Article 4413(52), §8(c)(10), which provide the TDCA with the authority to develop and formally issue fiscal control and fund accounting procedures necessary to assure the proper disbursement of, and accounting for, federal funds paid to the state under Title I and Title II of the JTPA.

§5.301. *The JTPA Financial Management Manual*. The Texas Department of Community Affairs herein adopts by reference the *JTPA Financial Management Manual*. Copies of the manual may be examined in the offices of the Texas Department of Community Affairs, Fiscal Management Division, 2015 IH 35 South, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.

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 March 5, 1984

TRD-842642      Douglas C. Brown  
General Counsel  
Texas Department of Community  
Affairs

Earliest possible date of adoption  
April 13, 1984

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

## **TITLE 16. ECONOMIC REGULATION**

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

#### **Chapter 23. Substantive Rules General Rules**

##### **16 TAC §23.3**

The Public Utility Commission of Texas proposes an amendment to §23.3, concerning definitions. The amendment will define the term "energy efficiency" and help promote the efficient allocation and use of existing and planned generation facilities and nonrenewable energy resources, while encouraging the development of alternative renewable energy resources.

Rhonda Colbert Ryan, secretary of the commission, 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. Ryan 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 the assurance that electric utilities are utilizing, developing, and implementing viable energy efficiency programs that encourage the utilities' efficient use of nonrenewable energy supplies and the further development of renewable energy resources. 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 Rhonda Colbert Ryan, Secretary of the Commission, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757

The amendment is proposed 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:

**Energy efficiency—Management of energy resources through efficacy in the use and allocation of existing and planned facilities, nonrenewable energy resources, and alternative renewable energy resources.**

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 March 5, 1984

TRD-842673

Rhonda Colbert Ryan  
Secretary of the Commission  
Public Utility Commission of  
Texas

Earliest possible date of adoption

April 13, 1984

For further information, please call (512) 458-0100



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 22. EXAMINING BOARDS Part IX. Texas State Board of Medical Examiners Chapter 162. Supervision of Medical School Students

### 22 TAC §§162.1-162.3

The Texas State Board of Medical Examiners adopts new §162.2 and §162.3, with changes to the proposed text published in the January 6, 1984, issue of the *Texas Register* (9 TexReg 162). Section 162.1 is adopted without changes and will not be republished here.

These new sections provide guidelines Board members have been concerned about the precept of students who may be ineligible for licensure in Texas.

The new sections outline and clarify what physicians must do to register to precept medical school students. Changes were made from the proposed version in §§162.2, 162.3(a)(2), 162.3(b)(3), and 162.3(c).

The only comments which related to a change in the proposed new sections form had to do with clarifying the exam requirement in §162.3(b)(3). All other correspondence and testimony was to request interpretation of the rules as to whether they would affect present educational activities and standard clerkships. The board responded to these questions during the public hearing.

Those speaking in favor of the new sections were Vernon Knight, M.D., Baylor College of Medicine, and Richard Christenson, Universidad Autonoma de Guad-

alajara. Mr. Christenson also spoke against the new sections, as he wanted a change to clarify the exam requirement. The agency accepted the comment to clarify the exam requirements.

The new sections are adopted under Texas Civil Statutes, Article 4495b, which provide the Texas State Board of Medical Examiners with authority to make rules, regulations, and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulations of the practice of medicine in this state, and the enforcement of this Act.

*§162.2. Exemption.* A physician is not required to register with or provide certification to the board if he or she supervises a medical student who is in training at an approved medical school. An approved medical school is one that has been accredited by the Liaison Committee on Medical Education or the American Osteopathic Association and subsequently approved by the board.

*§162.3. Registration.*

(a) To register to supervise a medical school student in training, a physician must certify to the board that he or she:

(1) has a valid written agreement with the medical school to supervise its students in training. A copy of the agreement must be provided to and approved by the board;

(2) has completed an orientation program or workshop approved by this board for supervisors of medical students in training;

(3) will not supervise more than one medical student at a time;

- (4) will not supervise a medical student for more than three months;
- (5) will not supervise more than four medical students per year; and
- (6) will not violate the Medical Practice Act.

(b) The physician registering to supervise a medical school student in training must further certify to the board that the student:

- (1) will not perform any task or function without the supervising physician being either physically present or immediately available to provide guidance;
- (2) has not been previously supervised by a physician in Texas; and
- (3) has passed the basic science and English language portions of the Educational Commission for Foreign Medical Graduates (ECFMG) examination.

(c) Any report or grade given by a supervising physician may be submitted to a medical school as documentation of a student's meeting graduation requirements established by the medical school, provided, however, that such report or grade shall not be applicable or submitted to the board for the purpose of meeting licensure requirements established by the board.

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

Issued in Austin, Texas, on March 6, 1984

TRD-842715      A. Bryan Spires, Jr., M.D.  
 Executive Director  
 Texas State Board of Medical  
 Examiners

Effective date: March 28, 1984  
 Proposal publication date: January 6, 1984  
 For further information, please call (512) 452-1078.

## Chapter 185. Physician Assistants

### 22 TAC §§185.6, 185.7, 185.9-185.11

The Texas State Board of Medical Examiners adopts amendments to §185.6, with changes to the proposed text published in the January 6, 1984, issue of the *Texas Register* (9 TexReg 163). Sections 185.7 and 185.9-185.11 are adopted without changes and will not be republished in this issue.

The amendments clarify various areas of the physician assistant rules and are the result of communications and a meeting between the board and the Physician Assistant Advisory Committee.

It is expected that the section, by clarifying certain areas, will eliminate a number of questions health providers have had in the past and will provide for quality health care for citizens.

Comments were generally favorable. The one comment which suggested a change related to the con-

sent form of the patient and its becoming a part of the physician's permanent record maintained in his or her office. It was suggested that the part of the section be clarified further.

Paul A. Looney, M.D., Sam Houston State University; Ron Dickinson, Texas Academy of Physician Assistants; and V. Randolph Gleason, Hermann Hospital; made suggestions for further section clarification.

The agency accepted the comment of Mr. Gleason and incorporated it into the section as adopted.

The amendments are adopted under Texas Civil Statutes, Article 4495b, which provide the Texas State Board of Medical Examiners with authority to make rules, regulations, and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulations of the practice of medicine in this state, and the enforcement of this Act.

#### §185.6. Consent and Identification

(a) No physician assistant shall render general medical services nor any permitted tasks as hereinafter stated to any patient unless said patient has first been informed that such assistant is not a physician and that the patient has the right to insist at any time on seeing the supervising physician, and services will be rendered by the physician assistant only after patient has consented thereto in writing. The physician shall obtain the patient's consent on a separate form, 8½ inches by 11 inches in size, with the following language printed in not smaller than 10-point type.

I, (patient's name), hereby authorize (physician's name and office address) to instruct (his) (her) physician assistant to assist (him) (her) in certain aspects of my medical care. I understand that a physician assistant is not a licensed physician and may not treat or diagnose any illness, injury, or medical condition except under the supervision and direction of a licensed physician. I further understand that I may revoke this authorization at any time and that, at any time, I may request to be seen by (physician's name).

The consent must be signed and dated by the patient and shall become part of the physician's permanent office records of that patient. It shall be the responsibility of the supervising physician to ensure that patient consent herein required is obtained, and failure to do so may result in the withdrawal by the board of approval to supervise an assistant. The consent obtained shall remain in effect until withdrawn by the patient.

(b) In the supervising physician's office, a notice plainly visible to all patients shall be posted in a prominent place by the supervising physician explaining the meaning of the term "physician assistant" and the functions delegated to the physician assistant. The notice shall be printed on a sign not less than 8½ inches by 11 inches in size and in bold-faced letters not less than ¼ inch in height. Patients shall be encouraged, in this notice, to discuss with the supervising physician the role and performance of the physician assistant. The notice shall state that the patient may request to be seen by the physician, rather than the physician assistant, at any time, and the

desire of the patient not to be seen by the physician assistant shall be respected

(c) (No change.)

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

Issued in Austin, Texas, on March 5, 1984

TRD-842661      A Bryan Spires, Jr., M D  
Executive Director  
Texas State Board of Medical  
Examiners

Effective date. March 27, 1984

Proposal publication date. January 6, 1984

For further information, please call (512) 452-1078.

## 22 TAC §185.12

The Texas State Board of Medical Examiners adopts new §185.12, without changes to the proposed text published in the January 6, 1984, issue of the *Texas Register* (9 TexReg 164)

The new section was necessary to deal with areas relating to consent and identification, limitation of employment, and application for approval to supervise in instances where exceptions are beneficial to providing quality health care

The new section allows the board to grant exceptions in certain areas if such exceptions are felt necessary to provide quality care for citizens.

Comments were received in favor of adoption of the new section from Paul A. Looney, M.D., Sam Houston State University, and Ron Dickinson, Texas Academy of Physician Assistants. No one commented against the new section

Comments were favorable, therefore, the agency had no disagreement with comments

The new section is adopted under Texas Civil Statutes, Article 4495b, which provide the Texas State Board of Medical Examiners with authority to make rules, regulations, and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulations of the practice of medicine in this state, and the enforcement 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 March 5, 1984

TRD-842662      A Bryan Spires, Jr., M D  
Executive Director  
Texas State Board of Medical  
Examiners

Effective date. March 27, 1984

Proposal publication date. January 6, 1984

For further information, please call (512) 452-1078.

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

### Chapter 423. Rules of Procedure and Seal

#### Code of Professional Responsibility and Conduct

##### 22 TAC §423.1

The Texas Board of Private Investigators and Private Security Agencies adopts the repeal of §423.1, without changes to the proposal published in the December 9, 1983, issue of the *Texas Register* (8 TexReg 5096).

The repeal is required so that a new section with changes or amendments may be adopted

The repeal eliminates burdensome language and permits a new section which is written more clearly.

No comments were received regarding adoption of the repeal.

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

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

Issued in Austin, Texas, on March 2, 1984

TRD-842631      Clema D. Sanders  
Executive Director  
Texas Board of Private  
Investigators and Private  
Security Agencies

Effective date. March 26, 1984

Proposal publication date. December 9, 1983

For further information, please call (512) 475-3944.

The Texas Board of Private Investigators and Private Security Agencies adopts new §423.1, without changes to the proposed text published in the December 9, 1983, issue of the *Texas Register* (8 TexReg 5097).

The new section covers standards of conduct for licensees and employees of licensees, specifies appropriate actions to be taken by the board as well as actions required of licensees, makes known to licensees the standards of conduct by which they must abide, and permits better regulation standards for the board

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 4413(29bb), which provide the Texas Board of Private Investigators and Private Security

Agencies with the authority to promulgate all rules and regulations necessary in carrying out the provisions of this Act.

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

Issued in Austin, Texas, on March 2, 1984

TRD-842632      Clema D Sanders  
Executive Director  
Texas Board of Private  
Investigators and Private  
Security Agencies

Effective date: March 26, 1984

Proposal publication date December 9, 1983

For further information, please call (512) 475-3944.

## TITLE 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 145. Long-Term Care

##### Subchapter E. Procedures on Long-Term Care Facilities

The Texas Department of Health adopts amendments to §§145.82-145.84, 145.88, and 145.89, with a number of minor changes to the proposed text published in the October 18, 1983, issue of the *Texas Register* (8 TexReg 4253). Amended §145.81 and §145.87, and new §145.90 are adopted without changes and will not be republished here.

The amendments and new section implement certain recent legislation of the 68th Legislature, 1983, covering long-term care facilities: House Bill 102 on unannounced inspections and inviting citizen advocates to attend inspections, House Bill 225 on penalty for revealing advance information on an unannounced inspection, and Senate Bill 818 on the operation of part of a facility under the standards of a lesser category. The amendments also update certain practices of the agency and clarify the existing rules.

The rules provide for at least two unannounced inspections per year in each institution licensed under Texas Civil Statutes, Article 4442c, provide for the invitation of a citizen advocate to attend at least two unannounced inspections per year in each licensed institution, except for maternity homes; include a section to establish procedures for the operation of part of a facility under the standards of a lesser category; identify the types of inspections which are to be unannounced and which types must be or could be announced, authorize the inspection and survey staff to write compliance or warning letters to facilities, specify and clarify that certain personnel positions in specified organizational entities of the department are responsible for determining the degree to which a facility meets the standards and for making final decisions regarding the actions that must be applied to a facility so that the facility comply with standards, include definitions of abuse and neglect; include clarifications with regard to inspection of public records, and include miscellaneous clarifications and updating

to adequately reflect current long-term care programs and responsibilities of the agency.

Five comments related to the qualifications of the members of the teams surveying facilities for the mentally retarded. One commenter indicated the need for true professionals, one commenter indicated the need for a qualified mental retardation professional (QMRP) on each team, one commenter stated a mental retardation specialist who understands active treatment should be included on the teams, one commenter stated the need for a specialist on the team who has two years experience in providing services to mentally retarded persons, and one commenter questioned what is meant by specialists in mental health and mental retardation. The department's team structure now includes at least one person who meets the definition of a QMRP under federal regulations relating to the Medicaid certification of facilities for the mentally retarded. The department believes the present team structure is adequate. For clarification, wording has been added to §145.82(b) to say that qualified mental retardation professionals can be considered specialists under the wording "specialists in mental health and mental retardation."

One commenter stated that surveyors of facilities for the mentally retarded need training. All staff conducting inspections and visits to facilities have continuing training. These rules do not address training, therefore, this comment does not relate directly to these rules.

One commenter stated that allowing surveyors to make judgments will require in-depth training. That part of the rules relating to using judgment is essentially the same as in the rules prior to these amendments. Any training requirements now evident applied before these amendments have been written. Also, these rules do not address training, therefore, this comment does not relate directly to these rules.

Concerning §145.83(i), one commenter indicated that citizen advocates invited to attend inspections of facilities for the mentally retarded should be from the Association for Retarded Citizens, one commenter indicated such person should be an advocate for the disabled. The department has considered these comments but notes that Texas Civil Statutes, Article 4442c, is specific on who is to be invited and does not include those types indicated in the comments.

Concerning §145.83(h), one commenter stated that conducting at least two unannounced licensure inspections per year in each facility, when considered together with follow-up and other type visits, will result in agency representatives being in a facility five to six times per year, thereby resulting in more time required for paper work and consequent less time available for rehabilitating clients. The department is required by Texas Civil Statutes, Article 4442c, to make at least two inspections per year in each facility, and, therefore, cannot lessen the requirement.

Two other comments pertained to the two unannounced inspections in each facility each year. One

commenter questioned what constitutes an inspection. One commenter stated that the word "licensure" should not be used since other types of inspections could satisfy the intent of the legislature in requiring at least two unannounced inspections. The legislature and these rules do not define the extent of an inspection performed to satisfy the requirement. The extent of the inspection may vary depending on conditions found, and in some instances a follow-up to a previous inspection may satisfy the requirement. The department believes other types of inspections than licensure could be used to satisfy the law; therefore the department accepts the comment pertaining to deleting the word "licensure."

One commenter stated that the requirement not to reveal to an unauthorized person any information about an unannounced inspection in advance of the inspection will cause a paranoia to exist in the communication level between the department and the providers, thereby lessening the desirable mutual effort in assuring that quality care is provided to residents. These rules describe the types of inspections to be unannounced and the types which may be or are to be announced. The announced inspections can provide a means for workable communication and consultation, also, once an unannounced inspection is started, such communication and consultation can also be provided. The legislature has placed requirements not to reveal unannounced inspections, and where an inspection is to be an unannounced type, the requirements of the legislature prevail.

Concerning § 145.83(i), one commenter stated that opinions and observations of citizen advocates attending inspection should be documented in the field staff report without being edited for appropriateness. This comment has been accepted in part and the wording has been changed to state that the conclusions of the citizen advocates shall be advanced if pertinent within the field staff report.

Three comments were in reference to interpretations of standards. One commenter stated that all interpretive memoranda should be published and shared with providers and that a quarterly index should be published in the *Texas Register* and mailed to each facility. One commenter indicated the need for interpretations to be shared but did not make specific suggestions. One commenter said if a facility requests a clarification, the clarification should be issued to all facilities and made available to the public. Most facilities participate in the Medicaid Program. The Texas Department of Human Resources, the Texas Department of Health, and the Texas Department of Mental Health and Mental Retardation have recently implemented a system to make public program interpretations wherein interpretations would be coded to standards, printed on inserts to the standards, and mailed to providers. This system and any future additions or adaptations thereto comes under the wording of the rule "will issue in a consistent and formal manner" in § 145.81. The department therefore accepts these comments in part, and additionally has indicated in

§ 145.83(a) that the memoranda will be codified, and existing interpretive memoranda will be reviewed for validity and reissued with codifications.

Concerning § 145.84(a)(1) and § 145.84(b)(3), one commenter stated that the local department physician should perform an on-site evaluation of all proposed vendor holds or decertifications, also that a central office physician should review all proposed vendor holds and decertifications. The department does not have funds and staff to provide this physician involvement; however, on all proposed decertification or more serious actions there will be physician involvement in the central office review of the cases.

Concerning § 145.84(a)(2), one commenter stated that violations from a complaint investigation should be listed and discussed at the exit conference, and narratives should be furnished, the same as for surveys. The department accepts the recommendation in part and has added language to state that violations or deficiencies will be furnished in writing to the facility as well as any supporting narratives, but the complainant will not be revealed.

One commenter stated that when a disciplinary action is recommended, inspection personnel should in all cases let facility management know what disciplinary action is involved. The department does not accept this comment since the disciplinary actions of emergency closure and appointment of a trustee, that is, actions involving the courts, to be effective cannot be revealed in advance to the facility at time of inspection.

Concerning § 145.84(a)(2) and § 145.84(b)(3), one commenter stated that when the central office changes a disciplinary action the facility should be notified by telephone followed by letter. In such cases the department believes the current methods of notification are sufficient.

Concerning § 145.89(e), two comments pertained to confidentiality of complaints. One commenter said complaints found invalid should be confidential and not a part of open records. One commenter said if complaints are unsubstantiated they should not be withheld from public access. These comments are in conflict. The department believes that under the state open records law, all complaint reports (but not cases concluded to be abuse or neglect situations under Texas Civil Statutes, Article 4442c, § 16) are required to be available for public inspection, with of course the necessary deidentification.

Concerning § 145.84(a)(2) and § 145.84(b)(4), one commenter said there should be definitions of violation, deficiency, serious violation, and serious deficiency. The department has clarified the meaning of these words by stating that violations or deficiencies relate to applicable laws, standards, or regulations, and that violations or deficiencies are serious to the extent that they, individually or in combination, jeopardize the health or safety of patients/residents.

One commenter favored the change of the word "institution" to "facility" throughout. The department

notes that the word "institution" is used throughout Texas Civil Statutes, Article 4442c, and has not changed the wording.

Concerning § 145.84(b)(4)(A), one commenter stated that with reference to the list of available disciplinary action, seeking civil penalties is outside the contractual arrangement between the Texas Department of Health and the Texas Department of Human Resources. This is true, however, the licensing law, Texas Civil Statutes, Article 4442c, speaks to civil penalties. Therefore, the department is making no word changes from the proposed wording.

Concerning § 145.84(b)(4)(A), one commenter stated that in the list of disciplinary actions, the one "causing any other corrective action as may be provided for by applicable law or rule" is overly broad and seems to be contradictory. The department is not changing the wording since the department would want to be applicable any action that is or may in the future be legal but is not specifically listed.

Concerning § 145.84(b)(4)(B), one commenter recommended that when a case for disciplinary action is reviewed, all responses and justifications of the facility should be a part of the review. The department has accepted this comment and has added wording to say that in the central office review the facility's comments will be included.

Concerning § 145.84(b)(5), one commenter stated that the department should follow up to a vendor hold or more serious disciplinary action at the facility's request, but in any case no more than 30 days after the original action. The department accepts this comment in part and has included procedures for follow-up visits.

Concerning § 145.88(h)(1), one commenter indicated that the definition of abuse is too broad and does not allow managerial flexibility to discipline and that verbal abuse should be handled by facility management. The department believes the definition as written in the proposed rules is basically appropriate, but the department has removed reference to "omission" in the definition since the word "act" can include an act of omission.

Concerning § 145.88(a), (e), (f), (i), and (l), one commenter said that the result of the department's investigations of abuse and neglect are conclusions and do not prove that the facility was guilty as the word "substantiate" would imply, and that the department should delete the word "substantiate" (and also "unsubstantiate") from the rule. On cases where the department concludes from investigation that abuse or neglect in accordance with Texas Civil Statutes, Article 4442c, § 16, has taken place, the department sends the cases to the appropriate district attorney and appropriate law enforcement agency for those persons' actions as those persons deem appropriate. In view of this procedure, the department accepts the comment and has deleted the words "substantiate" and "unsubstantiate" and uses the word "concludes."

Concerning § 145.88(e) and (f), one commenter stated that all abuse and neglect reports must be investigated as described in Article 4442c, § 16, before a decision is made to substantiate and that substantiation should not be made on the basis of whether a resident is "adversely affected." (The comment would still apply although the words "substantiate" and "unsubstantiate" are no longer used, as described in the preceding comment.) The department's present practice is to determine from the initial phase of an investigation of a report a conclusion of whether abuse or neglect has occurred. If the department concludes that no abuse or neglect adversely affecting the physical or mental health or welfare of a resident has occurred, no further investigations under Article 4442c, § 16, is necessary. The department accepts the comment in part by adding clarification wording to the rule. The department is retaining the wording "adversely affected" since Article 4442c, § 16, states that a person reporting a case of abuse or neglect must have "cause to believe that an institution resident's physical or mental health or welfare has been or may be adversely affected by abuse or neglect."

Concerning § 145.88(i) and § 145.89(e), two commenters said abuse and neglect investigation reports should be made available to the public, and that Article 4442c allows for this procedure. The department, however, believes the restriction on release, as currently in effect, should be continued. The legislature determined that there should be a central registry for cases of abuse and neglect and specifically provided language for confidentiality of the reports, records, and working papers used or developed in an investigation, with the intent that there must be some restriction on making such documents available to the public but such documents should be disclosed to those public agencies which have a valid interest in the case.

Concerning § 145.88(e) and § 145.89(e), two commenters indicated that both substantiated and unsubstantiated reports of abuse or neglect should be made available to the public. (Please see the preceding comment.) Unsubstantiated cases, that is, where the department concludes that no abuse or neglect has occurred, are available for public inspection.

Concerning § 145.88(j), one commenter stated that where a case of abuse or neglect involves care or treatment of a person in a hospital or clinic, the department should furnish information to a treating physician only on request. The department does not agree with this comment since it believes it would be in the best interest of a patient who has been abused or neglected and as a result is now in a hospital that the treating physician have any information which is pertinent to the care or treatment.

Concerning § 145.88(i)(1), one commenter said that on the release of reports of abuse or neglect to other appropriate agencies, the department should do so only on request of those agencies. The department does not agree with this comment but rather believes the best interest of the person abused or neglected

in most cases would be for the department to notify the interested and appropriate agencies.

One commenter said that once conclusions are made on the status of a case of abuse or neglect, the case should be closed and any reference to inferring that case would be reopened should be deleted from the rule. The department accepts this comment in part, has deleted § 145.88(i)(4), and has stated in § 145.88 (i)(3) that the facility will be notified of the department's condition.

Concerning § 145.89(c)(1), one commenter stated that inspection of records should be made available at the department's field offices. The department believes that with the deidentification requirements for records and the necessity to maintain the confidentiality of complainants, the department must continue with the current practice of providing control and providing public disclosure at the central or main office in Austin.

Concerning § 145.89(c)(5), three commenters said there is no basis for requiring a person to come to the office (Austin) personally to identify the records requested. The department agrees with these comments and has deleted that wording.

Concerning § 145.89(e)(4), two commenters stated that withholding information about any identifiable person which is defamatory or an invasion of privacy is too imprecise and allows the department arbitrary action; the language is too broad; only purge names as necessary. The department believes that the rule as written is reasonable and appropriate for the following reasons. The rule does not allow for department arbitrary action because the practice and procedure of the program staff of the department is to refer questions regarding defamation or invasion of privacy to the department's Office of General Counsel for its legal advice on whether to release the information, and the purging of names alone is not sufficient in some cases to prevent the identification of individuals.

Concerning § 145.89(c)(3), one commenter said the words "whenever possible" should be deleted from the statement "whenever possible, the requestor shall give reasonable prior notice of the time for inspection and/or copying of records." The department agrees with this comment and has deleted those two words.

Concerning § 145.89 in general, one commenter said the Texas Open Records Act should be followed and that nursing homes are businesses and should not be exempt from public disclosure of records. The department is of the opinion that its current practice of disclosure of records is in accordance with the Texas Open Records Act.

Concerning § 145.89(f)(3), three commenters said the specified cost of obtaining copies of records is too great, and one of the commenters indicated that the costs should be lowered for persons who show that the standard fee would deny them access. The State Purchasing and General Services Commission and the Texas Department of Health have established costs, which are applicable to all persons. The wording of

the rules has been changed to reflect that the charges will be as determined by the State Purchasing and General Services Commission or the Texas Department of Health. All wording referring to exact costs has been deleted.

The department has made other adjustments in the wording of these rules in the interest of clarity, but no such adjustment is substantive in nature.

The following groups, associations, agencies, or organizations commented on the proposed rules. Develo-Cepts, Inc ; Beverly Enterprises, Austin Friends of Nursing Home Residents, Texas Nursing Home Association (now Texas Health Care Association), American Association of Retired Persons, Association for Retarded Citizens, Texas, Advocacy, Inc , and the Texas Department of Human Resources

Austin Friends of Nursing Home Residents, American Association of Retired Persons, Association for Retarded Citizens, Texas, and the Texas Department of Human Resources expressed general support of these rules, although some of these groups or organizations made comments in regard to specific concerns, questions, recommendations, and needed clarifications. Other groups or organizations were not clearly for or against the rules; instead, their comments were in regard to specific concerns, questions, recommendations, and needed clarifications. One individual commented.

#### 25 TAC §§145.81-145.84, 145.87-145.89

The amendments are adopted under Texas Civil Statutes, Article 4442c, §§4, 5, 6B, 7, 9, and 16, and the Texas Human Resources Code, Title 6, Chapter 103, §103.005, which authorize the department to adopt rules covering the department's procedures on the regulation of long-term care and related facilities.

#### *§145.82. Personnel Performing Inspections, Survey, and Utilization Review/Quality Assurance Visits*

(a) The department performs licensing inspections and other functions to carry out the requirements of Texas Civil Statutes, Article 4442c, and the Human Resources Code, Title 6, Chapter 103. The department performs inspections, surveys, and certification actions with reference to long-term care facilities participating in Title XVIII Medicare and Title XIX Medicaid programs of the U. S. Social Security Act as skilled nursing facilities or intermediate care facilities including intermediate care facilities for the mentally retarded. The department performs on-site visits pursuant to the Texas Utilization Review/Quality Assurance Program under Title XIX Medicaid.

(b) To accomplish all of these functions, the department is staffed with physicians, health facility specialists, registered nurses, nutritionists, pharmacists, medical-social personnel, specialists in mental health and mental retardation including qualified mental retardation professionals, and architects/engineers, together with necessary and appropriate administrative personnel, program officers, program specialists, special investigators, reviewers, administrative technicians, and support staff.

§145.83 *Inspections, Surveys, and Visits*

(a) Inspection and survey personnel and personnel performing utilization review/quality assurance visits will perform inspections and surveys, follow-up visits, complaint investigations, investigations of abuse or neglect, on-site visits pursuant to utilization review/quality assurance, and other contact visits from time to time as they deem appropriate or as required for carrying out the responsibilities of licensing, Titles XVIII/XIX certification, and Title XIX utilization review/quality assurance.

(b) An inspector or surveyor of particular expertise will normally perform inspections in segments of operation speaking to his expertise; however, this does not preclude an inspector or surveyor of one expertise from assisting an inspector or surveyor of another expertise. Inspectors or surveyors who have completed federal official training as either general or special health facility surveyors may be used from time to time to perform certain inspections falling within other segments of operation than that of an inspector's or surveyor's expertise. However, substitution of required disciplines or areas of expertise relative to personnel performing utilization review/quality assurance visits is very limited.

(c) An inspection pursuant to licensure or certification may be conducted by an individual inspector or surveyor or by a team, depending on the purpose of the inspection or survey, size of facility, levels of care and service provided by the facility, and other factors. The team composition may vary from two members to several members. However, an inspection by a single person may be necessary from time to time.

(d) To determine standard compliance which cannot be verified during regular working hours, night or weekend inspections may be conducted to cover specific segments of operation and will be completed with the least possible interference to staff and residents while satisfying the intent of the inspection.

(e) With respect to being unannounced or announced, inspections, surveys, and other visits shall meet the following:

(1) All inspections, surveys, and other visits that are routine in nature and that are made for the purpose of determining the appropriateness of resident care and day-to-day operations of a facility will be unannounced, any exceptions must be justified.

(2) Call-back visits will be unannounced, although it is recognized that the schedule of a call-back visit often relates to a date of correction made known to or by a facility in advance, any exceptions must be justified.

(3) Any nonroutine or special inspection, survey, and other visit involving the appropriateness of some aspect of resident care will be unannounced unless particular circumstances justify otherwise.

(4) Complaint investigations will be unannounced.

(5) Some inspections or visits may be announced, such as

(A) inspections or visits to determine the progress or completion of physical plant construction or repairs, equipment installation or repairs, or systems installation or repairs;

(B) inspections or visits to determine the acceptability of certain proposed or newly purchased care systems such as computerized systems of medical records or special medication handling systems, and

(C) conditions when certain emergencies arise, such as fire, windstorm, or malfunctioning or nonfunctioning of electrical or mechanical systems.

(6) Consultation visits should be arranged with the facility in advance, inspections to determine how a physical plant may be expanded or upgraded may be considered consultation visits.

(7) The inspections, surveys, and visits described in paragraphs (1)-(6) of this subsection are listed as examples and are not intended to be all-inclusive.

(f) Any department employee who intentionally, knowingly, or recklessly discloses to any unauthorized person the date, time, or any other fact about an unannounced inspection before the inspection occurs, commits an offense under Texas Civil Statutes, Article 4442c. The offense is a Class B misdemeanor, and any department employee convicted is ineligible for state employment.

(g) Persons authorized to receive advance information on unannounced inspections include

(1) citizen advocates invited to attend inspections, as described in subsection (i) of this section.

(2) representatives of the Texas Department on Aging serving as ombudsmen or authorized to attend or participate in inspections.

(3) representatives of the Department of Health and Human Services whose programs relate to the Medicare/Medicaid Long-Term Care Program.

(4) representatives of the Texas Department of Human Resources whose programs relate to the Medicare/Medicaid Long-Term Care Program.

(5) persons of other federal, state, or local governmental agencies or organizations whose responsibilities require notice of inspections.

(6) any person authorized by law to make inspections relating to inspections of the department or authorized by law to accompany inspectors.

(h) The department will conduct at least two unannounced inspections per year of each institution licensed under Texas Civil Statutes, Article 4442c; additional inspections may be made by the department as deemed necessary, and such additional inspections may be announced or unannounced but must conform to subsection (e) of this section. The 12-month period beginning on October 1 of each year and ending on September 30 of the following year will be considered the annual period during which at least two unannounced inspections will be made of each licensed institution.

(i) In each year for at least two unannounced inspections of each facility licensed under Texas Civil Statutes, Article 4442c, the department will invite to the inspections at least one person as a citizen advocate from the American Association of Retired Persons, the Texas Senior Citizens Association, the Texas Retired Federal Employees, the Texas Department on Aging certified long-term care ombudsman, or any other statewide organization for the elderly; the invitations to these organizations will be made by the department. The department will provide to these organizations basic li-



censing information and requirements for the organizations' dissemination to their members whom they engage to attend the inspections. Opinions, observations, and conclusions of citizen advocates, after discussion with the professional staff of the inspection team, shall be advanced if pertinent, within the field staff report and not independently or publicly. The schedule of inspections in this category will be arranged confidentially in advance with the organizations. Performing these inspections is not conditioned on the acceptance of the invitation or participation by the advocates. Advocates will provide their own transportation. The 12-month period beginning on October 1 of each year and ending on September 30 of the following year will be considered the annual period during which at least two unannounced inspections will be made of each licensed institution with invitation for citizen advocate participation. Invitations to citizen advocates do not apply to institutions that provide maternity care

**§145.84. Determinations and Actions Pursuant to Inspections, Surveys, and Visits.**

(a) Determining compliance, reporting, and notification of new rules and information.

(1) The director of the Quality Standards Division, Bureau of Long-Term Care, of the department, will determine if a facility meets the rules, standards, and interpretive memoranda relating to licensing and relating to participation in Titles XVIII and XIX as may be applicable, including both physical plant and facility operation requirements. Inspection and survey personnel and, as appropriate, personnel performing on-site utilization review/quality assurance visits, are authorized to make judgments based on rules, standards, and interpretive memoranda, using their training, experience, and professional expertise in determining the level of compliance of a facility, subject to the approval of the director, Quality Standards Division

(2) Violations or deficiencies with respect to applicable laws, standards, or regulations will be listed on forms designed for the purpose of the inspection, survey, or visit, or will be listed in letter, narrative, or other style when the purpose of the visit deems that method more appropriate. At the conclusion of an inspection or survey, the violations or deficiencies will be discussed in an exit conference with the facility's management, that is, with the administrator or manager or with that person's designee. A written list of the violations or deficiencies will be left with the facility at the time of the exit conference; any additional violation or deficiency that may be determined during review of field notes or preparation of the official final list (when the official final list was not issued at the exit conference) will be communicated to the facility within three working days of the exit conference, and the facility will have three working days to communicate a reply before such additional violation or deficiency is added to or made a part of the permanent record. Copies of any narratives or similar papers written to further describe the conditions found will be furnished to the facility. Violations or deficiencies found during complaint investigations will be discussed with the facility management and a plan of correction obtained; the violations or deficiencies will be furnished in writing to the facility as well as any supporting narratives but shall not reveal the source

of the complaint. In most cases when a disciplinary action is warranted, it is appropriate for inspection and survey personnel to advise the facility management of the disciplinary action being recommended; if a final action determined by the department is different from the recommended action, the facility management will be so informed.

(3) Each facility will be notified of applicable new rules and standards at the time such rules and standards are filed with the *Texas Register*; these notifications are intended to provide notice of rules and standards in advance of inspections and surveys, unless otherwise required. Similarly, each facility will be notified of applicable interpretive memoranda in codified form as soon as such memoranda are in final form and are released for use or are filed in the *Texas Register*. Existing interpretive memoranda will be reviewed for validity and reissued with codifications by the department. Where interpretive memoranda are effective for use at the time of release or publication, unless otherwise required, an additional time of not less than 20 days will be given prior to application to the facility of the content of an interpretive memorandum in those cases where an additional obligation would be imposed on the facility. Rules or interpretive memoranda pertaining to the internal operations of the department are excepted

(b) Determining degree of noncompliance and determining disciplinary actions

(1) Inspection and survey personnel and, as appropriate, personnel performing on-site utilization review/quality assurance visits, will determine the extent to which violations or deficiencies adversely affect the health, safety, or welfare of residents of a facility and adversely affect the licensure status or, when appropriate, the certification status of the facility; determinations are subject to review, concurrence, or other determination by the director, Quality Standards Division, except in cases involving serious disciplinary actions, by the chief, Bureau of Long-Term Care, as described in paragraph (4) of this subsection.

(2) The determinations by inspection and survey personnel or personnel performing on-site utilization review/quality assurance visits that a facility is in compliance or substantial compliance with requirements is subject to review, concurrence, or other determination of the director, Quality Standards Division. A facility may have certain violations or deficiencies and yet be considered to be in substantial compliance as long as violations or deficiencies can be reasonably expected to be corrected with acceptable methods and within an acceptable time.

(3) When inspection and survey personnel or personnel performing on-site utilization review/quality assurance visits determine that a facility is out of compliance with requirements to a degree that the facility must be specially warned beyond the routine methods of appraising the facility of its violations or deficiencies, the inspection and survey personnel are authorized to send the facility a compliance or warning letter, subject to review, concurrence, or other determination of the director, Quality Standards Division.

(4) Procedures regarding serious violations or deficiencies are as follows:

(A) Violations or deficiencies are serious to the extent that they, individually or in combination, jeopardize the health or safety of patients/residents. Where such violations or deficiencies exist, more stringent action than a compliance or warning letter notice is warranted. In such event the inspection and survey personnel or personnel performing on-site utilization review/quality assurance visits will recommend one or more appropriate actions to be taken to rectify the violations or deficiencies. Such actions may include:

(i) requesting the state Title XIX agency to hold vendor payments to a facility;

(ii) moving toward decertification of a facility, or toward denying certification status of a facility with respect to the Title XVIII and Title XIX programs, as may be applicable;

(iii) recommending that the Texas Department of Human Resources cancel the contract that agency has with a facility;

(iv) moving toward invocation of an automatic cancellation clause in a facility's contract to provide Title XVIII or Title XIX services, as may be applicable;

(v) seeking civil penalties;

(vi) requesting the appointment of a trustee to operate a facility;

(vii) immediately closing a facility or part of a facility;

(viii) moving toward suspending, denying, or revoking the license of a facility; or

(ix) causing any other corrective action as may be provided for by applicable law or rule.

(B) The violations or deficiencies and the recommended actions, along with the facility's comments, will be reviewed by the chief, Bureau of Long-Term Care, or in his/her absence by his/her designee; the director, Quality Standards Division, Bureau of Long-Term Care, or in his/her absence by his/her assistant or designee; the director, Professional Services Division, or in his/her absence by his/her assistant or designee; and other personnel as may be requested to engage in the review. In cases involving direct patient/resident care and a recommendation of decertification, cancellation of a facility's contract, involuntary appointment of a trustee, or revocation of the facility's license, the review panel shall include a registered nurse, and a physician shall participate in the review panel or otherwise review the report and give an opinion on the degree of insufficiency of direct patient/resident care.

(C) The chief, Bureau of Long-Term Care, will determine the appropriate action or actions needed to rectify the condition in the facility. Subchapter J of this chapter (relating to Procedures Covering Certification and Decertification of Long-Term Care Facilities Which Participate in the Title XIX Medical Assistance Program) may be considered in determining an appropriate action.

(D) The director, Quality Standards Division, will carry out the decisions of the chief, Bureau of Long-Term Care, in accordance with applicable laws, rules, and regulations.

(5) Inspection and survey personnel will determine a time frame or will determine the appropriateness

of a time frame proposed by a facility to correct violations or deficiencies, subject to review, concurrence, or other determination by the director, Quality Standards Division, or by the chief, Bureau of Long-Term Care, in cases where the appropriateness of a time frame is related to a rectifying action determined by that person.

(6) Visits and surveys following disciplinary actions are as follows:

(A) After a vendor hold action becomes effective, the department will conduct at the earliest possible date a follow-up visit on request of the facility if the facility advises the department, or the department is of the opinion, that the conditions occasioning the vendor hold have been corrected.

(B) On vendor hold actions taken pursuant to health or safety hazards as identified by the Texas Department of Human Resources in 40 TAC §16.1510 and §27.2505, (relating to Sanction Provisions for Violations of Title XIX Nursing Facility Contractual Agreements), the department will conduct a follow-up visit during the allowable vendor hold period named in those rules, and again, if necessary, to establish the status of the facility at the end of the allowable period.

(C) After a facility loses its contract to provide services, the department will conduct at the earliest possible date a survey after the facility has reapplied for a contract and the facility advises the department, or the department is of the opinion, that the conditions occasioning the loss of contract have been corrected.

(D) The department will arrange follow-up visits as required to establish a facility's eligibility for a nonprobationary contract following a probationary contract, in accordance with 40 TAC §16.1510 and §27.2505 (relating to Sanction Provisions for Violations of Title XIX Nursing Facility Contractual Agreements) of the Texas Department of Human Resources.

(7) Reference is made to Subchapter J of this chapter (relating to Procedures Covering Certification and Decertification of Long-Term Care Facilities Which Participate in the Title XIX Medical Assistance Program).

*§145.88. Reports of Abuse and Neglect under Texas Civil Statutes, Article 4442c, §16.*

(a) Reports are to be made to the Texas Department of Health or to any local or state law enforcement agency. A person reporting a case of abuse or neglect must have cause to believe that an institution resident's physical or mental health or welfare has been or may be adversely affected by abuse or neglect caused by another person or persons. The reported abuse or neglect will be considered by the department as being alleged until the department concludes, based on its findings, that abuse or neglect has occurred.

(b) Legitimacy of reports.

(1) For a report to be considered a legitimate report under Texas Civil Statutes, Article 4442c, §16, the report must contain:

(A) the name and address of the institution resident;

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

(2) (No change.)

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

(e) If the initial phase of an investigation of a report of abuse or neglect concludes that no abuse or neglect

adversely affecting the physical or mental health or welfare of a resident has occurred, no further investigation under §16 is required.

(f) If an investigation of a report of abuse or neglect concludes that abuse or neglect adversely affecting the physical or mental health or welfare of a resident has occurred, the investigation will continue and follow the investigative steps required by §16(e)(2). The investigator will complete the report and make recommendations for action; the recommendations on the report will usually relate to further action the department should take or action or correction the facility must make. The division director or bureau chief will review the report and make recommendations to the commissioner for final action. The department will send a copy of the report together with the recommendations and final determinations to the appropriate district attorney and the appropriate law enforcement agency; the district attorney and law enforcement agency will determine their own actions

(g) The department will establish and maintain in Austin, Texas, a central registry of cases of abuse or neglect

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

(1) Abuse—The willful, knowing, or reckless act of mistreatment by anyone through words or physical action which results in physical injury or emotional or mental damage to a resident

(2) Neglect—The habitual careless deprivation of life's necessities which causes physical or emotional injuries to a resident or adversely affects the resident's health and development.

(i) All reports, records, and working papers used or developed in an investigation under §16 are confidential, with the following exceptions:

(1) The department's completed written investigation report on cases concluded to be abuse or neglect shall be furnished to the district attorney and appropriate law enforcement agency. The department also may release these reports to any other public agency the department deems appropriate to the investigation.

(2) The department's completed written investigation reports on cases concluded not to be abuse and neglect are open to the public, provided the report is deidentified. The process of deidentification means removing all names and other personally identifiable data, including any information from witnesses and others furnished to the department as part of the investigation.

(3) The complainant and the facility will be notified of the results of the department's investigation of a reported case of abuse or neglect, whether the department concluded that abuse or neglect occurred or did not occur.

(j) Where the case of abuse or neglect involves care or treatment of a person in a hospital or clinic, the department will furnish to the treating physician at the hospital or clinic any information the department may have which is pertinent to the care or treatment of the person. The hospital or clinic shall keep this information confidential.

(k) The following interpretations are made relating to the detailed determinations of the investigation:

(1) The names and conditions of the other institution residents are interpreted to mean only those residents who are affected or likely to be affected by the case. The conditions of the residents mean their general conditions as they relate to the abuse or neglect and do not necessarily mean their medical diagnoses.

(2) The evaluation of the persons responsible for the care of the institution residents relates to a general evaluation of the adequacy of the persons in numbers and the competence of persons to deliver the care intended, including specific evaluation individually of those persons directly involved in causing abuse or neglect.

(3) The adequacy of the institution environment is a general evaluation which may include general operation, competence of staff, attitude of staff, physical environment, and other considerations

(l) Should a report made by a person under §16 be partly a case concluded to be abuse or neglect and partly some other conditions, that portion which is concluded to be abuse or neglect will be handled as called for in this section.

**§145.89 Procedures for Inspection of Public Records.**

(a) Procedures for inspection of public records will be in accordance with the Texas Open Records Act, Texas Civil Statutes, Article 6252-17a, and as further described in this section.

(b) The department's Bureau of Long-Term Care will be responsible for the maintenance and release of records on licensing, certification, quality of patient/resident care in long-term care facilities, and other related records.

(c) The application for inspection of public records is subject to the following criteria:

(1) The application is made to the Bureau of Long-Term Care, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756

(2) The requestor shall identify himself/herself.

(3) The requestor shall give reasonable prior notice of the time for inspection and/or copying of records

(4) The requestor shall specify the records requested.

(5) On written applications, if the Bureau of Long-Term Care is unable to ascertain the records being requested, the bureau may return the written application to the requestor for further specificity.

(6) The bureau shall provide the requested records as soon as possible. However, if the records are in active use, or in storage, or time is needed for proper deidentification or preparation of the records for inspection, the bureau shall so advise the requestor and set an hour and date within a reasonable time when the records will be available

(d) Original records may be inspected or copied, but in no instance will original records be removed from department offices

(e) Records maintained by the Bureau of Long-Term Care are open to the public, with the following exceptions:

(1) Incomplete reports, audits, evaluations, and investigations made of, for, or by the department are confidential;

(2) Reports of abuse and neglect are confidential to the extent authorized by subsection (i) of §145.88 of

this title (relating to Reports of Abuse and Neglect under Texas Civil Statutes, Article 4442c, §16);

(3) All names and related personal, medical, or other identifying information about a resident/patient are confidential,

(4) Information about any identifiable person which is defamatory or an invasion of privacy is confidential,

(5) Information identifying complainants or informants is confidential,

(6) Itineraries of surveys and inspections are confidential because of the confidentiality requirements of unannounced inspections in §145.83 of this title (relating to Inspections, Surveys, and Visits), subsection (f);

(7) To implement this subsection, the bureau may not alter or deidentify original records. Instead, the bureau will make available for public review or release only a properly deidentified copy of the original record.

(f) Charging for copies of records

(1) If the requestor simply wants to inspect records, the requestor will specify the records to be inspected and the bureau will make no charge for this service, except where the bureau chief determines that a charge is appropriate based on the nature of the request.

(2) If the requestor wants to request copies of a record, the requestor will specify in writing the records to be copied on an appropriate bureau form, and the bureau will complete the form by specifying the cost of the records which the requestor shall pay in advance. Checks and other instruments of payment will be made payable to the Texas Department of Health.

(3) Any expenses for standard-size copies incurred in the reproduction, preparation, or retrieval of records shall be borne by the requestor on a cost basis in accord with costs established by the State Purchasing and General Services Commission or the Texas Department of Health for office machine copies

(4) For documents that are mailed, the department will charge for the postage at the time it charges for the production. All applicable sales taxes will be added to the cost of copying records

(5) When a request involves more than one long-term care facility, each facility will be considered a separate request

(g) The bureau will make a reasonable effort to furnish records promptly and will extend to the requestor all reasonable comfort and facility for the full exercise of the rights granted by the Open Records 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 March 6, 1984

TRD-842703 Robert A. MacLean, M D  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Effective date March 28, 1984

Proposal publication date October 18, 1983

For further information, please call (512) 458-7706.

## 25 TAC §145.90

The new section is adopted under Texas Civil Statutes, Article 4442c, §§4, 5, 6B, 7, 9, and 16, and the Texas Human Resources Code, Title 6, Chapter 103, §103.005, which authorize the department to adopt rules covering the department's procedures on the regulation of long-term care and related facilities

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 March 6, 1984

TRD-842704 Robert A. MacLean, M D  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Effective date March 28, 1984

Proposal publication date October 18, 1983

For further information, please call (512) 458-7706

## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part X. Texas Water Development Board

#### Chapter 333. Area Water Quality Management

#### Surface Water Quality Standards

### 31 TAC §333.21

The Texas Water Development Board adopts amendments to §333.21, without changes to the proposed text published in the December 27, 1983, issue of the *Texas Register* (8 TexReg 5450)

The amendments change Appendix A to lower the dissolved oxygen criteria in the Houston Ship Channel from 1.5 milligrams per liter (mg/l) to 1.0 mg/l in Segment 1007. In Appendix C, the boundaries are being changed in Segment 1006 and Segment 1007 of the Houston Ship Channel

The section establishes water quality criteria used in evaluating necessary limitations on the quality of effluent discharged to Segment 1007 of the Houston Ship Channel

The department received one comment concerning the proposed amendments. Brandt Mannchen of Houston opposed the amendments because he felt that lowering the dissolved oxygen criteria would lower water quality and excuse noncompliance with wastewater discharge permits authorizing discharge to the Houston Ship Channel. The department feels that the proposed changes should be considered in concert with the other recommendations contained in the wasteload evaluation approved by the board on

December 8, 1983 The wasteload evaluation includes recommendations for specific actions to be taken by the department with respect to bypasses and overflows as well as sewage treatment plants that consistently fail to meet permit requirements. The department feels that these combined actions will ensure continued and responsible progress toward water quality improvement in the Houston Ship Channel.

The amendments are adopted under the Texas Water Code, §§ 131, 132, and 26-023, which provides the Texas Water Development Board with the authority to make rules setting water quality standards for the water in the state.

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

Issued in Austin, Texas, on March 6, 1984

TRD-842725 Susan Plettman  
General Counsel  
Texas Department of Water  
Resources

Effective date March 28, 1984  
Proposal publication date December 27, 1983  
For further information, please call (512) 475-7841

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Resources Chapter 10. Family Self-Support Services

The Texas Department of Human Resources adopts the repeal of §§ 10.1001 and 10.1003-10.1005, new §§ 10.1001, 10.1003-10.1014, the repeal of §§ 10.3201-10.3205 and 10.3209, and new §§ 10.3201-10.3205 and 10.3209 in the Family Self-Support Program. The repeals and new rules were published as proposals in the November 25, 1983, issue of the *Texas Register* (8 TexReg 4906). New §§ 10.1001, 10.1005, 10.3201, and 10.3202 are adopted with changes to the proposed text. The other repeals and new rules are adopted without changes to the proposed text and will not be republished in this issue. The comment period on the proposed rules ended December 25, 1983.

No comments were received, however, the department has clarified that § 10.1001(a)(4) applies to people who are eligible for Medicaid, rather than Medical Assistance Only, and meet the other conditions listed in paragraph (4). Also, the department is clarifying § 10.1005(2), to show that contracted provider staff must also advise clients of the fair hearing procedure.

Section 10.3201(c)(4) and § 10.3202(a)(2)-(4) are clarified to identify the recipients as eligible for family self-support services.

### Eligibility Determination

#### 40 TAC §§ 10.1001, 10.1003-10.005

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

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

Issued in Austin, Texas, on March 6, 1984.

TRD-842669 Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Effective date: April 1, 1984  
Proposal publication date: November 23, 1983  
For further information, please call (512) 441-3355,  
ext. 2037

### Eligibility Determination and Monitoring

#### 40 TAC §§ 10.1001, 10.1003-10.1014

The new sections are adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

#### § 10.1001. People Who Are Eligible.

(a) The following people are eligible for directly delivered family support services:

- (1) AFDC recipients;
- (2) SSI recipients;
- (3) refugees/entrants receiving cash assistance;
- (4) people who are eligible for Medicaid, are less than 21 years old, and are requesting early and periodic screening, diagnosis, and treatment (EPSDT) services;
- (5) former AFDC recipients who have completed a DHR employment services case plan and are now food stamp recipients or are eligible for services based on their income.

(b) Parents or caretakers are eligible to receive day care for their children if they receive food stamps or are eligible for services based on their income and they:

- (1) have an active DHR employment services case plan, or
- (2) have completed a DHR employment services case plan. These parents or caretakers are eligible to receive day care for their children for up to one year after denial of the grant as long as the parents or caretakers remain employed or in training, or up to 30 calendar days if they are seeking employment.

(c) The following people are eligible for purchased family self-support services:

- (1) AFDC recipients;
- (2) SSI recipients;
- (3) refugees/entrants receiving cash assistance;
- (4) food stamp recipients;

(5) people whose gross monthly income for the family equals or is less than the established food stamp gross income guidelines;

(6) people who are MAO recipients and want family planning medical services,

(7) people specified in the contractor's service delivery plan for temporary emergency relief services

(d) The following people are eligible without regard to income:

(1) children receiving protective services who, according to their protective services worker, need or require protective day care;

(2) victims of family violence, as defined in the Human Resources Code, Chapter 51; concerning violent family members; and anyone living with victims of family violence are eligible for family violence services only;

(3) refugees and entrants who request English as a second language and purchased employment services;

(4) people who are less than 21 years old who request group presentation and discussion about family planning;

(5) people needing information and referral services

*§10.1005. Rights of People Applying for Services.*  
People have the right to.

(1) receive a decision on their application within 20 calendar days after it is received by the DHR or an agency under contract with the DHR;

(2) receive a fair hearing. Generally, clients applying for or receiving services, or people acting on their behalf, may appeal the denial, reduction, or termination of services. The DHR and contracted provider staff must advise clients of the procedure for requesting fair hearings;

(3) receive services without discrimination based on age, sex, race, creed, political affiliation, color, national origin, or handicap,

(4) receive protection of their confidential case information. The DHR or the contracted provider considers that information is confidential that is collected in determining initial or continuing eligibility for services. The DHR or the contracted provider treats information as confidential whether it is collected by DHR staff or staff of contracted provider agencies;

(5) reject offers of services or voluntarily withdraw from services. Rejection of certain services required for mandatory participants in the Employment Services program or Refugee/Entrant Cash Assistance Program may reduce the amount of the person's AFDC grant or Refugee/Entrant Cash Assistance grant.

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 March 6, 1984

TRD-842670      Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Effective date April 1, 1984  
Proposal publication date November 25, 1983  
For further information, please call (512) 441-3355,  
ext. 2037

## Family Planning Services

40 TAC §§ 10.3201-10.3205, 10.3209

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

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

Issued in Austin, Texas, on March 6, 1984

TRD-842671      Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Effective date April 1, 1984  
Proposal publication date November 25, 1983  
For further information, please call (512) 441-3355,  
ext. 2037

The new sections are adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs

*§10.3201. Eligibility and Freedom of Choice.*

(a) The Texas Department of Human Resources (DHR) and contracted provider staff must ensure that clients are free to voluntarily accept or reject family planning services. Acceptance or rejection is not a condition for the receipt of other services. The DHR and contracted provider staff must ensure that clients have a choice of family planning methods. The DHR and contracted provider staff are responsible for ensuring that clients have a choice of source of service.

(b) The DHR and contracted provider staff make family planning services available without regard to marital status, parenthood, handicap, age, color, religion, sex, ethnicity, or national origin. Family planning services are not limited to people of child-bearing age. Minors and post-sterilization and post-menopausal clients who request family planning services may be served. The DHR and contracted providers must not require clients who request contraceptive services under Title XIX and Title XX to obtain consent for receipt of the services from:

- (1) a parent, if the client is a minor, or
- (2) a spouse, if the client is married

(c) The following people are eligible for family planning services:

(1) people who are less than 21 years old are eligible without regard to income for group presentation and discussion about family planning provided by Title XX contracted providers.

(2) recipients of Medicaid and refugee or entrant medical assistance are eligible for family planning medical services provided by Title XIX providers

(3) recipients of Medicaid and refugee or entrant medical assistance are eligible for family planning medical counseling and educational services provided by Title XX contracted providers.



The State Board of Insurance has approved a filing by the Mortgage Guaranty Insurance Corporation (MGIC) of a revised standard and uniform Mortgage Guaranty Insurance Master Policy Form 01-4351(1/84).

This revised policy has been redesigned by the Mortgage Guaranty Insurance Advisory Committee appointed by the board for this purpose and will replace Form 4-100 currently approved for use in Texas. The revised policy has been completely redesigned in format, but the basic coverages remain the same as in the previous form. Some of the differences are as follows.

(1) The policy has been reorganized into six basic sections: coverage, definitions, exclusions, conditions precedent to payment of claims, loss payment procedures, and additional conditions.

(2) This section has been expanded to include terms used throughout the industry and now incorporated into the policy.

(3) Throughout the policy, there has been an attempt to clarify the insured's responsibilities as to cer-

tification of information used for underwriting and to eliminate fraudulent losses.

(4) Previously used endorsements, such as "balloon payments" have been incorporated into the policy.

There is no rate consideration involved in the filing of this policy form.

This filing is 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 March 6, 1984

TRD-842678      James W. Norman  
                         Chief Clerk  
                         State Board of Insurance

Effective date, March 29, 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 Alcoholic Beverage Commission

**Monday, March 19, 1984, 10:30 a.m.** The Texas Alcoholic Beverage Commission will meet in Suite 210, Jefferson Building, 1600 West 38th Street, Austin. Items on the agenda include approval of the February 27, 1984, minutes, the administrator's and staffs' report of agency activity; and approval of an affidavit of destruction of tested alcoholic beverages.

**Contact:** W. S. McBeath, P.O. Box 13127, Austin, Texas 78711, (512) 458-2500.

**Filed:** March 6, 1984, 10:07 a.m.  
TRD-842664

## Texas Department of Corrections

**Sunday, March 11, 1984, 6 p.m.** The board of the Texas Department of Corrections (TDC) submitted an emergency revised agenda for a rescheduled meeting held in Room 103, Administration Building, 815 11th Street, Huntsville. According to the agenda, the board considered budget matters and met in executive session in accor-

dance with Texas Civil Statutes, Article 6252-17, §2(e) and §2(g), with board attorneys and TDC officials to discuss pending/contemplated litigation resulting from ongoing assessment of architectural fee contracts, the Eastham Dairy Project, the State of Texas v. Danchak and an investigation of purchasing irregularities, the Ruiz litigation, and pending/contemplated litigation resulting from personnel actions regarding Dr. Carroll and several dentists. The emergency status was necessary because a quorum of the board was unavailable until 6 p.m. The meeting was originally scheduled for March 11, 1984, at 1:30 p.m.

**Contact:** D. V. McKaskle, P.O. Box 99, Huntsville, Texas 77340, (409) 295-6371, ext. 160.

**Filed:** March 7, 1984, 11:25 p.m.  
TRD-842730

**Monday, March 12, 1984, 8 a.m.** The board of the Texas Department of Corrections made an emergency addition to the agenda of a meeting held in Room 103, Administration Building, 815 11th Street, Huntsville. The addition concerned the legal section of the agenda as item IX.G.—a request by Eastex Gas Transmission Company for a

a pipeline easement across the Coffield Unit. The emergency status was necessary because pipeline construction is scheduled to begin immediately and the request was not timely filed.

**Contact:** D. V. McKaskle, P.O. Box 99, Huntsville, Texas 77340, (409) 295-6371, ext. 160.

**Filed:** March 7, 1984, 12:25 p.m.  
TRD-842731

## Select Committee on Public Education

**Wednesday-Friday, March 14-16, 1984, 9 a.m. daily.** The Select Committee on Public Education will meet in the Lalique Ballroom I, Registry Hotel, 15201 Dallas Parkway, Dallas. According to the agenda, the committee will consider final committee recommendations concerning public education.

**Contact:** Rebecca Naugle, 1000 Mercantile Bank Building, 10th Floor, Dallas, Texas, (214) 760-5791.

**Filed:** March 6, 1984, 4:23 p.m.  
TRD-842700

**Texas Education Agency**

**Saturday, March 10, 1984, 8:30 a.m.** The State Board of Education of the Texas Education Agency made an emergency addition to the agenda of a meeting held in the Joe Kelly Butler board room, 1200 East Anderson Lane, Austin. The addition concerned a resolution regarding co-curricular activities in the public schools. The emergency status was necessary because the resolution is an effort to respond to a question raised in public hearings in regard to the "five-day rule" as proposed in 19 TAC §97.113.

**Contact:** Raymon L. Bynum, 201 East 11th Street, Austin, Texas, (512) 475-3271.

**Filed:** March 7, 1984, 1:10 p.m.  
TRD-842733

**Thursday, March 22, 1984, 10 a.m.** The Public School Board of Trustees Advisory Committee of the State Board of Education of the Texas Education Agency (TEA) will meet in the Joe Kelly Butler board room, TEA North Building, 1200 East Anderson Lane, Austin. Items on the agenda include preliminary discussion of the vocational education rules and reports on public hearings concerning 19 TAC §97.113, relating to student absences for extracurricular or other activities (the "five-day rule") with discussion and recommendations, 19 TAC Chapter 137, Subchapters K, L, and M, and 19 TAC Chapter 141, Subchapter T, regarding proposed standards for teacher education (single set of standards).

**Contact:** Cis Myers, 201 East 11th Street, Austin, Texas 78701, (512) 475-4536

**Filed:** March 6, 1984, 4:23 p.m.  
TRD-842701

**Tuesday, March 27, 1984, 10 a.m.** The Public School Professional Personnel Advisory Committee of the State Board of Education of the TEA will meet in the Joe Kelly Butler board room, TEA North Building, 1200 East Anderson Lane, Austin. Items on the agenda include preliminary discussion of the vocational education rules and reports on public hearings concerning 19 TAC §97.113, relating to student absences for extracurricular or other activities (the "five-day rule") with discussion and recommendations, 19 TAC Chapter 137, Subchapters K, L, and M, and 19 TAC Chapter 141, Subchapter T, regarding proposed standards for teacher education (single set of standards).

**Contact:** Cis Myers, 201 East 11th Street, Austin, Texas 78701, (512) 475-4536.

**Filed:** March 6, 1984, 4:23 p.m.  
TRD-842702

**Employees Retirement System of  
Texas**

**Thursday, March 22, 1984, 9 a.m.** The Group Insurance Advisory Committee of the Employees Retirement System of Texas (ERS) will meet in Room 332, Texas Air Control Board, 6330 U.S. Highway 290 East, Austin. According to the agenda, the committee will discuss the Group Insurance Program plan of coverage and possible changes and consider final action on any recommendations to the board of trustees for the 1984-1985 contract year.

**Contact:** David H. Atkinson, 18th and Brazos Streets, Austin, Texas 78701, (512) 476-6431.

**Filed:** March 8, 1984, 8:49 a.m.  
TRD-842740

**Texas Employment Commission**

**Wednesday, March 14, 1984, 10 a.m.** The Texas Employment Commission (TEC) will meet in Room 644, TEC Building, West 15th Street and Congress Avenue, Austin. According to the agenda, the commission will discuss tentative architectural plans for a new building.

**Contact:** Pat Joiner, TEC Building, Room 656, 15th Street and Congress Avenue, Austin, Texas, (512) 397-4514

**Filed:** March 6, 1984, 3:30 p.m.  
TRD-842685

**Thursday, March 15, 1984, 10 a.m. and 1 p.m.** The Texas Employment Commission (TEC) made an addition to the agenda of a rescheduled meeting to be held in Room 644, TEC Building, 15th Street and Congress Avenue, Austin. The commission added the 1 p.m. session to confer with representatives from the governor's office, attorney general's office, and other social service agencies regarding Hispanic language translations and operation of programs, the cost for the services, and the best approach for improving services in this area with regard to program services. The meeting was originally scheduled for March 14, 1984.

**Contact:** Pat Joiner, TEC Building, Room 656, 15th Street and Congress Avenue, Austin, Texas, (512) 397-4514.

**Filed:** March 7, 1984, 3:54 p.m.  
TRD-842736

**Office of the Governor**

**Friday, March 16, 1984, 9 a.m.** The Governor's Task Force on Inhalant Abuse of

the Office of the Governor will meet in Room 304, Texas Employment Commission Building, 12th and Trinity Streets, Austin. Items on the agenda include the charge of the task force; discussion of inhalants, what they are, and what the effects are; a profile of the inhalant abuser; the inhalant abuse problem; state and local government efforts; treatment of the inhalant abuser, the inhalant abuser and the judicial system; prevention; Texas initiatives; a public comment period; and task force discussion.

**Contact:** Marc Campos, Sam Houston Building, Room 207, 201 East 14th Street, Austin, Texas 78701, (512) 475-3021.

**Filed:** March 6, 1984, 10:22 a.m.  
TRD-842665

**Friday, March 16, 1984, 10 a.m.** The Subcommittee on Wellness of the Governor's Task Force on State Employee Health Insurance Quality and Cost Containment of the Office of the Governor will meet in Room 350, State Board of Insurance, 1110 San Jacinto Street, Austin. According to the agenda, the subcommittee will discuss various components of employee wellness programs.

**Contact:** Evelyn Ireland, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4285.

**Filed:** March 6, 1984, 3:05 p.m.  
TRD-842684

**Texas Health Facilities  
Commission**

**Thursday, March 15, 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.

Amendments of Certificate of Need Order  
Denton State School, Denton  
AA82-0405-012A(012784)  
Methodist Central Hospital, Dallas  
AH80-1124-024A(012584)

Applications for Declaratory Rulings  
Memorial City General Hospital,  
Houston  
AH84-0126-059  
Community Wellness Center of  
Harlandale, San Antonio  
AS84-0124-045  
University of Texas Health Center at  
Tyler, Tyler  
AA83-1222-460

Notices of Intent  
Abilene, Ltd., Abilene  
AN84-0131-068  
AN84-0131-069

American Health Investors of Dallas, Inc., a Georgia corporation, Dallas AH84-0206-078  
 Jewell Enterprises, Inc., Arlington AN84-0203-076  
 Stonebrook Properties, Inc., Arlington AN84-0203-075  
 Hymark Investments, Inc., a Utah corporation, or Hymark, Inc., a to-be-formed Texas corporation, Plano AN84-0131-065  
 AN84-0131-066  
 Greenpark Radiology, a Texas joint venture, Houston AO84-0202-074  
 Summit Properties, a general partnership, Studio City, California AN84-0125-050  
 Summit Care-Texas, Inc., Burbank, California AN84-0125-049  
 Doctors Hospital 1984, Ltd., a to-be-formed limited partnership, Houston AH84-0124-046

**Certificates of Need**

Day Surgery Center of Southeast Dallas, Dallas AS83-0729-069  
 Southeast Texas Surgical Center, Beaumont AS82-1217-275  
 Day Surgery of Beaumont, Beaumont AS82-0712-034

**Contact:** Judith A Monaco, P.O. Box 50049, Austin, Texas 78763.  
**Filed:** March 7, 1984, 9:44 a.m.  
 TRD-842724



**Texas Department of Human Resources**

**Thursday, March 15, 1984, 9 a.m.** The Advisory Committee on Child Care Facilities and the Advisory Council on Child Care of the Texas Department of Human Resources will meet at the Sheraton Crest Inn, 111 East First Street, Austin. According to the agenda, the committee and council will discuss proposed revisions to part-day facility standards.

**Contact:** Doug Sanders, P.O. Box 2960, Austin, Texas 78769, (512) 441-3355, ext. 6039.

**Filed:** March 7, 1984, 4:46 p.m.  
 TRD-842737

**Texas State Board of Examiners of Psychologists**

**Thursday-Saturday, March 15-17, 1984, 9 a.m. daily.** The Texas State Board of Examiners of Psychologists will meet in Suite C-270, 1300 East Anderson Lane, Austin. According to the agenda, the board will consider items concerning complaints, legal matters concerning the Psychologist Certification and Licensing Act, the minutes, reports from the chairperson and the executive director, rules, the jurisprudence exam, opinion letters, budget, policies and procedures, planning, supervision guidelines, an oral exam project, interviews and hearings, and orientation of new board members, and consider and reconsider application files.

**Contact:** Patti Bizzell, 1300 East Anderson Lane, Suite C-270, Austin, Texas 78752, (512) 835-2036.

**Filed:** March 7, 1984, 9:10 a.m.  
 TRD-842714

**Public Utility Commission of Texas**

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.

**Monday, March 19, 1984, 1:30 p.m.** A hearing in Docket 4496—application of Vista Water Works to purchase a certificate of convenience and necessity from Mary Meade Water Company.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** March 6, 1984, 2:10 p.m.  
 TRD-842679

**Monday, April 2, 1984, 10 a.m.** A hearing in Docket 5569—appeals of Southwestern Electric Power Company from rate-making ordinances of the Cities of Waskom, *et al.*

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** March 6, 1984, 2:11 p.m.  
 TRD-842680

**Office of the Secretary of State**

**Tuesday, March 13, 1984, 4 p.m.** The State Board of Canvassers of the Office of the Secretary of State will meet in emergency

session in Room 127, State Capitol, Austin. According to the agenda, the board will conduct the official canvass of the March 10, 1984, special election in State Representative District 14 in accordance with Texas Civil Statutes, Article 8.38 and Article 4.12, §3. The emergency status is necessary due to a conflict of scheduling.

**Contact:** Kim Tolar, Sam Houston Building, Room 915, 201 East 14th Street, Austin, Texas 78711, (512) 475-3091.

**Filed:** March 6, 1984, 3:50 p.m.  
 TRD-842689

**Texas State Soil and Water Conservation Board**

**Thursday, March 15, 1984, 8 a.m.** The Texas State Soil and Water Conservation Board will meet at 1006 First National Building, Temple. According to the agenda summary, the board will approve the February 16, 1984, minutes, review the Sunset Advisory Commission's staff report and prepare a response and recommendations for a hearing scheduled for March 26, 1984, and a proposal for the State Water Plan, consider district director appointments, the 1986-1987 biennium budget request, a position on the protection of agricultural land, the adoption of a nepotism policy, the feasibility of the tributaries of the Lavaca River watersheds above Hallettsville under Public Law 83-566, scheduled hearings by the Senate Natural Resources Committee, in which the board has been requested to testify on soil and water conservation programs, proposed changes in the National Conservation Program, comments from guest agencies and individuals, the Soil Conservation Society of America meeting in Oklahoma City, Oklahoma, July 29-August 1, technical assistance requests, and the next regular board meeting scheduled for May 17, 1984.

**Contact:** Harvey Davis, 1002 First National Building, Temple, Texas, (817) 773-2250, or STS 820-1250.

**Filed:** March 6, 1984, 12:48 p.m.  
 TRD-842667

**Structural Pest Control Board**

**Monday, March 26, 1984, 9 a.m.** The Structural Pest Control Board will meet in the auditorium, Room 100, Employees Retirement System Building, 18th and Brazos Streets, Austin. According to the agenda,

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the board will approve the January 12 and 13, 1984, minutes; hear the executive director's report; discuss an attorney general's opinion and miscellaneous agency activities; and conduct a hearing on proposed regulation changes and action on final adoption and effective dates.

**Contact:** David A. Ivie, 1300 East Anderson Lane, Building C, Suite 250, Austin, Texas 78752, (512) 835-4066.

**Filed:** March 7, 1984, 2:23 p.m.  
TRD-842734

**Tuesday, March 27, 1984, 8:30 a.m.** The Structural Pest Control Board will meet in Suite 250, Building C, 1300 East Anderson Lane, Austin. According to the agenda summary, the board will review the governor's seminar for board members; meet with Naymond Glover, Ralph E. Purdy, J. N. Toole and Leonard E. Toole (doing business as Toole Bell), and John Spert; discuss operating procedures and miscellaneous items; and set a date for the next meeting.

**Contact:** David A. Ivie, 1300 East Anderson Lane, Building C, Suite 250, Austin, Texas 78752, (512) 835-4066.

**Filed:** March 7, 1984, 2:23 p.m.  
TRD-842735

### Board of Vocational Nurse Examiners

**Monday-Wednesday, April 2-4, 1984, 8 a.m. daily.** The Board of Vocational Nurse Examiners will meet at the Sunrise Motor Hotel, 7622 IH 35 North, Austin. According to the agenda summary, the board will consider prior meeting minutes; hear reports of the executive director and the director of education concerning program contacts, seminars, rules, and regulations; discuss old and new business; and conduct administrative hearings. The board will also meet in executive session on Monday.

**Contact:** Joyce A. Hammer, 1300 East Anderson Lane, Building C, Suite 285, Austin, Texas 78752, (512) 835-2071.

**Filed:** March 6, 1984, 2:11 p.m.  
TRD-842681

### Texas Water Commission

**Thursday, March 15, 1984, 2 p.m.** The Texas Water Commission revised the agenda of a meeting to be held in Room 124A, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the

revised agenda summary, the commission will consider the application of the Sheldon Road Municipal Utility District to the Texas Department of Water Resources for a temporary order to authorize the discharge of raw domestic wastewater at a volume not to exceed an average flow of 220,000 gallons per day from the sewage treatment plant which is located approximately 0.25 mile northwest of U.S. Highway 90 at Sheldon Road, northeast of the City of Houston in Harris County. The applicant proposes to effectuate structural repairs to internal components of its sewage treatment plant.

**Contact:** Carl X. Forrester, P.O. Box 13087, Austin, Texas 78711, (512) 475-7851.

**Filed:** March 6, 1984, 1:22 p.m.  
TRD-842682

### Regional Agencies Meetings Filed March 6

**The East Texas Council of Governments, Executive Committee,** met in emergency session at the Stoneridge Plaza Office Building, 3800 Stone Road, Kilgore, on March 8, 1984, at 2 p.m. Information may be obtained from Glynn J. Knight, 3800 Stone Road, Kilgore, Texas 75662, (214) 984-8641.

**The Gregg County Appraisal District, Board of Directors,** will meet at 2010 Gilmer Road, Longview, on March 13, 1984, at noon. Information may be obtained from William T. Carroll, P.O. Box 6700, Longview, Texas 75608, (214) 759-0015.

**The Guadalupe-Blanco River Authority, Board of Directors,** will meet at 933 East Court Street, Seguin, on March 15, 1984, at 10 a.m. Information may be obtained from John H. Specht, P.O. Box 271, Seguin, Texas 78155, (512) 379-5822.

**The Hansford County Appraisal District, Board,** will meet at 13 West Kenneth Avenue, Spearman, on March 14, 1984, at 3 p.m. Information may be obtained from Alice Peddy, Box 567, Spearman, Texas 79081, (806) 659-5575.

**The Hood County Appraisal District, Board of Directors,** will meet at the district office, 1902 West Pearl, Granbury, on March 13, 1984, 7:30 p.m. Information may be obtained from Ben H. Griffin, P.O. Box 819, Granbury, Texas 76048, (817) 573-5595.

**The Lamar County Appraisal District, Board of Directors,** met at 1523 Lamar Av-

enue, Paris, on March 12, 1984, at 4 p.m. Information may be obtained from L. F. Ricketson, 1523 Lamar Avenue, Paris, Texas 75460, (214) 785-7822.

**The Palo Pinto Appraisal District, Board of Directors,** will meet at the Palo Pinto County Courtroom, Palo Pinto, on March 14, 1984, at 3 p.m. Information may be obtained from John R. Winters, 100 Southeast Fifth Street, Mineral Wells, Texas 76067, (817) 659-3651.  
TRD-842666

### Meetings Filed March 7

**The Cass County Appraisal District, Board of Directors,** will meet at 208 West Houston Street, Linden, on March 13, 1984, at 10 a.m. Information may be obtained from Janelle Clements, P.O. Box 167, Linden, Texas 75563, (214) 756-7545.

**The Appraisal District of Jones County, Board of Directors,** will meet at the district office, 1137 East Court Plaza, Anson, on March 15, 1984, at 9 a.m. Information may be obtained from John Steele, P.O. Box 348, Anson, Texas 79501, (915) 823-2422.

**The Permian Basin Regional Planning Commission, Board of Directors,** will meet at the commission offices, Midland, on March 14, 1984, at 1:30 p.m. Information may be obtained from Pam K. Hammit, P.O. Box 6391, Midland, Texas 79701, (915) 563-1061.

**The Central Appraisal District of Rockwall County, Board of Directors,** will meet at the appraisal office, 106 North San Jacinto Street, Rockwall, on March 13, 1984, at 7:30 p.m. Information may be obtained from Eugene "Bo" Daffin, 106 North San Jacinto Street, Rockwall, Texas 75087, (214) 722-2034.

**The Trinity River Authority of Texas, Basin Planning Committee,** will meet at the Hill Ranch and Real Estate offices, 322 West Commerce (U.S. Highway 84), Fairfield, on March 13, 1984, at 10:30 a.m. Information may be obtained from J. Sam Scott, 5300 South Collins, Arlington, Texas 76004-0060, (817) 467-4343.

**The Tyler County Tax Appraisal District, Board of Directors,** met in emergency session at 1004 West Bluff, Woodville, on March 7, 1984, at 6:30 p.m. Information may be obtained from Mark Allen, 1004 West Bluff, Woodville, Texas 75979, (409) 283-3736.

TRD-842716

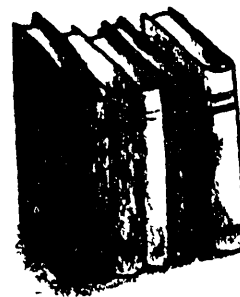
**Meetings Filed March 8**

**The Dallas Area Rapid Transit Authority, Communication and Community Involvement Committee** met in emergency session at 601 Pacific Avenue, Dallas, on March 9, 1984, at 9.30 a.m. The Service Plan/Work Program Committee met in emergency session at the same location on the same day at 1:30 p.m. The Budget and Finance Committee met at the same location on March

12, 1984, at 4 p.m. Information may be obtained from Michael Miles, 601 Pacific Avenue, Dallas, Texas 75202, (214) 748-3278.

**The Wood County Appraisal District, Board of Directors**, will meet in the conference room, 217 North Main, Quitman, on March 15, 1984, at 1.30 p.m. Information may be obtained from W. Carson Wages, P.O. Box 951, Quitman, Texas 78783, (214) 763-4946.

TRD-842738



# In Addition

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.

## Banking Department of Texas Applications To Acquire Control of State Banks

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 particular bank. A hearing may be held if the application is denied by the commissioner.

On March 6, 1984, the banking commissioner received an application to acquire control of First State Bank, Milford, by H. L. Southard, Avalon.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on March 6, 1984

TRD-842718 Archie P. Clayton III  
General Counsel  
Banking Department of Texas

Filed: March 7, 1984

For further information, please call (512) 475-4451

On January 16, 1984, the banking commissioner received an application to acquire control of the Fannin Bank, Windom, by Ray Peeler, Jr., Bonham

On March 6, 1984, notice was given that the application would not be denied.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on March 6, 1984

TRD-842727 Archie P. Clayton III  
General Counsel  
Banking Department of Texas

Filed: March 7, 1984

For further information, please call (512) 475-4451.

## Comptroller of Public Accounts Correction of Error

A miscellaneous document submitted by the Comptroller of Public Accounts contained an error as published in the February 28, 1984, issue of the *Texas Register* (9 Tex-Reg 1230)

In the third paragraph, the maximum credit allowed to be claimed for the first sale or use in April-June 1984 of a gasoline and alcohol mixture blended from alcohol produced outside Texas and not from Texas-produced products will be \$ .016 per gallon for Washington.

## Texas Commission for the Deaf Consultant Proposal Request

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Commission for the Deaf is requesting proposals from interested parties to provide assistance to this agency in compiling and preparing reports and documents, as well as providing written and oral statements to be presented to the Sunset Advisory Commission and its staff, in their review of the Texas Commission for the Deaf. In addition, the party will provide ongoing counsel and advice to the commission concerning technical and procedural aspects of the Sunset review process, and engage in such other necessary activities that will facilitate the efficient exchange of information between the Sunset Advisory Commission and its staff and the employees of the Texas Commission for the Deaf.

It is the intent of the Texas Commission for the Deaf to continue using the services of a consultant who is presently being retained by this agency, unless a better offer is received from a person possessing the necessary qualifications and experience to provide the requested services.

Additional information regarding this request for services may be obtained by contacting Fred R. Tammen, Ex-

Executive Director, Texas Commission for the Deaf, 510 South Congress Avenue, Suite 300, Austin, Texas 78704. To be considered, all proposals for service must be received on or before noon on April 23, 1984.

Selection of a consultant will be based upon the person's qualifications and previous experience working with the Sunset review process in Texas. Proposals will be reviewed by the executive director of the Texas Commission for the Deaf, and final approval of the consultant contract will be made by members of the Texas Commission for the Deaf.

Issued in Austin, Texas, on March 5, 1984.

TRD-842717 Fred R. Tammen  
Executive Director  
Texas Commission for the Deaf

Filed. March 7, 1984  
For further information, please call (512) 475-2492.

## General Land Office Correction of Error

A consultant contract award notice submitted by the General Land Office contained two errors as submitted in the September 16, 1983, issue of the *Texas Register* (8 TexReg 3709). The beginning date for the contract should be August 29, 1983, and the ending date should be January 31, 1985.

## Texas Department of Health Licensing Actions for Radioactive Materials

The Texas Department of Health has taken actions regarding licenses for the possession and use of radioactive materials as listed in the 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
Bastrop	Bastrop Mining Company	06-3551	Bastrop	0	02/14/84
Houston	Rig All International, Inc	11-3547	Houston	0	02/09/84
Throughout Texas	Wallace Depth Control	12-3554	Gardendale	0	02/14/84
Throughout Texas	Sweetwater Emergency Management	04-3550	Sweetwater	0	02/14/84
Throughout Texas	Robco Production Logging, Inc	12-3549	Snyder	0	02/14/84
Throughout Texas	BF Inspection Services	12-3546	Odessa	0	01/31/84
Throughout Texas	X-Cel NDE	12-3548	Odessa	0	02/07/84

### AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License #	City	Amend- ment #	Date of Action
Alvin	Amoco Chemicals Corporation	11-1422	Alvin	26	02/09/84
Austin	Scientific Measurement Systems, Inc	06-2696	Austin	11	02/09/84
Beaumont	Nuclear Pharmacy, Inc	10-2987	Beaumont	7	02/06/84
Borger	Phillips Petroleum Company	01-2480	Borger	6	02/14/84
Burnet	Shepperd Memorial Hospital	06-3515	Burnet	3	02/14/84
Burnet	Shepperd Memorial Hospital	06-3515	Burnet	2	02/06/84
Clyde	Satterfield Surveys, Inc	04-2307	Clyde	5	02/09/84
Corpus Christi	Jordan Laboratories, Inc	08-2455	Corpus Christi	8	02/09/84
Dallas	St Paul Hospital	05-1065	Dallas	19	02/02/84
El Paso	Southwestern General Hospital	03-2338	El Paso	14	02/14/84
Fairfield	Fairfield Memorial Hospital	06-3146	Fairfield	1	02/10/84
Fort Worth	Miller Brewing Company	05-3403	Fort Worth	1	02/14/84
Freeport	Dow Chemical Company	11-1848	Freeport	15	02/14/84
Georgetown	Georgetown Hospital	06-3152	Georgetown	3	02/14/84
Houston	Exxon Production Research Company	11-205	Houston	20	02/14/84
Houston	Spring Branch Memorial Hospital	11-2473	Houston	9	02/14/84
Killeen	Metroplex Hospital	06-3185	Killeen	2	02/02/84
Kingsville	Texas A & I University	08-1821	Kingsville	12	02/03/84
Longview	Longview Custom Fabricating, Inc	07-3183	Longview	3	02/01/84
Lubbock	Evans Tank Company	02-683	Lubbock	19	01/31/84
Pampa	Coronado Community Hospital	01-3123	Pampa	3	02/02/84
Pasadena	Phillips Petroleum Company	11-230	Pasadena	38	02/13/84
Richardson	Richardson Medical Center	05-2336	Richardson	11	02/14/84
Round Rock	Round Rock Community Hospital	06-3469	Round Rock	3	02/14/84
San Antonio	Southwest Foundation for Biomedical Research	09-468	San Antonio	23	02/14/84
San Antonio	Santa Rosa Medical Center	09-556	San Antonio	18	02/06/84
San Antonio	Santa Rosa Medical Center	09-2237	San Antonio	15	02/06/84
San Marcos	Hays Memorial Hospital	06-3133	San Marcos	3	02/06/84
Sweeny	Phillips Petroleum Company	11-337	Sweeny	23	02/14/84
Texas City	Amoco Chemicals Corporation	11-354	Texas City	19	02/13/84
Throughout Texas	Associated Testing Laboratories, Inc	11-1553	Houston	8	02/14/84
Throughout Texas	Reed Tubular Products Co	11-2782	Sugar Land	1	02/14/84
Throughout Texas	Mobil Research & Development Corporation	05-194	Farmers Branch	23	02/14/84
Throughout Texas	Terra-Mar, Inc	11-3157	Houston	3	02/13/84
Throughout Texas	Gearhart Industries, Inc	05-2113	Fort Worth	32	02/14/84
Throughout Texas	Southwestern Laboratories	05-359	Dallas	31	02/09/84
Throughout Texas	NOWSCO Services	11-1280	Houston	1	02/07/84
Throughout Texas	Permian Industrial X-Ray, Inc	12-2835	Odessa	12	02/03/84
Throughout Texas	Alpha Testing, Inc	05-3411	Dallas	2	02/09/84
Throughout Texas	Espey, Huston & Associates, Inc	06-2937	Austin	6	02/09/84
Throughout Texas	Terra-Mar, Inc	11-3157	Houston	2	02/09/84
Throughout Texas	Zone Perforators	12-2834	Midland	10	02/03/84

Throughout Texas	Texas Utilities Fuel Company	07-2074	Malakoff	5	02/09/84
Throughout Texas	Professional Service Industries, Inc — Longview	07-3055	Oak Brook, IL	3	01/31/84
Throughout Texas	Nortrex Inspection Co	07-2894	Longview	1	02/01/84
Throughout Texas	H & H X Ray Services, Inc	07-2516	Tyler	5	02/01/84
Throughout Texas	Radiation Consultants	11-2179	Houston	10	02/09/84
Weatherford	Campbell Memorial Hospital	05-2973	Weatherford	2	02/10/84

**RENEWALS OF EXISTING LICENSES ISSUED:**

Location	Name	License #	City	Amendment #	Date of Action
Throughout Texas	Superior Production Logging, Inc	04-1983	Snyder	21	02/14/84
Throughout Texas	Precision Inspection, Inc	11-203	Houston	25	02/09/84
Throughout Texas	Edward I. Haile & Associates, Inc	11-2914	Houston	4	01/31/84
Throughout Texas	PRO-DATA Surveys	01-1189	Pampa	14	02/09/84
Throughout Texas	Southwestern Public Service Company	01-1981	Amarillo	16	02/09/84

**TERMINATIONS OF LICENSES ISSUED:**

Location	Name	License #	City	Amendment #	Date of Action
Denison	Safeway Stores, Inc	05-1061	Denison	7	02/14/84
Fort Stockton	Texasgulf Chemicals Company	12-2919	Fort Stockton	4	02/09/84
Houston	Fugro Inter, Inc	11-3413	Houston	2	02/14/84
Houston	City of Houston	11-2189	Houston	2	02/09/84
Nacogdoches	Stewart S. Barron, M.D.	07-932	Nacogdoches	7	02/07/84
Throughout Texas	Sherbut and Associates, Inc	12-3277	Midland	1	02/14/84
Throughout Texas	The Goldston Company, Inc	08-2553	Corpus Christi	3	02/14/84

In issuing new licenses and amending and renewing existing licenses, the Texas Department of Health, Bureau of Radiation Control, has determined that the applicants are qualified by reason of training and experience to use the material in question for the purposes requested in accordance with *Texas Regulations for Control of Radiation* in such a manner as to minimize danger to public health and safety or property and the environment, the applicants' proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property and the environment; the issuance of the license(s) will not be inimical to the health and safety of the public or the environment; and the applicants satisfy any applicable special requirements in the *Texas Regulations for Control of Radiation*.

This notice affords the opportunity for a hearing on written request of a licensee, applicant, or "person affected" within 30 days of the date of publication of this notice. A "person affected" is defined as a person who is resident of a county, or a county adjacent to the county, in which the radioactive materials are or will be located, including any person who is doing business or who 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, 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, agency action, identify the subject license, specify the reasons why the person considers himself affected, state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated.

Copies of these documents and supporting materials are available for inspection and copying at the office of the Bureau of Radiation Control, Texas Department of Health, 1212 East Anderson Lane, Austin, from 8 a.m. to 5 p.m. Monday through Friday (except holidays).

Issued in Austin, Texas, on March 6, 1984

TRD-842720 Robert A. MacLean, M.D.  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Filed: March 7, 1984

For further information, please call (512) 835-7000

**Opportunity for Public Hearing**

The City of Lacy-Lakeview has filed Application 1646 with the Texas Department of Health to operate a proposed Type II municipal solid waste disposal site to be located east of the City of Bellmead, approximately 1.6 miles east of the intersection of U.S. Highway 84 and State Highway Spur 340, 0.6 mile south of U.S. Highway 84 and 0.2 mile east of an unnamed county road, and immediately west of the City of Bellmead Landfill, in McLennan County.

The site consists of approximately 95.2 acres of land, and is daily to receive approximately 10 tons of solid wastes under the regulatory jurisdiction of the Texas Department of Health.

The application is being processed and the final decision will be made by the department pursuant to the provisions of the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7; the Texas Department of Health Municipal Solid Waste Management Regulations; and the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a.

No public hearing will be held on this application unless a person affected 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, has suffered or will suffer actual injury or economic damage by the granting of the application. If a hearing is requested by a person affected, notice of such hearing will be provided to the requester and will also be published in a newspaper of general circulation in the area where the site is located at least 30 days prior to the date of such hearing. If no request for a hearing is received within 30 days of the date of publication of the said notice in a newspaper of general circulation, the Department will make a decision.

Requests for a public hearing and/or requests for a copy of the technical summary of the application prepared by



the Bureau of Solid Waste Management shall be submitted in writing to the Chief, Bureau of Solid Waste Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. A copy of the complete application may be reviewed at the Bureau of Solid Waste Management or at the department's Public Health Region 6 headquarters located at 3407 South 37th Street, Temple, Texas 76501, (817) 778-6744.

Issued in Austin, Texas, on March 6, 1984

TRD-842721      Robert A. MacLean, M.D.  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Filed: March 7, 1984  
For further information, please call (512) 458-7271.

## Public Hearing

The Texas Department of Health will conduct a public hearing concerning the regulation of the levels of the insecticide 1, 2, dibromo ethane, also known as ethylene dibromide or EDB, in foods. Proposed and emergency rules on the subject were published in the February 14, 1984, issue of the *Texas Register* (9 TexReg 903).

The hearing will be held on Friday, March 23, 1984, at 9 a.m., in the auditorium, Texas Department of Health, 1100 West 49th Street, Austin.

For further information, contact Robert L. Henna, R.Ph., Director, Division of Food and Drug, Texas

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

Issued in Austin, Texas, on March 6, 1984.

TRD-842722      Robert A. MacLean, M.D.  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Filed: March 7, 1984  
For further information, please call (512) 458-7248.

## Publication of Schedules of Controlled Substances

The Texas Controlled Substances Act, Texas Civil Statutes, Article 4476-15, contains schedules of controlled substances, i.e., lists of drugs and chemical entities which have the potential for addiction or abuse. The Act, §2.09, authorizes the Texas commissioner of health to add substances to, or delete or reschedule any substance already enumerated in, the schedules in the Act itself. Also the Act, §2.16, requires the commissioner to file annually with the secretary of state a copy of the entire set of schedules, including any additions, deletions, or rescheduling made by the commissioner since the last annual filing. The latest annual filing by the commissioner with the secretary of state was on February 23, 1984. For the public to be informed of the current schedules, they are being published in the *Texas Register* as follows:

Sec. 2.03. SCHEDULE I. (a) Schedule I shall consist of the controlled substances listed in this section.

(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

- (1) Allylprodine;
- (2) Alpha-methylfentanyl or any other derivative of Fentanyl;
- (3) Benzethidine;
- (4) Betaprodine;
- (5) Clonitazene;
- (6) Diampromide;
- (7) Diethylthiambutene;
- (8) Difenoxin;
- (9) Dimenoxadol;
- (10) Dimethylthiambutene;
- (11) Dioxaphetyl butyrate;
- (12) Dipipanone;
- (13) Ethylmethylthiambutene;
- (14) Etonitazene;
- (15) Etoxeridine;
- (16) Furethidine;
- (17) Hydroxypethidine;
- (18) Ketobemidone;
- (19) Levophenacymorphan;
- (20) Meprodine;
- (21) Methadol;
- (22) Moramide;
- (23) Morpheridine;
- (24) Noracymethadol;
- (25) Norlevorphanol;
- (26) Normethadone;
- (27) Norpipanone;
- (28) Phenadoxone;
- (29) Phenampromide;
- (30) Phencyclidine;
- (31) Phenomorphan;
- (32) Phenoperidine;
- (33) Piritramide;
- (34) Proheptazine;
- (35) Properidine;
- (36) Propiram;
- (37) Sufentanil;
- (38) Trimeperidine;
- (39) Tilidine.

(c) Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Acetorphine;
- (2) Acetyldihydrocodeine;
- (3) Benzylmorphine;
- (4) Codeine methylbromide;
- (5) Codeine-N-Oxide;
- (6) Cyprenorphine;
- (7) Desomorphine;
- (8) Dihydromorphine;
- (9) Drotebanol;
- (10) Etorphine (except hydrochloride salt);
- (11) Heroin;
- (12) Hydromorphinol;
- (13) Methyl-desorphine;
- (14) Methyl-dihydromorphine;
- (15) Monoacetylmorphine;
- (16) Morphine methylbromide;
- (17) Morphine methylsulfonate;
- (18) Morphine-N-Oxide;
- (19) Myrophine;
- (20) Nicocodeine;
- (21) Nicomorphine;
- (22) Normorphine;
- (23) Pholcodine;
- (24) Thebacon.

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this paragraph only, the term "isomer" includes the optical, position and geometric isomers):

- (1) 4-bromo-2,5-dimethoxyamphetamine (Some trade or other names: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2,5-DMA.);
- (2) 2,5-dimethoxyamphetamine (Some trade or other names: 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA.);
- (3) 4-methoxyamphetamine (Some trade or other names: 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine; PMA.);
- (4) 5-methoxy-3,4-methylenedioxy amphetamine;
- (5) 4-methyl-2,5-dimethoxyamphetamine (Some trade and other names: 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; "DOM"; and "STP".);

- (6) 3,4-methylenedioxy amphetamine;
- (7) 3,4,5-trimethoxy amphetamine;
- (8) Bufotenine (Some trade and other names: 3-(beta-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N,N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine.);
- (9) Diethyltryptamine (Some trade and other names: N,N-Diethyltryptamine, DET.);
- (10) Dimethyltryptamine (Some trade and other names: DMT.);
- (11) Ibogaine (Some trade and other names: 7-Ethyl-6,6,beta,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1',2':1,2] azepino [5,4-b] indole; tabernanthe iboga.);
- (12) Lysergic acid diethylamide;
- (13) Marihuana;
- (14) Mescaline;
- (15) Peyote, unless unharvested and growing in its natural state, meaning all parts of the plant presently classified botanically as Lophophora, whether growing or not; the seeds thereof; any extract from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or extracts;
- (16) N-ethyl-3-piperidyl benzilate;
- (17) N-methyl-3-piperidyl benzilate;
- (18) Psilocybin;
- (19) Psilocin;
- (20) Tetrahydrocannabinols.  
Synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:  
  
delta-1 cis or trans tetrahydrocannabinol, and their optical isomers;  
delta-6 cis or trans tetrahydrocannabinol, and their optical isomers;  
delta-3,4 cis or trans tetrahydrocannabinol, and its optical isomers.  
  
(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions are covered.)
- (21) Ethylamine Analog of Phencyclidine (Some trade or other names: N-ethyl-1-phenylcyclohexylamine. (1-phenylcyclohexyl) ethylamine. N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE.)
- (22) Parahexyl (Some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-tri-methyl-6H-dibenzo[b,d] pyran; Synhexyl.)
- (23) Pyrrolidine Analog of Phencyclidine (Some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP.)

- (24) Thiophene Analog of Phencyclidine (Some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP.)

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant or stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Fenethylamine;
- (2) Mecloqualone; and
- (3) Methaqualone;
- (4) N-ethylamphetamine;
- (5) Nitrazepam.

Sec. 2.04. SCHEDULE II. (a) Schedule II shall consist of the controlled substances listed in this section.

(b) Any of the following substances, except those narcotic drugs listed in other schedules, however produced:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding naloxone and its salts, and excluding naltrexone and its salts, but including the following:

- (A) Raw opium;
- (B) Opium extracts;
- (C) Opium fluid extracts;
- (D) Powdered opium;
- (E) Granulated opium;
- (F) Tincture of opium;
- (G) Codeine;
- (H) Ethylmorphine;
- (I) Etorphine hydrochloride;
- (J) Hydrocodone;
- (K) Hydromorphone;
- (L) Metopon;
- (M) Morphine;
- (N) Oxycodone;
- (O) Oxymorphone;
- (P) Thebaine.

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (1) of this subsection, but not including the isoquinoline alkaloids of opium;

(3) Opium poppy and poppy straw;

(4) Cocaine, including its salts, isomers (whether optical, position, or geometric) and salts of such isomer; coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine;

(5) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrine alkaloids of the opium poppy).

(c) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Alphaprodine;
- (2) Anileridine;
- (3) Bezitramide;
- (4) Dextropropoxyphene, Bulk (non-dosage forms);
- (5) Dihydrocodeine;
- (6) Diphenoxylate;
- (7) Fentanyl;
- (8) Isomethadone;
- (9) Levomethorphan;
- (10) Levorphanol;
- (11) Metazocine;
- (12) Methadone;
- (13) Methadone-Intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl butane;
- (14) Moramide-Intermediate, 2-methyl-3-morpholino-1,1-diphenyl-propane-carboxylic acid;
- (15) Pethidine;
- (16) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- (17) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- (18) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (19) Phenazocine;
- (20) Piminodine;
- (21) Racemethorphan;
- (22) Racemorphan.

(d) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

- (1) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
- (2) Methamphetamine, including its salts, isomers, and salts of isomers;
- (3) Methylphenidate and its salts; and
- (4) Phenmetrazine and its salts.

(e) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Amobarbital;
- (2) Pentobarbital;
- (3) Secobarbital.

(f) Immediate precursors. Unless specifically excepted or listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

- (1) Immediate precursor to methamphetamine:
  - (i) Phenylacetone and methylamine if possessed together with intent to manufacture methamphetamine;
- (2) Immediate precursor to amphetamine and methamphetamine:
  - (i) Phenylacetone  
(Some trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone.);
- (3) Immediate precursors to phencyclidine (PCP):
  - (i) 1-phenylcyclohexylamine;
  - (ii) 1-piperidinocyclohexanecarbonitrile (PCC).

Sec. 2.05. SCHEDULE III. (a) Schedule III shall consist of the controlled substances listed in this section.

(b) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

- (1) Any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital or any salt thereof and one or more active medicinal ingredients which are not listed in any schedule;
- (2) Any suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository;
- (3) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules;
- (4) Chlorhexadol;
- (5) Glutethimide;
- (6) Lysergic Acid;
- (7) Lysergic Acid Amide;
- (8) Methyprylon;
- (9) Sulfondiethylmethane;
- (10) Sulfonethylmethane;
- (11) Sulfonmethane.

(c) Nalorphine.

(d) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(1) not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(2) not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(3) not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(4) not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(5) not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(6) not more than 300 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more ingredients in recognized therapeutic amounts;

(7) not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(8) not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams with one or more active nonnarcotic ingredients in recognized therapeutic amounts.

(e) Any compound, mixture, or preparation containing any stimulant listed in Subsection (d) of Section 2.04 or depressant substance listed in Subsection (b) of this section is excepted from the application of all or any part of this Act if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

(f) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible, within the specific chemical designation:

- (1) Benzphetamine;
- (2) Chlorphentermine;
- (3) Clortermine;
- (4) Phendimetrazine.



Sec. 2.06. SCHEDULE IV. (a) Schedule IV shall consist of the controlled substances listed in this section.

(b) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect of the central nervous system:

- (1) Alprazolam;
- (2) Barbital;
- (3) Chloral betaine;
- (4) Chloral hydrate;
- (5) Chlordiazepoxide;
- (6) Clonazepam;
- (7) Clorazepate;
- (8) Diazepam;
- (9) Ethchlorvynol;
- (10) Ethinamate;
- (11) Flurazepam;
- (12) Halazepam;
- (13) Lorazepam;
- (14) Mebutamate;
- (15) Meprobamate;
- (16) Methohexital;
- (17) Methylphenobarbital;
- (18) Oxazepam;
- (19) Paraldehyde;
- (20) Pentazocine, its salts, derivatives, or compounds or mixtures thereof;
- (21) Petrichloral;
- (22) Phenobarbital;
- (23) Prazepam;
- (24) Temazepam;
- (25) Triazolam.

(c) Any compound, mixture, or preparation containing any depressant substance listed in Subsection (b) of this section is excepted from the application of all or any part of this Act if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

(d) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific designation:

- (1) Diethylpropion;
- (2) Fenfluramine;
- (3) Mazindol;
- (4) Pemoline (including organometallic complexes and chelates thereof);
- (5) Phentermine;
- (6) Pipradrol;
- (7) SPA [(-)-1-dimethylamino-1, 2-diphenylethanol].

(e) Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts:

- (1) Dextropropoxyphene (Alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane);

(f) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

- (1) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

Sec. 2.07. SCHEDULE V. (a) Schedule V shall consist of the controlled substances listed in this section.

(b) Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

- (1) not more than 200 milligrams of codeine, or any of its salts, per 100 milliliters or per 100 grams;
- (2) not more than 100 milligrams of dihydrocodeine, or any of its salts, per 100 milliliters or per 100 grams;
- (3) not more than 100 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or per 100 grams;
- (4) not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;
- (5) not more than 15 milligrams of opium per 28.35 milliliters or per 28.35 grams;
- (6) not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

Issued in Austin Texas, on March 6, 1984.

TRD-842705

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

Filed: March 7, 1984

For further information, please call (512) 458-7248.

**Texas Health Facilities  
Commission  
Applications Accepted for  
Amendment, Declaratory Ruling,  
and Notices of Intent**

Notice is hereby given by the Texas Health Facilities Commission of applications accepted as of the date of this publication. In the following list, the applicant is listed first, file number second, the relief sought third, and a description of the project fourth. DR indicates declaratory ruling; AMD indicates amendment of previously issued commission order; CN indicates certificate of need; PFR indicates petition for reissuance; NIE indicates notice of intent to acquire major medical equipment; NIEH indicates notice of intent to acquire existing health care facilities; NIR indicates notice of intent regarding a research project; NIE/HMO indicates notice of intent for exemption of HMO-related project; and EC indicates exemption certificate.

Should any person wish to become a party to any of the above-stated applications, that person must file a proper request to become a party to the application within 15 days after the date of this publication of notice. If the 15th day is a Saturday, Sunday, state or federal holiday, the last day shall be extended to 5 p.m. of the next day that is not a Saturday, Sunday, state or federal holiday. A request to become a party should be mailed to the chair of the commission at P.O. Box 50049, Austin, Texas 78763, and must be received at the commission no later than 5 p.m. on the last day allowed for filing of a request to become a party.

The contents and form of a request to become a party to any of these applications must meet the criteria set out in 25 TAC §515.9. Failure of a party to supply the necessary information in the correct form may result in a defective request to become a party.

The Hillhaven Corporation, Tacoma, Washington AN84-0216-117

NIEH—Request for a declaratory ruling that a certificate of need is not required for The Hillhaven Corporation to acquire 100% of the leasehold interest in University Manor Nursing Home, an existing 95-bed ICF nursing facility located in Lubbock. The acquisition will occur as a result of the purchase by The Hillhaven Corporation of 100% of the outstanding shares of stock of J-Bar-W Enterprises, Inc., the current lessee of University Manor Nursing Home. The name of J-Bar-W Enterprises, Inc., will change to The Hillhaven Corporation of Texas.

The Hillhaven Corporation, Tacoma, Washington AN84-0216-116

NIEH—Request for a declaratory ruling that a certificate of need is not required for The Hillhaven Corporation to acquire 100% of the leasehold interest in Quaker Villa Nursing Home, an existing 96-bed ICF nursing facility located in Lubbock. The acquisition will occur as a result of the purchase by The Hillhaven Corporation of 100% of

the outstanding shares of stock of J-Bar-W Enterprises, Inc., the current lessee of Quaker Villa Nursing Home. The name of J-Bar-W Enterprises, Inc., will change to The Hillhaven Corporation of Texas.

McKenna Memorial Hospital, Inc., and  
Comal County Hospital Authority,  
New Braunfels

AH81-0217-021A (122983)

CN/AMD—Notice of an amended amendment application. Request for an extension of the completion deadline from January 1, 1984, to September 30, 1984, in Certificate of Need AH81-0217-021, which authorized the certificate holder to conduct a construction and renovation project involving a total of 85,806 square feet.

Nu-Med Hospitals, Inc., a newly formed subsidiary of Nu-Med, Inc., Encino, California AH83-1216-432A (022384)

DR/AMD—Request for an amendment of Declaratory Ruling AH83-1216-432, which authorized the certificate holder to acquire by purchase Doctor's Hospital, an existing 106-bed general acute care, located in Groves, from Doctor's Hospital, Inc. The certificate holder requests a change in the project cost from \$25 million to \$16 million.

Issued in Austin, Texas, on March 7, 1984

TRD-842719 Judith Monaco  
Assistant General Counsel  
Texas Health Facilities  
Commission

Filed: March 7, 1984  
For further information, please call (512) 476-6940.

**Petition for Reissuance of Certificate  
of Need**

The Texas Health Facilities Commission gives notice of an application (including a general project description) for petition of reissuance of certificate of need which has 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.

Pearland Convalescent Center, Inc.,  
doing business as Windsong Village  
Convalescent Center  
AN83-0427-410R(012684)

**PFR**—Petition for reissuance of Certificate of  
Need AN83-0427-410, which authorized the cer-  
tificate holder to add 42 ICF-III beds, dining, laun-  
dry, storage, and administrative and support areas  
through the construction of an 11,449-square foot  
addition.

Issued in Austin, Texas, on March 7, 1984

TRD-842728            Judith Monaco  
Assistant General Counsel  
Texas Health Facilities  
Commission

Filed: March 7, 1984  
For further information, please call (512) 475-6940.

## **Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids Correction of Error**

An adopted rule submitted by the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids contained an error as published in the March 2, 1984, issue of the *Texas Register* (9 TexReg 1259)

Section 145 1(a) should read

(a) The Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids requires each fitter and dispenser licensed in this state to take six clock hours of continuing education per fiscal year. The fiscal year is considered to begin September 1 and run through August 31.

## **State Department of Highways and Public Transportation Consultant Proposal Request**

As required by Texas Civil Statutes, Article 6252-11c, the following notice for request for proposal is filed.

The State Department of Highways and Public Transportation (SDHPT) is seeking 3,000 man hours of computer software analysis, design, and programming between April 18, 1984, and March 1, 1985, to design, develop, and document COBOL programs for the Motor Vehicle Division in the areas of apportioned registration and registration report audit. Evaluation of the AAMVA "IRIS" system for possible use in the Texas apportioned registration system and customization of "IRIS" programs is also included. Knowledge of IBM Job Control Language, COBOL, Core Dumps, CICS, and IBM/OS is required.

Additional information regarding this request for proposal may be obtained by contacting Scott Burford, Automation Division, State Department of Highways and

Public Transportation, (512) 465-7540. A bidders' conference is scheduled for 1:30 p.m. on March 16, 1984, at the Automation Division offices. Contractors interested in submitting proposals are encouraged to attend.

To be considered, proposals must arrive at the Automation Division Office, 38th Street and Jackson Avenue, Austin, or be received at the State Department of Highways and Public Transportation, 11th and Brazos Streets, Austin, Texas 78701, on or before April 9, 1984. In mailing proposals, contractors should allow normal mail delivery time to ensure timely receipt of their proposals.

Proposals will be reviewed by Automation Division technical staff on the basis of the proposer's demonstrated competence, technical qualifications, and fee. Final selection will be made by the department's automation engineer.

Issued in Austin, Texas, on March 7, 1984

TRD-842726            Diane L. Northam  
Administrative Technician  
State Department of Highways  
and Public Transportation

Filed March 7, 1984  
For further information, please call (512) 475 2141.

## **Lower Colorado River Authority Hazardous Waste Ordinance**

Due to the growing national concern for proper management of the processing, storage, and/or disposal of hazardous wastes, the Lower Colorado River Authority's (LCRA) Natural Resources Committee reported to the LCRA's board of directors that a need existed for the LCRA to promulgate an ordinance, relating to the prohibition of hazardous waste processing, storage, and disposal sites in close proximity to the rivers and lakes within the authority's 10-county district.

As a Conservation and Reclamation District, the LCRA is charged by the Texas Constitution, Article 16, §59, with the duty of preservation and conservation of the natural resources of this state, in particular the waters of the lakes, streams, and their tributaries within the LCRA District.

In keeping with this duty, the policy of the LCRA is to ensure that the waters of the district remain in an unpolluted and healthful condition. To effectuate this policy, the LCRA is authorized to provide for the study, correction, and control of both artificial and natural pollution of the ground and surface waters within its district. The LCRA is specifically given the power to establish by ordinance, rules, and regulations to correct and control pollution in Texas Civil Statutes, Article 8280-107, §2(p).

Although federal and state laws currently exist controlling the development of hazardous waste processing, storage, and disposal sites, the LCRA's Natural Resources Committee recommended the implementation of local rules and regulations to supplement and strengthen existing laws to ensure that all avenues of pollution con-

trol are fully utilized. The Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §10, states that it is not intended to diminish or limit local governments in performing any of the powers, functions, and duties vested in those governmental entities by other laws. Additionally, the Resource and Recovery Act of 1976, §3009, as amended, provides that nothing in this title shall be construed to prohibit any state or political subdivision thereof from imposing any requirements, including those for site selection, which are more stringent than those imposed by Environmental Protection Agency (EPA) regulations. Therefore, pursuant to the statutory authorization of the LCRA Act, the Natural Resources Committee has proposed that the following ordinance be adopted by the board of directors of the LCRA to ensure the correction and control of pollution of the surface waters of the state within the LCRA district and to provide for the health, safety, and general welfare of the public within the LCRA's district

**AN ORDINANCE PROHIBITING WITHIN A DESIGNATED BUFFER ZONE THE SITING, LOCATION, CONSTRUCTION, OPERATING, OR OTHERWISE MAINTAINING OF NEW LANDFILLS, LAND TREATMENT FACILITIES, PILES, SURFACE IMPOUNDMENTS, OR OTHER SIMILAR FACILITIES USED FOR THE PROCESSING, STORAGE, AND/OR DISPOSAL OF HAZARDOUS WASTES.**

**ORDINANCE 1**

§1 Authority This ordinance is enacted pursuant to the authority granted to the Lower Colorado River Authority (LCRA) by the Texas Constitution, Article 16, §59, and the LCRA Act, Article 8280-107, §2(p), as amended

§2. Definitions. When used in this ordinance, the following terms have the meanings given as follows:

(a) Hazardous wastes—Includes those wastes which are listed as hazardous by the administrator of the United States Environmental Protection Agency (EPA) in the Code of Federal Regulations, Title 40, Part 261, Subpart D, and as subsequently amended, and those wastes which exhibit any of the characteristics of hazardous waste identified in the Code of Federal Regulations, Title 40, Part 261, Subpart C, and as subsequently amended.

(b) Disposal facility—A facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water, and at which waste will remain after closure

(c) Landfill—A disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a land treatment facility, a surface impoundment, or an injection well

(d) Land treatment facility—A facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface, such facilities are disposal facilities if the waste will remain after closure

(e) Pile—Any noncontainerized accumulation of solid, nonflowing hazardous waste that is used for processing or storage

(f) Processing—The extraction of materials, transfer, volume reduction, conversion to energy, or other separation and preparation of solid waste for reuse or

disposal, including the treatment or neutralization of hazardous waste, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material from the waste, or so as to render such waste nonhazardous or less hazardous; safer to transport, store, or dispose of, or amenable for recovery, amenable for storage, or reduced in volume.

(g) Storage—The containment of hazardous waste, either on a temporary basis or for a period of years in such a manner as not to constitute disposal of such hazardous waste.

(h) Surface impoundment—A facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), which is designed to hold an accumulation of liquid hazardous wastes or hazardous wastes containing free liquids, and which is not an injection well

(i) Facility—Includes all contiguous land and structures, other appurtenances, and improvements on the land for storing, processing, or disposing of hazardous wastes.

(j) Disposal—The discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous waste into or on any land or water so that such hazardous waste or any constituent thereof may enter the environment or be emitted into the air, or discharged into any waters, including ground waters

(k) District—The Lower Colorado River Authority and consisting of that part of the state of Texas which is included within the boundaries of the counties of San Saba, Llano, Burnet, Blanco, Travis, Bastrop, Fayette, Colorado, Wharton, and Matagorda.

(l) Person—An individual, corporation, organization, government, governmental subdivision or agency, business trust, partnership, association, or any other legal entity.

(m) Leachate—Any liquid, including any suspended components in the liquid, that has percolated through or drained from hazardous waste

§3. Buffer Zone Justification for designation of areas within the buffer zone is based on the documented occurrence of one or more of the following unsuitable hydrologic, geologic, or hydrogeologic features characteristic of the particular area

(a) Areas within the 100-year floodplain or within designated flood prone areas in counties where 100-year floodplain maps are not available.

(b) Areas where coarse sand, gravels, and other relatively unconsolidated geologic materials with comparable textural characteristics comprise portions of the unsaturated or saturated zone above or within water-bearing materials that can be shown to be in direct hydrologic communication with the Colorado River or its tributaries

(c) Outcrop areas of limestone, dolomite, or gypsum bedrock within the basin boundary which are currently or potentially subject to natural processes which lead to the development of karst hydrology and topography. Karstic features include closed depressions or sinkholes, caves, and solution-enlarged faults, fractures, fissures, and joints.

(d) Outcrop areas of water-bearing consolidated geologic materials such as sandstone, limestone, dolomite, and crystalline rock that are in hydrologic communication with the Colorado River or its tributaries through faults, fractures, fissures, or joints.

(e) Coastal high hazard areas known to have been affected by salt water and/or fresh water flooding both within and outside the 100-year floodplain as a result of previous hurricanes.

(f) Areas with recorded land subsidence in low-lying portions of the district.

(g) Outcrop areas of water-bearing geologic material through which groundwater is known to move and to discharge directly to the Colorado River or its tributaries through subsurface seeps.

**§4. Location Standards.**

(a) No new landfills, land treatment facilities, piles, surface impoundments, or other similar facilities used for the processing, storage, and/or disposal of hazardous wastes shall be sited, located, constructed, operated, or otherwise maintained within the buffer zone, as delineated on the buffer zone map prepared for each county within the district, incorporated herein for any and all purposes. (Copies of the buffer zone maps will be provided upon request or may be viewed at the LCRA's main office at 3700 Lake Austin Boulevard, Austin, or in the offices of the *Texas Register*, Room 503E, Sam Houston Building, 201 East 14th Street, Austin).

(b) Any person desiring to locate a new landfill, land treatment facilities, piles, surface impoundments, or other similar facilities used for the processing, storage, and/or disposal of hazardous wastes within the boundaries of district but outside of the buffer zone may be required to provide the authority's general manager or his designated representative the plans and specifications for the proposed facilities for his review. The plans and specifications must demonstrate the following:

(1) that the proposed facility will be adequately designed, constructed, operated, and maintained to prevent washout of any hazardous waste by a maximum 100-year storm event;

(2) that the soil materials and geologic setting within the proposed facility location are of such a nature that any migration of leachate from the proposed facili-

ty or spillage of hazardous wastes within the proposed facility will not degrade the quality of any surface waters within the district;

(3) that any and all reasonable means to protect the groundwater and surface waters within the district have been exercised by said person.

**§5. Exemptions.** This ordinance is not applicable to the following.

(a) Existing facilities used for the processing, storage, and/or disposal of hazardous wastes which facilities have, prior to the effective date of this ordinance, been issued and currently maintain an applicable hazardous waste permit or registration issued by the Environmental Protection Agency or the Texas Department of Water Resources, or both.

(b) Existing permitted or registered hazardous waste processing, storage, and/or disposal facilities which, after the effective date of this ordinance, are granted a renewal of their existing permits or are granted a permit in lieu of their existing registration or an extension of their existing registration.

(c) Hazardous waste processing, storage, and/or disposal facilities proposed to be located within the buffer zone where it can be demonstrated to the satisfaction of the LCRA board of directors that none of the criteria set forth in §3 of the ordinance are applicable to the proposed facility site location.

**§6. Relationship to Other Laws.** This ordinance is cumulative of and supplemental to any other laws and parts of laws relating to the same subject and does not repeal those other laws or parts of laws.

Any person desiring to submit written comments regarding the proposed ordinance should do so prior to April 15, 1984. Written comments should be mailed to H. M. Locker, Lower Colorado River Authority, P.O. Box 220, Austin, Texas 78767. For further information, please call (512) 473-3564.

Issued in Austin, Texas, on March 6, 1984

TRD-842668

Elof H. Soderberg  
General Manager  
Lower Colorado River Authority

Filed, March 6, 1984

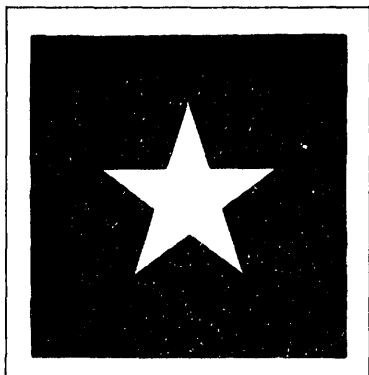
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