

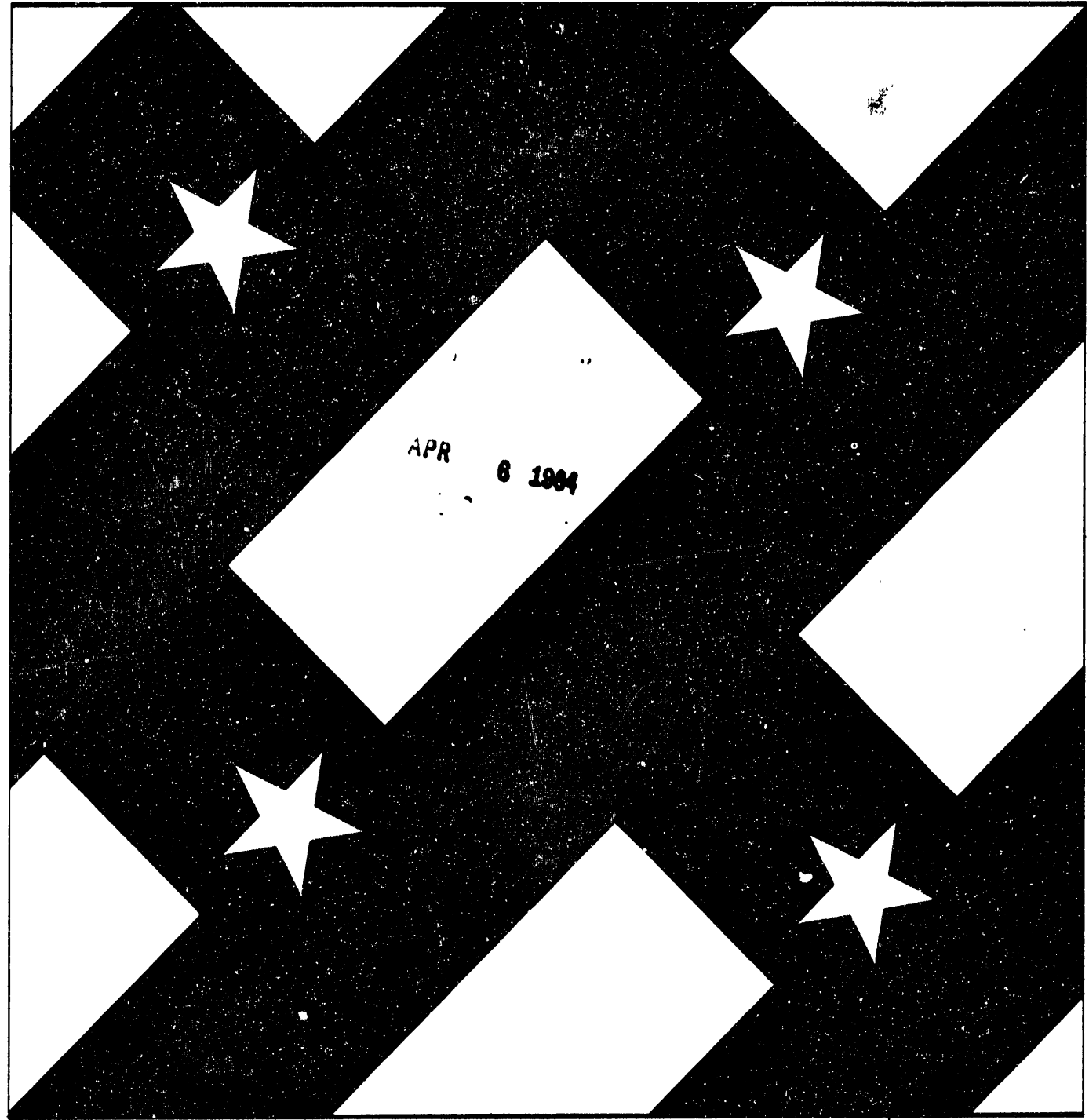
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Texas Register

Volume 9, Number 26, April 6, 1984

Pages 1919 - 2004



Highlights

The Texas Housing Agency adopts on an emergency basis and simultaneously proposes for permanent adoption new sections concerning the Letter of Credit/Surety Bond Multifamily Housing Program.
 Effective date - March 29 pages 1926, 1932

The Texas Parks and Wildlife Department proposes new sections concerning alligators
 Earliest possible date of adoption - April 7 page 1935

Also in this issue is the *Texas Register* monthly guide to agency activity and TAC titles affected in March page 1983

**Office of
 the Secretary
 of State**

Texas Register

The *Texas Register* (ISN 0362-4781) is published twice each 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.

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

- Governor—appointments, executive orders, and proclamations
- Secretary of State—summaries of opinions based on election laws
- State Ethics Advisory Commission—summaries of requests for opinions and opinions
- Attorney General—summaries of requests for opinions, opinions, and open records decisions
- Emergency Rules—rules adopted by state agencies on an emergency basis
- Proposed Rules—rules proposed for adoption
- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date
- Adopted Rules—rules adopted following a 30-day public comment period
- Open Meetings—notices of open meetings
- In Addition—miscellaneous information required to be published by statute or provided as a public service

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

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

In order that readers may cite material more easily, page numbers are now written as citations Example: on page 2, in the lower left-hand corner of the page, would be written: "9 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 9 TexReg 3."

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



Texas Register Publications

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John W. Fainter, Jr.
Secretary of State

Director
Susan Johnson
Deputy Director
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Documents Section Coordinator
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Production Section Coordinator
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Richard Salinas, Kathy Kincade
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Circulation Section Coordinator
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Circulation Assistant
Kristine Hopkins Mohajer

TAC Editors
**Richard Kallus,
Christine K. Schulze**

Assistant to the Director
Donna A. Matkin
Administrative Assistant
Jeff Richardson

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As required by Texas Civil Statutes, Article 6252-13a, §6, the *Register* publishes executive orders issued by the Governor of Texas. Appointments made and proclamations issued by the governor are also published. Appointments are published in chronological order.

Additional information on documents submitted for publication by the Governor's Office can be obtained by calling (512) 475-3021.

The Governor

Appointment Made December 21

Health and Human Services Coordinating Council

To be executive director for a term to continue at the pleasure of this governor:

Lynn Hollingsworth Leverty
3804 Paseo del Toro
Austin, Texas

Ms. Leverty is being appointed to this newly created position effective September 1, 1983, pursuant to Senate Bill 711, 68th Legislature, 1983.

Issued in Austin, Texas, on December 21, 1983.

TRD-843611 Mark White
Governor of Texas

Appointments Made March 16

Coordinating Council on Long-Term Care for the Elderly

For a term to expire January 31, 1985, and at the pleasure of this governor:

Alfredo R. Arriola
512 Chaparral Street
Alice, Texas 78332

Mr. Arriola is being appointed to this newly created council pursuant to Senate Bill 711, 68th Legislature, 1983.

Issued in Austin, Texas, on March 16, 1984.

TRD-843577 Mark White
Governor of Texas

Good Neighbor Commission

For a term to expire June 18, 1989:

Jose Alvarado, Jr.
3714 Prosper Court
Corpus Christi, Texas 78415

Mr. Alvarado is being reappointed.

Issued in Austin, Texas, on March 16, 1984.

TRD-843578 Mark White
Governor of Texas

Texas Cosmetology Commission

For a term to expire December 31, 1989:

Ronald B. Jemison
1405 Live Oak Street
Houston, Texas 77003

Mr. Jemison is replacing Nettie Carter of Wichita Falls, whose term expired.

Issued in Austin, Texas, on March 16, 1984.

TRD-843579 Mark White
Governor of Texas

Appointments Made March 20

Family Farm and Ranch Security Program Advisory Council

For a term to expire January 31, 1987:

Virginia Ann Armstrong
715 Oak
Dimmitt, Texas 79027

Ms. Armstrong is replacing Jack H. Barton of Houston, who resigned.

For terms to expire January 31, 1989:

Harold R. Pruitt
P.O. Box 37
Slidell, Texas 76267

Mr. Pruitt is replacing Felix Parmley of Nacogdoches, whose term expired.

Alfred L. Parks
14135 Eventide
Cypress, Texas 77429

Mr. Parks is replacing Dr. John A. Hopkin of College Station, whose term expired.

Issued in Austin, Texas, on March 20, 1984.

TRD-843582, Mark White
843580, Governor of Texas
843581

Appointments Made March 21

San Jacinto Historical Advisory Board

For a term to expire September 1, 1989:

Frank W. Calhoun
12917 Trail Hollow
Houston, Texas 77079

Mr. Calhoun is replacing Frank E. Tritico of Katy, whose term expired.

Issued in Austin, Texas, on March 21, 1984.

TRD-843583 Mark White
Governor of Texas

Texas Rehabilitation Commission

For a term to expire August 31, 1989:

Wendell D. Faulkner
1838 Adams Street
Pecos, Texas 79772

Mr. Faulkner is replacing Murray Watson of Waco, whose term expired.

Issued in Austin, Texas, on March 21, 1984.

TRD-843584 Mark White
Governor of Texas

**Appointments Made March 22
Midwestern State University**

To the Board of Regents for terms to expire February 25, 1990:

Margaret Darden
4011 Cochran Chapel Road
Dallas, Texas 75209

Ms. Darden is replacing Williard Still of Cranfills Gap, whose term expired.

Tom Blakeney, Jr.
303 South Jackson
Alvin, Texas 77511

Mr. Blakeney is replacing R. E. (Gene) Chambers of Wichita Falls, whose term expired.

Larry L. Lambert
1609 Burlington
Wichita Falls, Texas 76302

Mr. Lambert is replacing Jerry Craft of Jacksboro, whose term expired.

Issued in Austin, Texas, on March 22, 1984.

TRD-843809, Mark White
843610, Governor of Texas
843612

Appointments Made March 26

Interstate Oil Compact Commission

To serve on the Regulatory Practices Committee for terms to continue at the pleasure of this governor:

John E. Robertson
General Counsel
Mobil Producing Texas and New Mexico, Inc.
Nine Greenway Plaza, Suite 2700
Houston, Texas 77046

John R. Brose
3000 Clay Desta National Bank Building
6 Desta Drive
Midland, Texas 79705

Issued in Austin, Texas, on March 26, 1984.

TRD-843606, Mark White
843608 Governor of Texas

Texas Diabetes Council

For a term to expire February 1, 1986:

Carolyn Grubb
1500 Thornridge Road
Austin, Texas 78758

Ms. Grubb is being reappointed.

Issued in Austin, Texas, on March 26, 1984.

TRD-843607 Mark White
Governor of Texas

Home Health Services Advisory Council

For a term to expire January 31, 1986:

Joyce Snead
1604 Larry Wadkins Drive
El Paso, Texas 79936

Ms. Snead is replacing Arlene Miller of Beaumont, whose term expired.

Issued in Austin, Texas, on March 26, 1984.

TRD-843614 Mark White
Governor of Texas

Appointment Made March 27

**Automated Information Systems
Advisory Council**

For a term to expire February 1, 1986:

Dr. Charles H. Warlick
4509 Edgemont
Austin, Texas

Dr. Warlick is being reappointed.

Issued in Austin, Texas, on March 27, 1984.

TRD-843605 Mark White
Governor of Texas

Recommendations Made March 26

**Advisory Council for Technical-
Vocational Education in Texas**

The governor recommends the following names as candidates for terms to expire February 1, 1987:

Edith W. Patterson
10 South Briar Hollow #83
Houston, Texas 77027

Ms. Patterson would be a reappointment.

Lane Murray
P.O. Box 40
Huntsville, Texas 77340

Dr. Murray would be a reappointment.

Gay Sweet-Harris
8618 Norwich
San Antonio, Texas 78217

Ms. Sweet-Harris would be a reappointment.

Shirlene S. Cook
2235 Rampart
Beaumont, Texas 77705

Ms. Cook is replacing Hortencia Lopez of Port Lavaca,
whose term expired.

Oddis Calvin Turner
3906 Southmore Circle
Houston, Texas 77004

Dr. Turner is replacing Dr. Janie Cotton of Houston, who
is deceased.

Noe B. Calvillo
Route 1, Box 620-4
McAllen, Texas 78504

Mr. Calvillo is replacing T. R. Jackson of Beasley, whose
term expired.

Jan Eisenhower
6450 Patrick Drive
Dallas, Texas 75214

Ms. Eisenhower would be a reappointment.

Robert E. Hayes, Sr.
711 Roseborough Spring Road
Marshall, Texas 75670

Dr. Hayes is replacing Dr. Robert Hunter of Abilene,
whose term expired.

Issued in Austin, Texas, on March 26, 1984.

TRD-843613

Mark White
Governor of Texas

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 1. ADMINISTRATION Part IV. Office of the Secretary of State Chapter 91. Texas Register Filing of Documents

1 TAC §§91.21, 91.25-91.27, 91.36-91.39

The Office of the Secretary of State is renewing the effectiveness of the emergency adoption of amended §§91.21, 91.25-91.27 and new 91.36-91.39 for a 60-day period effective April 10, 1984. The amendments and new sections were originally adopted on an emergency basis in the December 20, 1983, issue of the *Texas Register* (8 TexReg 5310).

Issued in Austin, Texas, on March 29, 1984

TRD-843660 C Ed Davis
Assistant Secretary of State

Effective date April 10, 1984
Expiration date June 9, 1984
For further information, please call (512) 475-7886

Submission Forms

1 TAC §§91.91, 91.96, 91.98

The Office of the Secretary of State is renewing the effectiveness of the emergency adoption of amended §§91.91 and 91.96 and new 91.98 for a 60-day period effective April 10, 1984. The amendments and new section were originally adopted on an emergency basis in the December 20, 1983, issue of the *Texas Register* (8 TexReg 5312).

Issued in Austin, Texas, on March 29, 1984

TRD-843661 C Ed Davis
Assistant Secretary of State

Effective date April 10, 1984
Expiration date June 9, 1984
For further information, please call (512) 475-7886.

TITLE 10. COMMUNITY DEVELOPMENT Part IV. Texas Housing Agency Chapter 139. Letter of Credit/Surety Bond Multifamily Housing Program

10 TAC §§139.1-139.13

The Texas Housing Agency adopts on an emergency basis new §§139.1-139.13, concerning program guidelines for the agency's Letter of Credit/Surety Bond Multifamily Housing Program.

These new sections are being adopted on an emergency basis because the shortage of sanitary and safe residential housing that is available at prices or rentals that persons and families of low income and families of moderate income can afford has caused and continues to cause substandard, hazardous, and unsanitary living conditions, creating an imminent peril to the public health, safety, and welfare. To alleviate the effects of those conditions, the agency must act as quickly as possible. The agency simultaneously proposes these new sections for permanent adoption.

These new sections are promulgated under the authority of the Texas Housing Agency Act, Texas Civil Statutes, Article 1269I-6, which authorizes the Texas Housing Agency to adopt rules governing the administration of the agency and its programs.

§139.1. Introduction: Establishment and Funding of Program.

(a) The proceeds from each series of bonds issued under the Texas Housing Agency's Letter of Credit/Surety Bond Multifamily Housing Program will be used to make a mortgage loan to one or more developers whose payment or certain other obligations are unconditionally and irrevocably guaranteed or otherwise secured by:

(1) an insurance or other company, or its parent company, rated "A" or higher by Standard and Poor's or Moody's Investors Service; or

(2) any other eligible entity or combination of entities approved by the agency. The agency anticipates making a separate loan, evidenced by separate mortgage documents and other security interests, for each series of bonds.

(b) Each developer must use its mortgage loan for the financing of a multifamily residential development complying with federal and state law and located in the State of Texas. The development must be operated, for a minimum time period, in compliance with agreements that regulate, among other things, the maximum income of the tenants.

(c) The agency proposes to fund the program by issuing tax-exempt multifamily housing revenue bonds, as authorized pursuant to Texas Civil Statutes, Article 1269I-6, as amended. These rules and regulations remain subject in every respect to the specific terms and conditions set forth in all of the program documents. These documents are available, on request, from the agency.

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

Act—The Texas Housing Agency Act, Texas Civil Statutes, Article 1269I-6, as it may be amended from time to time.

Agency—The Texas Housing Agency.

Bonds—The agency's multifamily housing revenue bonds issued in one or more series pursuant to an indenture between the agency and the trustee, to provide financing for multifamily residential developments to be located in Texas.

Compliance monitoring agent—The entity selected with the approval of the agency to assist the agency in monitoring the developer's compliance with the program documents.

Developer or owner—The entity, or the successors and assigns of such entity, that will receive the proceeds of the mortgage loan and that will acquire, construct, rehabilitate, and/or operate the development in accordance with the terms of the financing agreement and mortgage loan documents approved by the agency.

Financing agreement—The agreement between the agency and the developer with respect to a series of bonds which sets forth certain terms and conditions of the mortgage loan to be made to the developer to finance the development.

Guarantor—The insurance company or other entity, or the successors and assigns of such entity, that guarantees or otherwise secures certain of the developer's obligations under the financing agreement and the obligor on any alternate security that may be substituted for the guaranty or other security agreement.

HUD—The United States Department of Housing and Urban Development.

Indenture—That certain trust indenture by and between the agency and the trustee, pursuant to which the bonds are authorized to be issued and secured, as the same is or may be amended and supplemented from time to time.

Low-income units—Those dwelling units in the development that are occupied, or deemed to be occupied, by lower income tenants within the meaning of the Tax Code, §103(b)(12), i.e., persons or families whose income does not exceed 80% of the median area income, as determined by HUD.

Moderate income units—Those dwelling units in the development that are occupied by persons or families of low income or families of moderate income, as determined by the agency in accordance with the provisions of the Act.

Mortgage loan—The mortgage loan in an amount equal to the aggregate principal amount of the bonds to which it relates, to be made by the agency to the developer to finance the development under the terms of the financing agreement and mortgage loan documents approved by the agency.

Program—The agency's Letter of Credit/Surety Bond Multifamily Housing Program with respect to one or more series of bonds, pursuant to which the agency may issue its revenue obligations to provide financing for one or more developments.

Section 8—Section 8 of the United States Housing Act of 1937, as amended.

Servicing agent—The mortgage lender selected with the approval of the agency to assist the agency in servicing the mortgage loans.

Tax Code—The Internal Revenue Code of 1954, as amended.

Trustee—A bank or other institution, and its successors in trust, approved by the agency to serve under the indenture pertaining to a particular series of bonds.

§139.3. Principal Documents. Principal documents include the financing agreement, the indenture, the escrow agreement, the guaranty agreement, and other program documents pertaining to each series of bonds, copies of which are available from the agency's executive administrator on request, that set forth the rights and obligations of all participants in the program.

§139.4. Guarantor Eligibility and Qualifications.

(a) The guarantor will enter into an agreement with the agency under which the guarantor will irrevocably and unconditionally guarantee or otherwise secure the timely performance of certain of the developer's obligations.

(b) Each guarantor will have the right to select one or more developments to guarantee.

(c) A guarantor may be located anywhere, but must be qualified to transact in Texas any and all business required of the guarantor under the program documents.

(d) The guarantor, or its parent company, must be an entity rated "A" or higher by Standard and Poor's or Moody's Investors Service, or any other eligible entity approved by the agency.

(e) As the agency may reasonably request, the guarantor must consent to, and incur the cost of, the inclusion of audited financial statements, current stub periods, and such other information in publicly distributed documents relating to the sale of bonds.

(f) The guarantor must also provide the agency with satisfactory indemnification, comfort letters, and opinions in forms acceptable to the agency.

(g) The guarantor must enter into agreements with the agency, developer, and trustee regarding the main-

tenance of tax exemption on the bonds and compliance of the housing development with state law

(h) Each guarantor must select and compensate a mortgage lender, approved by the agency, having the responsibilities and meeting the additional requirements set forth in this chapter.

(i) Each guarantor must select and compensate an independent compliance monitoring agent, approved by the agency, to audit and certify that the owner is in compliance with federal tax law relating to exemption of the bonds from federal income taxation. In addition, this agent must certify as to compliance with state law as required under the agreements. The responsibilities include

(1) periodically reviewing income affidavits of residents of the project and submitting required reports to the agency; and

(2) generally assisting the agency in ensuring program compliance

§139.5. Developer Participation.

(a) Developers must secure a written commitment from a guarantor.

(b) Prior to the sale of the bonds, each developer must supply the agency with the expected mortgage loan closing date, which shall occur no later than 180 days after the issuance of the bonds. Prior to the issuance of the bonds, each developer must timely submit to the agency appropriate certificates detailing development costs. If the developer does not close the mortgage loan simultaneously with the bond closing, each developer must reimburse the agency for any net investment losses (i.e., negative arbitrage) from the date of issuance of the bonds to such closing date and for additional net investment losses suffered by the agency due to a developer's failure to meet such closing date.

(c) Developers will pay the agency a nonrefundable program application fee and the costs incurred in holding the public hearing. Developers will provide information, including a market survey if requested, concerning each development as required by the guarantor or the agency, which information may be distributed in public documents and in connection with public hearings.

(d) Developers and guarantors will jointly execute a commitment agreement and deliver to the agency a commitment fee in the form of a certified check in the amount of 1.0% of the principal amount of the mortgage loan requested. Even if the bonds are not issued, the agency may retain a portion of this fee. Upon issuance of bonds for a particular project, the mortgage loan will be funded at a discount of up to 3.5% to cover actual issuance expenses, on the bonds and the 1.0% commitment fee will be retained by the agency as a financing fee. In the event the mortgage loan is not funded at the bond closing, the developer will be required to pay to the agency in immediately available funds at the bond closing an amount of up to 3.5% of the mortgage loan to cover bond issuance expenses and then the mortgage loan will be funded at the full stated amount. The agency will accept an irrevocable letter of credit or other cash equivalent, provided the institution and the form is acceptable to the agency, for the 1.0% commitment fee as well as for the 3.5% fee for issuance expenses. The agency may require, however, that immediately available funds be substituted the day before the bond closing.

(e) Developers will construct or acquire multifamily developments in accordance with the requirements of state and federal law

(f) Developers will rent units to eligible tenants who meet certain specified income limits. No other preference or discrimination (based on race, sex, family status, age, religion, national origin, or similar factor) is permissible.

(g) Developers will provide the agency with proof of payment of taxes and insurance

(h) Developers will cooperate with the agency, the trustee, the servicing agent, and the compliance monitoring agent in furnishing information on the construction and operation of the development.

§139.6. Agency Participation.

(a) The agency intends to make tax-exempt financing available on each development at an interest rate equal to the rate on the bonds plus an additional percentage (e.g., 0.25%) per annum to cover program expenses and reserves such as trustee fees, audit fees, and agency administration. The interest rate on each series of bonds will be influenced by market conditions, the term of the bonds, and the credit rating of the guarantor

(b) The agency will monitor maintenance of tax-exemption on the bonds and compliance with state law for the term of the financing

(c) The agency will establish minimum property standards and minimum underwriting standards.

(d) The agency will retain a Texas financial institution, or other suitable entity, as trustee

(e) The agency intends to receive:

(1) a financing fee of 1.0% of the loan amount plus reimbursement of financing expenses and capitalized interest, if any; and

(2) an annual amount, as fixed by the agency, to cover a share of the agency's ongoing and other expenses.

(f) The agency will review submitted applications for compliance with the agency's program guidelines.

(g) The agency will conduct public hearings required by federal tax laws

§139.7. Servicing Agent Participation.

(a) A servicing agent must be a bank, savings and loan association, mortgage banker, or other appropriate institution approved by the agency. The agency reserves the right to act as servicing agent

(b) A servicing agent must be located in Texas, be Federal National Mortgage Association-Federal Home Loan Mortgage Corporation approved, and have maintained a servicing office in Texas at least six months prior to the closing date of the financing

(c) A servicing agent must not be directly or indirectly related in any way to the guarantor

(d) The servicing agent must enter into a service agreement, with the developer, guarantor, and the agency, which will provide for the following minimum services:

(1) After the developer prepares requisition certificates for construction fund disbursements and a completion certificate the servicing agent will promptly review each for program compliance prior to the submission of such certificates to the agency and the trustee.

(2) Monitor and report to the agency annually, and as reasonably requested, on the development's gener-

al physical condition as well as the status of insurance and tax payments outstanding.

(3) Assist as requested in notifying and obtaining payments, if any, from the guarantor or others.

§139.8. Eligible Developments.

(a) The development must be located in Texas.

(b) The development and the bonds are subject to a public hearing held by the agency and approval by the "applicable elected representative" as defined and required by the Tax Code, §103(k), and related regulations. By the time of the public hearing, in addition to information submitted with the commitment agreement, the developer must provide evidence of:

(1) control of land ownership,

(2) proper zoning and compliance with any applicable deed restrictions, and

(3) availability of utilities.

(c) The development must consist of land, buildings, and related facilities and equipment designed and intended for use as residential rental property. Substantially all of the net proceeds of the bonds (after payment of costs of bond issuance and administrative costs connected with the mortgage loan) must be used for costs related to the development that are capitalized for federal income tax purposes. Bond proceeds may not be used for working capital.

(d) The development may be required to have at least 50 dwelling units.

(e) The development may consist of multiple structures, but all units must be "similarly constructed" within the meaning of Treasury Regulations under the Tax Code, §103(b)(4)(A), and the component parts of the development must be owned and operated as a single development.

(f) All units in the development must be made available for rental by the general public, subject to the income restrictions

(g) At least 20% of the units in a development located in a nontargeted area shall be occupied (or deemed to be occupied within the meaning of the Tax Code and federal tax regulations) by a person or family whose income does not exceed 80% of the median area income, as determined from time to time by HUD. In targeted areas, as determined by qualified census tracts, 15% of the units must be so occupied. Areas designated as areas of chronic economic distress may also be considered as targeted areas. A list of the census tracts and areas of chronic economic distress, if any, that qualify as targeted areas is available from the agency. Median income data for selected metropolitan areas and for counties in Texas are expected to be revised and published annually by HUD for households consisting of up to eight family members.

(h) In addition to the occupancy requirements of this program, the dwelling units in each development shall be occupied by a person whose adjusted gross income for the immediately preceding tax year did not exceed \$33,000, or by two or more persons (none of whom had adjusted gross income over \$33,000 or a family whose combined adjusted gross income for the immediately preceding tax year did not exceed \$42,000. When permissible, the agency intends to increase these income limits periodically to reflect changes in the consumer price in-

dex for all commodities since the last adjustment. The agency may not reduce these income limits below the initial levels, unless required by law.

(i) All units in a development must be rented or available for rental (i.e., cannot be converted to condominiums) for a period beginning on the first day in which 10% of the units in the development are available for occupancy and ending at the later of:

(1) the date on which no bonds remain outstanding and unpaid,

(2) 10 yrs after the date on which 50% of the units in the development are first occupied,

(3) the date which is 50% of the number of days of the longest maturity on the bonds after the date on which the first unit in the development is occupied, or

(4) the termination of a 20-year, Section 8 contract, if any.

(j) In general, to be financed with the proceeds of the bonds, costs related to the development must be incurred after the agency adopts a resolution indicating its intent to issue bonds for the project and meet other limitations of state and federal law. Construction must commence and be completed within the time set forth in the program documents, but in no event later than three years after issuance of the bonds. Refinancing of developments is not permitted. The agency, however, will consider proposals to rehabilitate a development.

(k) The developer must enter into agreements with the agency, the guarantor, and the trustee acting on behalf of the agency, to ensure compliance with the requirements of the program. In addition, each owner must accept and record deed restrictions requiring, for example, that the entire development be maintained and operated as residential rental property for the required period.

§139.9. Mortgage Loan Terms.

(a) Each loan shall provide financing for an eligible development for a term consistent with the term of the guaranty agreement and with bond maturities scheduled to match the amortization schedule on the mortgage loan.

(b) Proceeds of a mortgage loan shall be funded into a construction or acquisition escrow account on the closing date of the bonds. With the approval of the agency, a loan may be funded at the discount equal to the costs of issuing the bonds and the underwriters' discount on the financing.

(c) Each loan shall be secured by a first lien mortgage on the development, pledged to the agency, and by such other security as the guarantor or the agency may require.

(d) The agency shall set the interest rate on each mortgage loan at a rate higher than the rate on the bonds to provide an amount sufficient for the agency, for example, to pay trustee fees, auditing expenses, and administrative costs of the agency.

(e) The maximum loan amount shall not exceed 95% of the housing development cost.

(f) Each loan shall be subject to optional prepayment only upon such terms and conditions as will enable the agency to make a corresponding prepayment of the bonds and upon payment of the prepayment fees set forth in the financing agreement.

(g) The multifamily mortgage loans will be pledged as security for the bonds during the period that the bonds remain outstanding.

(h) All of the proceeds of the loan must be used to pay housing development costs. Ninety percent of the loan proceeds must be "qualified development costs" under federal law. In order for expenditures to be "qualified development costs," they must be capital expenditures incurred following the agency's execution of an official action agreement to provide financing for the development.

§139.10. Subsequent Sale or Transfer of a Development.

(a) A new owner must agree to assume all of the deed restrictions and regulatory requirements applicable to the development.

(b) The agency reserves the right to review and approve the proposed sale or transfer.

(c) The agency will receive a minimum fee of 0.25% of the unpaid principal balance on a sale or transfer of a development to cover its expenses in reviewing, approving, and administering any transfer.

(d) A bond counsel's opinion, acceptable to the agency, must be provided at the expense of the developer. This opinion must state that such sale or transfer will not adversely affect the tax-exempt status of the bonds.

§139.11. Equity Participation. A guarantor may hold up to a 50% equity interest in a development for which it provides a guarantee under the program. An equity interest must be based on an actual contribution of equity in the form of cash or property, and shall bear the same ratio to the total equity contributions to the development.

§139.12. Private Placement of Bonds. The agency will consider a private placement of one or more series of bonds with an investor or investors arranged by the developer in lieu of a public offering of the bonds, subject to the following:

(1) Each investor, initial or subsequent, must execute an "investment letter" stating that

(A) the bonds are being purchased for investment purposes with no present intention of resale,

(B) the investor has received all necessary information pertinent to the financing to enable the investor to make an investment decision,

(C) the investor is fully capable of making, and does routinely make, investment decisions of the nature involved,

(D) the investor understands that the bonds may have limited marketability, and

(E) the investor acknowledges that the bonds are special obligations payable solely from pledged revenues.

(2) No more than 10 initial investors will be permitted. Resale of the bonds will also be subject to certain restrictions.

(3) The board of directors of the agency intend to consider private placements only at scheduled board meetings, which sometimes occur no more often than quarterly (in late February, May, August, and November).

(4) Although the agency's financing fee and annual charge would not vary with a private placement from

those indicated in this section, the loan discount would be adjusted to reflect the actual costs of issuing the bonds, including fees of the agency's financial advisor, the trustee, and bond counsel.

§139.13 Administration of Program. The agency shall have general responsibility for administering the program and shall have full power and authority, acting alone, to do and perform any and all things that it may deem necessary or desirable to carry out its duties and responsibilities, unless contrary to the express provisions of the program documents.

Issued in Austin, Texas, on March 28, 1984

TRD-843572 Earline Jewett
Executive Administrator
Texas Housing Agency

Effective date: March 29, 1984

Expiration date: July 27, 1984

For further information, please call (512) 475-0812.

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part I. General Land Office

Chapter 2. Oil, Gas, and Mineral Lease Sales

Nomination

31 TAC §2.1

The General Land Office adopts on an emergency basis new §2.1, concerning the nomination of tracts for lease by the commissioner of the General Land Office. The new section is adopted on an emergency basis because, at its December 6, 1983, meeting, the School Land Board unanimously adopted and made effective immediately a \$100 nomination fee for all nominations of tracts for the lease sale to be held in April 1984. The General Land Office adopts this section to be consistent with the provisions of §153.1 of this title, relating to School Land Board nomination fees, which was previously adopted to defray the costs of processing nominated tracts.

The new section is adopted on an emergency basis under the Texas Natural Resources Code, §31.064 and §52.001, *et seq.*, which authorizes the commissioner to set reasonable fees and adopt rules for the sale and lease of land.

§2.1. Nominations of Tracts for Lease.

(a) Written requests that designated tracts of state land be offered for lease of oil, gas, and other minerals may be submitted to the commissioner of the General Land Office at any time. A \$100 fee shall be submitted for each tract so nominated.

(b) The fee will be refunded only if the tract nominated is not eligible for lease by the commissioner.

(c) The School Land Board will, from time to time, schedule a lease sale, and the announcement of such sale will include a final date for submitting nominations.

(d) Interested state and federal agencies will be requested to submit recommendations on tracts nominated

in submerged areas so that a prospective bidder is informed in advance as to any drilling and development restrictions which might be expected on a specific tract.

Issued in Austin, Texas, on March 30, 1984.

TRD-843663 Garry Mauro
 Commissioner
 General Land Office

Effective date: April 2, 1984
Expiration date: July 31, 1984
For further information, please call (512) 475-5661.



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 10. COMMUNITY DEVELOPMENT Part IV. Texas Housing Agency Chapter 139. Letter of Credit/Surety Bond Multifamily Housing Program 10 TAC §§ 139.1-139.13

(Editor's note The Texas Housing Agency proposes for permanent adoption the new rules it adopts on an emergency basis in this issue. The text of the rules is published in the Emergency Rules section of this issue.)

The Texas Housing Agency proposes new §§ 139.1-139.13, concerning program guidelines for the agency's Letter of Credit/Surety Bond Multifamily Housing Program. These new sections are adopted on an emergency basis in this issue of the *Texas Register*.

Earline Jewett, executive administrator, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rules.

Ms. Jewett also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed is the facilitation of efforts to increase the supply of sanitary and safe housing at affordable prices. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Stan Kantrowitz, General Counsel, Texas Housing Agency, P.O. Box 13941, Austin, Texas 78711-3941.

The new sections are proposed under the Texas Housing Agency Act, Texas Civil Statutes, Article 1261-6, which provide the Texas Housing Agency with the authority to adopt rules governing the administration of the agency and its programs.

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

Issued in Austin, Texas, on March 28, 1984

TRD-843573 Earline Jewett
Executive Administrator
Texas Housing Agency

Earliest possible date of adoption
May 7, 1984

For further information, please call (512) 475-0812.

TITLE 22. EXAMINING BOARDS Part V. Texas State Board of Dental Examiners Chapter 109. Conduct Listings of Auxiliary Personnel 22 TAC § 109.81

The Texas State Board of Dental Examiners proposes amendments to § 109.81, concerning prohibitions of listings of auxiliary personnel.

William S. Nail, executive 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. Nail 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 consistency of the rules with court decisions and the Dental Practice Act. 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 William S. Nail, Executive Director, 411 West 13th Street, Suite 503, Austin, Texas 78701.

The amendments are proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of this state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

§109.81. Prohibitions. If the names of auxiliary personnel, such as dental hygienists, dental assistants, etc., are [may not be] displayed in any manner, the auxiliary personnel must be clearly identified by title, along with the name of the employing dentist [except within the dentist's office]. Any such display must conspicuously identify the employing dentist.

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 29, 1984

TRD-843595 William S. Nail
Executive Director
Texas State Board of Dental
Examiners

Earliest possible date of adoption.
May 7, 1984

For further information, please call (512) 475-2443.

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part I. General Land Office

Chapter 2. Oil, Gas, and Mineral Lease Sales

Nominations

31 TAC §2.1

(Editor's note: The General Land Office proposes for permanent adoption the new section it adopts on an emergency basis in this issue. The text of the section is published in the Emergency Rules section of this issue.)

The General Land Office proposes new §2.1, concerning the nomination of tracts for lease by the commis-

sioner of the General Land Office. This section provides for a \$100 nomination fee for each tract and is proposed to be consistent with the provisions of §153.1, which was adopted to help defray the costs of processing nominated tracts and setting up a lease sale. This new section is being adopted on an emergency basis in this issue of the *Texas Register* and will not be republished here.

John Hall, resource management deputy commissioner, has determined that for the first five-year period the new section will be in effect there will be fiscal implications as a result of enforcing or administering the new section. The effect on state government is an estimated increase in revenue of \$100,000 for 1984-1988. There is no anticipated effect on local government. The anticipated cost of compliance for small businesses is the same as the cost for individuals and small businesses. Cost per employee and cost per hour of labor will be the same for small businesses and the largest business affected by the proposed section.

Mr. Hall also has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing the section as proposed is a more efficient management of leases on lands dedicated to the permanent school fund. The anticipated economic cost to individuals who are required to comply with the rule as proposed is a \$100 fee per nominated tract for 1984-1988.

Comments on the proposal may be submitted to Jim Phillips, Legal Counsel, General Land Office, 1700 North Congress Avenue, Austin, Texas 78701.

The new section is proposed under the Texas Natural Resources Code, §32.062 and §52.001, *et seq.*, which provides the General Land Office with the authority to set fees and adopt rules governing the leasing of public lands for production of oil and gas.

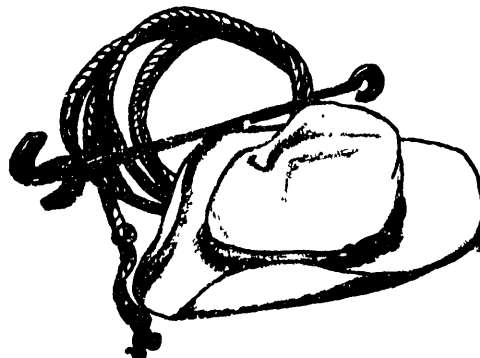
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on March 30, 1984.

TRD-843664 Garry Mauro
Commissioner
General Land Office

Earliest possible date of adoption
May 7, 1984

For further information, please call (512) 475-5661.



**Part II. Texas Parks and Wildlife
Department
Chapter 57. Fisheries
Endangered Species**

31 TAC §57.133

The Texas Parks and Wildlife Department proposes amendments to §57.133, concerning closed seasons of endangered species. The proposed amendments delete the American alligator from listing as endangered and revert its management authority to proclamation issued under the Texas Parks and Wildlife Code, Chapter 65.

Additionally, listing of the southern bald eagle (*Haliaeetus l. leucocephalus*), a subspecies, as endangered is changed to list the species, bald eagle (*Haliaeetus leucocephalus*) as endangered.

The proposed changes in listing are in response to federal reclassification of the American alligator in Texas (*Federal Register* Volume 48, pages 46332-46336, dated October 12, 1983) removing the species from biologically endangered or threatened status. The proposed change in the bald eagle listing results from a change in federal listing (*Federal Register* Volume 43, pages 6230-6233, dated February 14, 1978), which combines the listing of the two subspecies of bald eagle into a single listing of the species.

James E. Dickinson, finance director, has determined that for the first five-year period the section 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 section.

Mr. Dickinson also has determined that for each year of the first five years the section as proposed is in effect, the segment of the public required to assess impacts of its activities on the American alligator as endangered, no longer will be required to do so. No other effects are anticipated with regard to the more inclusive listing of the bald eagle.

Comments on the proposal may be submitted to Bruce C. Thompson, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4979.

The amendments are proposed under the Texas Parks and Wildlife Code, Chapter 68, which provides the Texas Parks and Wildlife Department with the authority to alter the list of species threatened with statewide extinction by acceptance of corresponding changes in federal listing.

§57.133. *Closed Seasons* Except as provided by §57.132 of this title (relating to Permits to Take Certain Fish or Wildlife), it shall be unlawful for any person to take, possess, transport, export, process, sell or offer for sale, or ship any species of fish or wildlife within this state listed as follows; and no person shall possess, transport, export, process, sell, or offer for sale goods made from the fish and wildlife listed as follows not born and raised in captivity:

Mammals

Blue whale	<i>Balaenoptera musculus</i>
Finback whale	<i>Balaenoptera physalus</i>
Right whale	<i>Eubalaena spp.</i> (all species)
Sperm whale	<i>Physeter catodon</i>
Black-footed ferret	<i>Mustela nigripes</i>
Jaguar	<i>Panthera onca</i>
Jaguarundi	<i>Felis yagouaroundi cacomitti</i>
Margay	<i>Felis wiedii</i>
Ocelot	<i>Felis pardalis</i>
Red wolf	<i>Canis rufus</i>
Gray wolf	<i>Canis lupus monstabilis</i>
Mexican wolf	<i>Canis lupus baileyi</i>
West Indian manatee	<i>Trichechus manatus</i>
Bighorn sheep	<i>Ovis canadensis</i>

Birds

Brown pelican	<i>Pelecanus occidentalis</i>
[Southern] Bald eagle	<i>Haliaeetus [l.] leucocephalus</i>
American peregrine falcon	<i>Falco peregrinus anatum</i>
Arctic peregrine falcon	<i>Falco peregrinus tundrius</i>
Attwater's greater prairie chicken	<i>Tympanuchus cupido attwateri</i>
Whooping crane	<i>Grus americana</i>
Eskimo curlew	<i>Numenius borealis</i>
Interior least tern	<i>Sterna albifrons athalassos</i>
Ivory-billed woodpecker	<i>Campephilus principalis</i>
Red-cockaded woodpecker	<i>Dendrocopos borealis</i>
Bachman's warbler	<i>Vermivora bachmanii</i>

Reptiles

Speckled racer	<i>Drymobius m. margaritifera</i>
Harter's water snake	<i>Natrix harteri</i>
Atlantic ridley turtle	<i>Lepidochelys kempii</i>
Hawksbill turtle	<i>Eretmochelys imbricata</i>
Leatherback turtle	<i>Dermochelys coriacea</i>
[American alligator]	<i>[Alligator mississippiensis]</i>

Amphibians

Cascade Cavern salamander	<i>Eurycea latitans</i>
Texas blind salamander	<i>Typhlomolge rathbuni</i>
Houston toad	<i>Bufo houstonensis</i>

Fishes

Paddlefish	<i>Polyodon spathula</i>
Shovelnose sturgeon	<i>Scaphirhynchus platyrhynchus</i>
Amistad gambusia	<i>Gambusia amistadensis</i>
Sam Marcos gambusia	<i>Gambusia georgei</i>
Big Bend gambusia	<i>Gambusia gaigei</i>
Clear Creek gambusia	<i>Gambusia heterochir</i>
Pecos gambusia	<i>Gambusia nobilis</i>
Comanche Springs pupfish	<i>Cyprinodon elegans</i>

Leon Springs pupfish *Cyprinodon bovinus*
 Fountain darter *Etheostoma fonticola*
 Bluntnose shiner *Notropis simus*

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 April 2, 1984.

TRD-843669 Maurine Ray
 Administrative Assistant
 Texas Parks and Wildlife
 Department

Earliest possible date of adoption.

May 7, 1984

For further information, please call (512) 479-4074
 or (800) 792-1112.

Chapter 65. Wildlife Subchapter P. Alligators

31 TAC §§65.351-65.356

(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Parks and Wildlife Commission proposes the repeal of §§65.351-65.356, concerning importation and possession of alligators. Proposed removal of the alligator from the state endangered species list and resulting expansion of the Alligator Management Program establishes the need for more inclusive rules that address necessary aspects of take, possession, propagation, transportation, importation, exportation, and sale. The provisions of the rules proposed for repeal are included, where applicable, in new proposed rules.

James E. Dickinson, finance director, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. Dickinson also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is the capability to provide expanded rules that provide for a broader range of public uses of alligator resources. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Bruce C. Thompson, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4979 or (800) 792-1112.

The repeal is proposed under the Texas Parks and Wildlife Code, Chapter 65, which provides the Texas Parks and Wildlife Commission with the authority to adopt regulations necessary to manage alligators.

§65.351. *Application.*

§65.352. *Definitions.*

§65.353. *Open Season.*

§64.354. *Possession.*

§65.355. *Disposition of Alligators.*

§65.356. *Penalty for Violation.*

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 April 2, 1984

TRD-843670 Maurine Ray
 Administrative Assistant
 Texas Parks and Wildlife
 Department

Earliest possible date of adoption

May 7, 1984

For further information, please call (512) 479-4974
 or (800) 792-1112

31 TAC §§65.351-65.362, 65.368, 65.369

The Texas Parks and Wildlife Commission proposes new §§65.351-65.362, 65.368, and 65.369, concerning the taking, possessing, propagation, transportation, importation, exportation, and sale of alligators statewide. The new sections provide regulations necessary to support a comprehensive alligator management program that includes sustained-yield harvest. The new sections also incorporate provisions that are necessary to qualify alligators and alligator parts from Texas for international export under federal guidelines associated with the Convention on International Trade in Endangered Species of Wildlife Fauna and Flora. Alligators in Texas are not endangered but their similarity in appearance to other crocodylian species that are endangered requires that certain controls on commerce be provided to minimize illegal marketing.

The proposed sections will establish take and possession limits applicable to alligators in Texas; designate the necessary licensees, permits, and associated fees; provide for the means, methods, and open season for legal harvest of wild and propagated alligators; establish a landowner-based harvest quota system for issuance of tags that will be required for legal harvest; provide limitations and reporting requirements for importation, exportation, purchase, and sale of alligator parts by all classes of licensees and permittees; provide for take and disposal of nuisance alligators; and delineate necessary exceptions for consumers, actions by Texas Parks and Wildlife Department personnel, and take in defense of life.

James E. Dickinson, finance director, has determined that for the first five-year period the rules will be in effect there will be fiscal implications as a result of enforcing or administering the rules, including surveys supporting the required tag issuance system. The estimated additional cost to state government for the first five-year period the rules will be in effect is \$53,500 in 1984; \$70,550 in 1985; \$72,670 in 1986; \$74,850 in 1987, and \$77,100 in 1988. The estimated increase in revenue to state government is \$27,950 each year in 1984-1988. There is no anticipated effect on local government or small businesses.

Mr. Dickinson also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed is improved management of the alligator resource in Texas with the potential for economic gain through commercial sale of alligator parts taken during controlled harvest.

The anticipated economic cost to individuals who are required to comply with the rules as proposed is \$25 per year in 1984-1988 for resident licensed alligator hunters and \$300 per year in 1984-1988 for nonresident licensed alligator hunters. For licensed alligator buyers, the cost for residents will be \$150 per year in 1984-1988, and for nonresident alligator buyers, the cost will be \$600 per year during the same period.

The cost for alligator parts dealer permittees who are residents will be \$200 per year in 1984-1988, and for nonresidents, the cost will be \$900 per year during the same period. The cost per year for alligator farmers will be \$150 each year in 1984-1988. A \$5.00 fee will be charged each year in 1984-1988 for import/export permittees and hide tag purchasers (per tag).

Comments on the proposal may be submitted to Bruce C. Thompson, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4979 or (800) 792-1112.

The new sections are proposed under the Texas Parks and Wildlife Code, Chapter 65, which provides the Texas Parks and Wildlife Commission with the authority to adopt fees and regulations for the taking, possession, propagation, transportation, exportation, importation, sale and offering for sale of alligators or parts of alligators as considered necessary to manage the species

§65.351 Application. Except for special permits issued under the Texas Parks and Wildlife Code, Chapter 43, or contracts for the removal of reptiles entered into under the Texas Parks and Wildlife Code, §81.404, these sections govern the taking, possession, propagation, transportation, exportation, importation, and sale of alligators or parts of alligators to the exclusion of other regulatory and licensing laws in compliance with the Texas Parks and Wildlife Code, §65.002.

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

Alligator—American alligator (*Alligator mississippiensis*), Texas Parks and Wildlife Code, §65.001(1).

Alligator buyer—A person who buys alligators, alligator hides, or any part of an alligator from an alligator hunter, Texas Parks and Wildlife Code, §65.001(2)

Alligator hunter—A person who takes dead or live alligators or any part of an alligator, Texas Parks and Wildlife Code, §65.001(3).

Alligator farmer—A person who propagates alligators to take for the purpose of selling alligators, hides, meat, or other parts of an alligator.

Alligator parts—The hide or skin, teeth, meat, eggs, or any other part of an alligator.

Alligator parts dealer—A person holding an alligator parts dealer permit who buys alligators or parts of alligators from a licensed alligator farmer, licensed alligator buyer, or another alligator parts dealer permit holder.

Consumer—A person who legally obtains any processed or manufactured alligator part for personal use.

Department—The Texas Parks and Wildlife Department, or a specifically authorized employee of the Parks and Wildlife Department.

Harpoon or gig—A pole or staff less than 10 feet long that has attached at one end a barbed device consisting of six or fewer immovable prongs or two or more spring-loaded grasping arms.

Nonresident—A person who is not a resident of Texas, Texas Parks and Wildlife Code, §65.001(7).

Nuisance alligator—A specific (particular) alligator that poses a threat to human life or property.

Nuisance control hunter—A licensed alligator hunter who is contracted or otherwise selected by the department to remove designated nuisance alligators.

Person—An individual acting in his own behalf or as agent for another.

Pole hunting—The act of taking an alligator from a submerged den with a pole or snagging device of any type and includes using such devices to induce an alligator to move from a den prior to taking.

Possess—The act of having in possession or control, keeping, detaining, restraining, or holding as owner or as agent, bailee, or custodian for another, Texas Parks and Wildlife Code, §65.001(4).

Processed or manufactured alligator part—Any part (and its resulting products) that has been removed from a legally-taken alligator, treated to prevent decomposition, and packaged; provided that hides are not processed until tanned, and meat and other parts are not processed until packaged and marked with required labeling.

Propagation—The holding of live animals for production of offspring.

Resident—A person, except an alien, who has been a resident of this state for more than six months immediately before applying for an alligator hunter's or buyer's license, Texas Parks and Wildlife Code, §65.001(6).

Take—The act of hooking, netting, snaring, trapping, pursuing, shooting, killing, or capturing by any means or device and includes the attempt to take by the use of any method, Texas Parks and Wildlife Code, §65.001(5).

§65.353. General Rules.

(a) No person may take, possess, purchase, or sell alligators, parts of alligators, or goods manufactured from alligators, except as provided in this subchapter.

(b) No person may take alligators on statutory wildlife sanctuaries or on rights-of-way of public roads and highways

(c) Each alligator or part of an alligator taken or possessed in violation of this subchapter shall constitute a separate offense.

(d) Hides of alligators harvested in Texas shall be tagged in accordance with §65.356 of this title (relating to Hide Tag Procurement and Tagging Requirements) and

deviation from those requirements shall be a violation and subject hides to confiscation.

(e) Pole hunting is prohibited.

(f) An alligator hunter must possess on his person one or more current alligator hide tags while taking alligators, provided that only one licensed hunter needs to possess current hide tags among a group of hunters accompanying each other.

§65.354. Licenses, Permits, and Fees.

(a) The licenses and fees required for activities authorized by this subchapter are as prescribed under provisions of the Texas Parks and Wildlife Code, Chapter 65, or as prescribed in this subsection, and are:

- (1) \$25 for a resident alligator hunter's license;
- (2) \$300 for a nonresident alligator hunter's license;
- (3) \$150 for a resident alligator buyer's license;
- (4) \$600 for a nonresident alligator buyer's license;
- (5) \$5.00 for an alligator import/export permit fee;
- (6) \$150 for an alligator farmer permit fee;
- (7) \$5.00 for each alligator hide tag fee;
- (8) \$200 for a resident alligator parts dealer permit fee; and
- (9) \$900 for a nonresident alligator parts dealer permit fee.

(b) No person may take, attempt to take, possess, or accompany another person who is attempting to take an alligator in this state during the open season established in this subchapter for taking alligators unless he has acquired and possesses an alligator hunter's license.

(c) No person may purchase or possess after purchase from an alligator hunter an alligator, alligator hide, or any part of an alligator taken in this state unless he has acquired and possesses an alligator buyer's license.

(d) An alligator farmer permit must be acquired by any person possessing one or more live alligators.

(e) No person may purchase or possess after purchase from an alligator farmer or alligator buyer an alligator, alligator hide, or any part of an alligator taken in this state unless he has acquired and possesses an alligator parts dealer permit or is otherwise exempted.

(f) All licenses and permits prescribed in this subchapter are valid from September 1 or from the date of issuance, whichever is later, until the following August 31, unless otherwise provided in this subchapter.

(1) Applicants for an alligator hunter's license must attend an orientation session as prescribed by the department prior to issuance of a license each year.

(2) Applicants for an alligator buyer's license and alligator parts dealer permit must comply with federal licensing and permit requirements to engage in commerce involving alligators, alligator hides, and parts prior to issuance of an alligator buyer's license or alligator parts dealer permit.

§65.355. Means and Methods.

(a) Alligators captured alive in the wild that are less than four feet long from snout to tip of tail or in excess of the harvest quota must be released alive immediately. Alligator hunters may not possess dead or alive any alligator that is less than four feet long from snout to tip of tail.

(b) Alligators taken from the wild may be removed from hook and line, and other capture devices may be used, only from one-half hour before sunrise until sunset.

(c) Legal means for taking alligators in the wild are as follows:

- (1) baited hook and line;
- (2) harpoon or gig; and
- (3) long (including compound) bow and barbed arrow.

(d) Firearms of no larger than .22 caliber rimfire and handheld axes or hatchets may be used only to dispatch alligators caught on legal taking devices.

(e) Hooks, harpoons, gigs, and arrows may be used only when a line of at least 300-pound test is securely attached to the hook or head of the device in such a manner to prevent separation from the hook or head until the carcass is retrieved.

(f) Alligator hunters shall inspect their hooks and lines and remove captured alligators daily. All hooks and lines shall be removed when an alligator hunter's harvest quota is reached.

(g) Alligators shall be skinned in accordance with special instructions issued prior to each alligator season. The special instructions will provide for an identifying mark on each hide.

(h) Each baited line shall be labeled with a permanent, legible tag that contains the full name and complete current address of the licensed alligator hunter or hunters that set and tend the line.

(i) Baited hooks and lines may not be set prior to the general open season and shall be removed no later than sunset of the last day of the open season.

(j) No person possessing hide tags issued for privately-owned land or water may take alligators on adjacent publicly-owned water unless the taking device is anchored to privately-owned land or the person is on privately-owned land when the taking occurs.

(k) Chemicals may not be used to take or dispatch alligators.

§65.356. Hide Tag Procurement and Tagging Requirements.

(a) Alligator hide tags may be obtained as follows:

(1) Nuisance control hunter—as provided by the department in accordance with §65.360 of this title (relating to Nuisance Alligator Control).

(2) Alligator farmers—upon written request to the department at least 30 days prior to scheduled killing, subject to verification of available stock by department personnel.

(3) Landowners and agents—upon application to the department on forms provided for tag issuance.

(A) Maximum tag issuance to individual landowners or their agents shall be determined solely by the department. Landowners or their agents shall certify total acreage owned or represented on a form prescribed by the department at the time of application.

(B) Agents must present a notarized document from the landowner verifying their selection to represent that landowner and the total acreage represented to obtain hide tags.

(C) Owners or agents may issue hide tags thus obtained only to licensed alligator hunters.

(4) Alligator hunters—may obtain hide tags from a landowner or a landowner's agent.

(b) It is unlawful for a landowner or agent to issue an alligator hide tag for a tract of land or water other than the tract for which the tag was originally issued, and an alligator hunter shall hunt only on tracts designated for the tags he possesses.

(c) A hide tag shall be attached in the last six inches of an alligator's tail immediately upon possession of an alligator by an alligator hunter. The tag shall be attached in accordance with instructions issued by the department.

(d) Alligators or hides of alligators taken in Texas may not be sold or transported out of Texas until examined by department personnel and a verification tag is attached to the alligator or hide.

§65.357. Open Seasons, Open Areas, and Bag Limits.

(a) Open seasons are as follows:

(1) The general open season for taking alligators in the wild shall run for 17 consecutive days beginning on the first Friday in September.

(2) Nuisance control hunters may take nuisance alligators at any time as prescribed by the department.

(3) Propagated alligators may be taken only during periods authorized by the department.

(b) The open areas are:

(1) For the general season, those areas that are designated by the department for hide tag issuance.

(2) Alligators in the wild in the remainder of the state may be taken only under nuisance control provisions as prescribed by the department.

(c) The daily and season bag limit is equal to the number of valid alligator hide tags that a licensed alligator hunter possesses.

§65.358. Possession

(a) No person may possess an untagged alligator hide or undocumented alligator parts at any time. Documented evidence is as described in §65.359 of this title (relating to Importation, Exportation, Purchase, and Sale).

(b) No person other than a licensed alligator hunter, licensed alligator buyer, or permitted alligator farmer, alligator importer/exporter, and alligator parts dealer may possess a tagged raw or salted hide of an alligator at any time, provided that legally-documented, tagged hides may be possessed without license for handling while in transit by common carrier or during processing for tanning or taxidermy.

(c) No person other than a licensed alligator farmer may possess live alligators at any time, provided that a licensed alligator hunter may possess a live alligator on any legal capture device while retrieving that animal to be dispatched.

§65.359. Importation, Exportation, Purchase, and Sale.

(a) Alligators, parts of alligators, or goods manufactured from alligators may be imported if the alligators, parts of alligators, or goods manufactured from alligators were lawfully taken in another state or country and the person, firm, or corporation importing alligators or alligator parts has obtained an alligator import/export permit from the department.

(b) All alligators, parts of alligators, or goods manufactured from alligators possessed, sold, purchased,

exported, or imported shall be accompanied by documented evidence that they were lawfully taken. Documented evidence may consist of, but not be limited to:

(1) a sequentially numbered invoice, containing information as prescribed by the executive director of the Texas Parks and Wildlife Department, that shall be retained for a period of one year from date of purchase;

(2) a resource user license or permit number allowing the taking of alligators in another state or country and tags or other identification required by the state or country of origin shall be firmly attached to the alligator, parts of alligator, or goods manufactured from alligators; and

(3) a tag or label is affixed to the outside of any package or container used to ship alligators or alligator parts that specifies type of contents, indicates quantity contained, and lists the name, address, and applicable license or permit numbers of the consignor and consignee.

(c) Purchases of alligators and alligator parts are restricted as follows:

(1) A licensed alligator hunter may not purchase from anyone.

(2) A licensed alligator buyer may purchase only from a licensed alligator hunter.

(3) An alligator parts dealer may purchase only from an alligator buyer, an alligator farmer, another alligator parts dealer, or from an import/export permit holder.

(4) An alligator farmer may purchase live alligators only from another alligator farmer, an import/export permit holder, or the department.

(5) An import/export permit holder may not purchase from another person in Texas unless licensed or permitted as in paragraphs (2)-(4) in this subsection.

(6) A person engaged in wholesale or retail business involving alligator parts or with potential for such commerce may, without a license or permit, purchase only processed or manufactured alligator parts or goods manufactured from alligator parts from another person authorized to sell alligators or alligator parts in Texas.

(d) Sales of alligators and alligator parts are restricted as follows.

(1) A licensed alligator hunter may sell only to a licensed alligator buyer.

(2) A licensed alligator buyer may sell to an alligator parts dealer.

(3) An alligator parts dealer and an import/export permit holder may sell to anyone who may legally purchase an alligator.

(4) An alligator farmer may sell to an alligator parts dealer or to another alligator farmer.

(5) Any person holding a valid license or permit issued under this subchapter, other than a licensed alligator hunter, may sell processed or manufactured alligator parts to a person engaged in wholesale or retail business involving alligator parts or with potential for such commerce.

(6) Any person engaged in wholesale or retail business involving alligator parts or with potential for such commerce may sell legally obtained and documented processed or manufactured alligator parts to anyone.

(e) Legally tagged and documented parts of alligators taken in Texas may be exported by all categories

of license and permit holders subject to §65.361 of this title (relating to Report Requirements).

§65.360. Nuisance Alligator Control.

(a) Nuisance alligator complaints will be verified by department personnel prior to approval for removal.

(b) Tags will be issued to nuisance control hunters for immediate attachment to alligators when taken. Alligators taken and tagged under these provisions may be retained and sold by the control hunter as prescribed by the executive director of the department

§65.361. Report Requirements.

(a) Report forms provided by the department must be completed and filed with the department by all persons who have been issued an alligator hunter's license, alligator buyer's license, alligator import/export permit, alligator farmer permit, alligator parts dealer permit, or alligator hide tag(s) in accordance with this section. Reports shall include, but not be limited to, the information specified in this section.

(1) A person receiving hide tags from the department must file a report accounting for all tags within 15 days after the end of the open season.

(A) The report shall show the name, address, and alligator hunter's license number of persons to whom tags were reissued, including tag numbers; inclusive numbers of tags used by the original recipient; numbers of unused tags; and numbers of any lost or damaged tags.

(B) Unused and damaged tags shall be returned with this report.

(2) An alligator hunter shall file a report within 15 days after the end of the open season to include hide tag numbers used; date taken for each alligator; county of take; landowner where taken; the sex and carcass length of each alligator tagged; the method of skinning for each alligator tagged; and the name, address, and license number of buyer that purchased each hide or alligator part sold. Subsequent reports detailing the status of any previously unsold hides shall be filed every 30 days thereafter until final disposition of all hides is reported.

(3) An alligator buyer shall file reports within 30 days after the end of the open season and every 60 days thereafter detailing purchase and sale transactions until all transactions are complete for hides and parts handled during the license year.

(A) Records shall include tag number, date, hide length, and name, address, and hunter or buyer license number for each hide purchased and name, address, and buyer license number for each hide sold.

(B) Records shall include hide tag number, date, quantity, description, and name, address, and license number of buyer or hunter for all alligator parts purchased and sold.

(4) An alligator import/export permit holder shall report within 30 days following permit period termination all import activities conducted during that period. The report will specify type and quantity of items imported or exported, place of origin, destination in Texas or elsewhere, and original hide tag number (including year).

(5) An alligator farmer permit holder shall report quarterly, as of the last day of February, May, August, and November, the number of live alligators in

possession as of that date, the number of alligators killed and the type and number of alligator parts sold during the previous three months, the permit number or license number of persons purchasing alligators or alligator parts, the number of live alligators purchased and hatched during the previous three months, and inclusive numbers of hide tags applied. Reports are due 15 days following the end of each quarterly period.

(6) A nuisance control hunter shall comply with the same report requirements as a licensed alligator hunter.

(7) An alligator parts dealer shall comply with the same report requirements as a licensed alligator buyer.

(8) All categories of license and permit holders shall file with the department by September 30 each year a report, on a prescribed form, of all alligators and alligator parts sold or transported out of Texas during the previous license year or permit period.

(b) Any person who is delinquent in filing a report required by this subchapter shall be ineligible for renewal of license or permit until the delinquency is corrected.

§65.362. Disposal of Alligators by the Department.

(a) The department may sell alligators or parts of alligators taken for any purpose deemed necessary for proper management of the species pursuant to the Texas Parks and Wildlife Code, §65.009.

(b) The department may dispose of alligators or parts of alligators by donation or lending to a scientific institution or other institutions that the department deems have need for such alligators, or by release into the wild.

§65.368. Exceptions.

(a) This subchapter does not require licenses of consumer nor prohibit consumers from purchasing or possessing goods processed or manufactured from alligators that have been legally taken or propagated, provided that such goods are used by the consumer and may not be sold or bartered in conjunction with a wholesale or retail business activity.

(b) The department or an authorized representative of the department may take by any means and possess alligators or parts of alligators while in the performance of official duties.

(c) This section shall not prohibit a person from killing an alligator in immediate defense of his life or the lives of others. Alligators killed under this provision must be reported to the department within 24 hours.

§65.369. Penalty for Violation. The penalties for violation of these sections are as prescribed by the Texas Parks and Wildlife Code, §65.008.

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 April 2, 1984

TRD-843671 Maurine Ray
 Administrative Assistant
 Texas Parks and Wildlife
 Department

Earliest possible date of adoption

May 7, 1984

For further information, please call (512) 479-4974
or (800) 792-1112

**TITLE 37. PUBLIC SAFETY AND
CORRECTIONS**

**Part I. Texas Department of
Public Safety**

**Chapter 23. Vehicle Inspection
Parameter Vehicle Emissions Inspection
and Maintenance Program**

37 TAC §23.91

The Texas Department of Public Safety proposes new §23.91, concerning the Parameter Vehicle Emission Inspection and Maintenance Program.

The Texas Air Control Board (TACB), by Resolution R83-4 and Resolution R83-8, has requested that the Texas Department of Public Safety establish a Parameter Motor Vehicle Emission Inspection and Maintenance Program for vehicles registered in Harris County, because such county does not meet national ambient air quality standards for ozone. The program will be designed to facilitate Harris County's compliance with the Federal Clean Air Act Section 23 91 would require inspection of vehicles for the presence of catalysts, fuel filler restrictors, and the presence of lead in exhaust pipes beginning with the 1980 year model passenger cars and light-duty trucks. In addition, 1984 and later year model passenger cars and light-duty trucks would be inspected for misfire, oxygen sensor and valves, emission-related recall, and emission-related maintenance. Further, the establishment of an additional vehicle inspection fee, which will be retained by the vehicle inspection station, is proposed

Melvin C. Peeples, chief accountant II, has determined that for the first five-year period the rule will be in effect there will be fiscal implications as a result of enforcing or administering the rule. The effect on state government will be an estimated additional cost of \$25,000 each year from 1984-1988. The department expects reimbursement through a federal grant through the TACB. There is no anticipated effect on local government for the first five-year period the rule will be in effect, however, significant repair or replacement costs may result for local governments in Harris County whose vehicles do not meet the requirements of the Parameter Vehicle Emission Inspection and Maintenance Program. The anticipated cost of compliance with the rule for small businesses is that a vehicle inspection station, without regard to size, will collect an additional \$2.75 vehicle inspection fee for inspection of a vehicle under this program to recover the additional cost of inspection.

Joe D. White, inspector, 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 reduction of emissions of hydrocarbons and other pollutants from mobile sources that will result because of the large number of emission control systems operating properly. An additional public benefit is a reduction in long-term repair costs caused by misfueling. The anticipated eco-

nomical cost to individuals who are required to comply with the rule as proposed is an additional vehicle inspection fee for each vehicle inspected of \$2.75 each year from 1984-1988. However, significant repair or replacement costs may result to individuals whose vehicles do not meet the requirements of the Parameter Emission Inspection and Maintenance Program.

Comments on the proposal may be submitted to John C. West, Jr., Texas Department of Public Safety, P.O. Box 4087, Austin, Texas 78773, (512) 465-2000.

The new section is proposed under Texas Civil Statutes, Article 6701d, §142(c)-(h), which provide the Public Safety Commission with the authority to establish a Parameter Motor Vehicle Emission Inspection and Maintenance Program for vehicles registered in any county in this state which do not meet national ambient air quality standards and for which the TACB has adopted a resolution requesting the Texas Department of Public Safety to institute such a program. (See also Attorney General Opinion JM-138, dated March 16, 1984.)

§23.91. Vehicle Emission Inspection.

(a) All 1968 and later year model passenger cars and light-duty trucks currently registered and operated in Harris County must be inspected, as part of, and at the time of, the required annual vehicle inspection, under the Parameter Vehicle Emission Inspection and Maintenance Program and the rules of the department applicable to the particular year model.

(b) Certified inspectors in Harris County must perform the parameter inspection and maintenance inspection on all 1968 and later model year passenger cars and light-duty trucks presented for inspection which are currently registered in Harris County.

(c) Certified inspectors in all counties other than Harris County must perform the parameter inspection and maintenance inspection on all 1968 and later year model passenger cars and light-duty trucks presented for inspection which are currently registered and operated in Harris County, provided that the certified inspectors have completed the training for the Parameter Inspection and Maintenance Program and hold a current inspector's certificate for such training.

(d) In order to determine whether a vehicle is currently registered in Harris County, certified inspectors in Harris, Montgomery, Liberty, Chambers, Galveston, Brazoria, Fort Bend, and Waller Counties shall read the number code printed on the rear license plate validation sticker of each 1968 or later model passenger car or light-duty truck presented for inspection. The certified inspector shall compare said validation sticker number to the list of numbers assigned to the Harris County tax collector. The Texas Department of Public Safety will provide to each inspection station in such counties a current list of validation sticker code numbers assigned to the Harris County tax collector, which said list must be displayed in a manner as directed by the department.

(e) Vehicles having been inspected under the Parameter Inspection and Maintenance Program and found to have met the requirements of such program in addition to all other vehicle inspection requirements will be passed by the certified inspector, who will thereafter af-

fix to the windshield an inspection certificate with a red numeral insert designating the month in which the vehicle was inspected. The only valid inspection certificate for vehicle models subject to the Harris County Parameter Inspection and Maintenance Program shall be an inspection certificate with the appropriate and currently effective red numeral insert.

(f) Provided, that a vehicle which is registered in Harris County and which is otherwise subject to the Parameter Inspection and Maintenance Program need not display an inspection certificate with a red numeral insert if:

(1) the vehicle is both owned and operated by a person (or persons) who does not reside within the territorial boundaries of Harris County, and

(2) the vehicle is operated within the territorial boundaries of Harris County on not more than 15 days per calendar year.

(g) If a person claiming to be covered by subsection (f) is prosecuted for operating a vehicle on the highways in Harris County without displaying a valid inspection certificate, the defendant must prove by a preponderance of the evidence that the circumstances, as provided in subsection (f)(1) and (2), exist.

(h) All certified inspectors in Harris County must complete the training for the Parameter Inspection and Maintenance Program and receive certification from the Texas Department of Public Safety for such training. Certified inspectors in any other county of the state may receive the training and certification to conduct the parameter inspection and maintenance inspections for vehicles registered in Harris County.

(i) Only those certified inspectors who have completed the training for the Parameter Inspection and Maintenance Program and who have received certification for such training may perform the parameter inspection and maintenance inspections.

(j) Certified inspectors in any county in the state who have been certified to perform the parameter inspection and maintenance inspections shall accurately complete forms provided by the department, including a notation of whether or not the inspected vehicle is currently registered in Harris County. The form will also contain a space to note whether the inspected vehicle was bearing a previously issued inspection certificate with a red numeral insert.

(k) For purposes of the Parameter Inspection and Maintenance Program, "passenger car" shall have the meaning ascribed to it by Texas Civil Statutes, Article 6701d, §2(j), except that motor vehicles powered by diesel fuel or any fuel other than gasoline or gasohol are not included in the meaning of "passenger car" if their design precludes the use of gasoline or gasohol without modification.

(l) For purposes of the Parameter Inspection and Maintenance Program, "light-duty truck" means a motor vehicle with a gross weight of 8,500 pounds or less, which shall include, but not be limited to, pickup trucks, panel delivery trucks, and carry-all trucks, except that motor vehicles powered by diesel fuel or any fuel other than gasoline or gasohol are not included in the meaning of "light-duty truck" if their design precludes the use of gasoline or gasohol without modification.

(m) Specific inspection requirements for passenger cars and light-duty trucks in the Parameter Inspection and Maintenance Program are as follows.

(1) 1968-1979 year models.

(A) No additional inspection items.

(B) No inspection fee increase.

(2) 1980-1983 year models.

(A) Inspection parameters are lead detection test, catalyst, fuel inlet restrictor, evaporative canister, air injection system, choke system, and PCV valves and hoses.

(B) Vehicles with an altered or removed fuel inlet restrictor or a removed catalyst will be allowed a period of time not to exceed one year in which to replace the noncomplying equipment. A vehicle failing the lead detection test will be allowed a period of time not to exceed one year in which to replace the contaminated tailpipe and catalyst. Proof of replacement shall be provided by the vehicle owner at the time the vehicle is reinspected and shall be in the form of a dated repair receipt or sales invoice.

(C) A vehicle which fails the inspection because of an altered or removed fuel inlet restrictor, a removed catalyst, or lead in the tailpipe, but which passes all other inspection requirements, will be issued an inspection certificate with a ¼-inch round hole punched in the lower-left corner of the inspection certificate. An inspection certificate punched in such manner shall be valid until the expiration date stated thereon.

(D) The certified inspector shall mark the back of the inspection certificate which is presently on a vehicle with a large "X", using a laundry marking pen, if a vehicle has failed the inspection because of an altered or removed fuel inlet restrictor, removed catalyst, or lead in the tailpipe, and the vehicle also failed any other item of inspection that would cause rejection of the vehicle. When the failed inspection items, other than the fuel inlet restrictor, catalyst, and tailpipe, have been corrected and the vehicle inspected, a punched inspection certificate will be issued as provided in subsection (m)(2)(C) of this section.

(3) 1984 and later year models.

(A) Inspection parameters are misfire, lead detection test, catalyst, fuel inlet restrictor, evaporative canister, air injection system, oxygen sensor and valves, choke system, PCV valves and hoses, emission-related recall, and emission-related maintenance.

(B) An altered or removed fuel inlet restrictor or a removed catalyst must be replaced before an inspection certificate may be issued. A vehicle failing the lead detection test must have the contaminated tailpipe and catalyst replaced before an inspection certificate will be issued. If a vehicle is rejected and is not immediately repaired, a rejection receipt shall be issued which lists items rejected and other required information.

(C) The certified inspector shall mark the back of the inspection certificate which is presently affixed to the vehicle's windshield with a large "X," using a laundry marking pen, if the vehicle failed the inspection because of a removed or altered fuel inlet restrictor, removed catalyst, or lead in the tailpipe, and the vehicle also failed any other item of inspection that would cause rejection of the vehicle.

(n) The parameter inspection and maintenance fee is established, for purposes of this section, as \$2.75, which is in addition to the statutory inspection fee. The additional fee shall be charged upon completion of the parameter inspection and maintenance inspection, whether or not the vehicle passed the inspection.

(o) Pursuant to Texas Civil Statutes, Article 6701d, §141(f), willful failure to comply with these rules may result in revocation or suspension of an inspection station's certificate of appointment or the certified inspector's certificate

(p) Pursuant to Texas Civil Statutes, Article 6701d, §140(g), any person operating on the highways in Harris County a passenger car or light-duty truck currently registered in that county and required by this section to be inspected under the Parameter Inspection and Maintenance Program, without the valid inspection certificate as described in subsection (e) of this section, may be subject to prosecution and, if convicted, may be punished by a fine in an amount not to exceed that set out in Texas Civil Statutes, Article 6701d, §143

(q) Inspection certificates issued prior to the effective date of these rules shall be valid and shall remain in effect until the expiration date thereof.

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 30, 1984

TRD-843625 James B Adams
Director
Texas Department of Public
Safety

Earliest possible date of adoption
May 7, 1984

For further information, please call (512) 465-2000

TITLE 43. TRANSPORTATION

Part I. State Department of Highways and Public Transportation

Chapter 25. Maintenance Division

Oversize and/or Overweight Permits for Certain Oil Well Related Vehicles

43 TAC §25 95

The State Department of Highways and Public Transportation proposes amendments to §25 95, concerning oversize and/or overweight permits for certain oil well related vehicles, which will allow vehicles to haul liquid fracturing products to a well and return with liquid oil well waste products or unrefined liquid petroleum products. In the past, vehicles were only permitted to haul frac oil to a well and return with crude oil.

Henry A. Thomason, Jr., Safety and Maintenance Division chief engineer, has determined that for the first

five-year period the rule will be in effect there will be fiscal implications as a result of enforcing or administering the rule. The effect on state government is an estimated increase in revenue of \$5,000 in 1984; \$7,500 in 1985; and \$10,000 each year from 1986-1988. There is no anticipated effect on local government. The anticipated cost of compliance with the rule for small businesses is \$100 per vehicle transporting liquid fracturing products and unrefined liquid petroleum products, but the rule would allow the operator to move up to 80,000 pounds on roads load zoned to 58,420 pounds or less gross weight. The department is unable to estimate the comparable cost of compliance for small businesses with the cost of compliance for the largest businesses affected by the rule.

Mr. Thomason also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed is that the public will now be able to receive permits for moving loads necessary to the production of oil wells, which could possible reduce the production cost of securing crude oil. The anticipated economic cost to individuals who are required to comply with the rule as proposed is not predictable because the department is unable to calculate the number of permits that will be issued under this new procedure

Comments on the proposal may be submitted to Henry A. Thomason, Jr., Chief Engineer, Safety and Maintenance Division, State Department of Highways and Public Transportation, 11th and Brazos Streets, Austin, Texas 78701, (512) 475-3588

The amendments are proposed under Texas Civil Statutes, Article 6701d-16, which provide the State Highway and Public Transportation Commission with the authority to issue permits for certain types of vehicles to transport liquid fracturing products, liquid oil well waste products, and unrefined liquid petroleum products over load zoned roads, not to exceed the vehicle's maximum registered gross weight

§25.95. Oil Well Servicing Equipment Permits.

(a) Truck-tractor and semitrailer tankers, which are legal size and legal weight and registered for maximum legal gross weight, and specifically designed with a tank and pump unit for transporting liquid fracturing products [frac oil] used in fracturing oil wells and/or vehicles designed to transport liquid oil well waste products or unrefined liquid petroleum products [crude oil] from wells not connected to a pipeline, may secure annual permits to haul their loads over all state maintained highways. These loads shall not cross any load zoned bridge. These permits shall run concurrently with the registration year, April 1 through the following March 31. The fee for these permits is applied to the tandem axle group of the semitrailer portion only. These fees are prorated on a monthly basis. The fee for these permits is listed as follows:

(1) \$100 per tandem—to haul liquid oil well waste products [crude oil] from wells not connected by a pipeline and return empty.

(2) \$100 per tandem—to haul liquid fracturing products [frac oil] to a well and return empty.

(3) \$200 per tandem—to haul liquid fracing products [frac oil] to a well and return with liquid oil well waste products or unrefined liquid petroleum products [crude oil] from a well not connected to a pipeline.

(b) (No change.)

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

Issued in Austin, Texas, on March 28, 1984

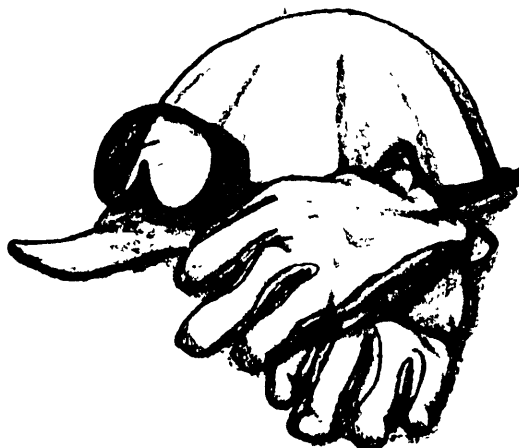
TRD-843619

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

Earliest possible date of adoption

May 7, 1984

For further information, please call (512) 475-2141.



Withdrawn Rules

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

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

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

TITLE 22. EXAMINING BOARDS Part V. Texas State Board of Dental Examiners Chapter 109. Conduct Listings of Auxiliary Personnel 22 TAC §109.81

The Texas State Board of Dental Examiners has withdrawn from consideration for permanent adoption proposed amendments to §109.81, concerning conduct. The text of the amended section as proposed appeared in the December 16, 1983, issue of the *Texas Register* (8 TexReg 5243).

Issued in Austin, Texas, on March 29, 1984

TRD-843599 Carol McPherson
Accountant
Texas State Board of Dental
Examiners

Filed: March 29, 1984
For further information, please call (512) 475-2443.

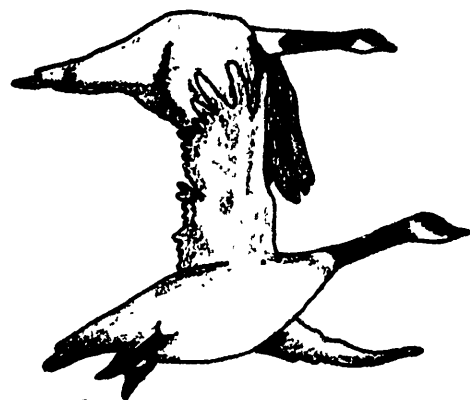
Visiting Clinicians—Courses: Seminars 22 TAC §109.161

The Texas State Board of Dental Examiners has withdrawn from consideration for permanent adoption the proposed repeal of §109.161, concerning conduct. The notice of the proposed repeal appeared in the December 16, 1983, issue of the *Texas Register* (8 TexReg 5245).

Issued in Austin, Texas, on March 29, 1984

TRD-843600 Carol McPherson
Accountant
Texas State Board of Dental
Examiners

Filed: March 29, 1984
For further information, please call (512) 475-2443.



TITLE 31. NATURAL RESOURCES AND CONSERVATION Part II. Texas Parks and Wildlife Department Chapter 57. Fisheries Potentially Harmful Fish or Fish Eggs Importation 31 TAC §57.114

The Texas Parks and Wildlife Department has withdrawn from consideration for permanent adoption proposed amendments to §57.114, concerning fisheries. The text of the amended section as proposed appeared in the December 27, 1983, issue of the *Texas Register* (8 TexReg 5449).

Issued in Austin, Texas, on March 29, 1984

TRD-843593 Maurine Ray
Administrative Assistant
Texas Parks and Wildlife
Department

Filed: March 29, 1984
For further information, please call (512) 479-4806.

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 1. ADMINISTRATION Part IV. Office of the Secretary of State

Chapter 91. Texas Register Filing of Documents

1 TAC §§91.21, 91.25-91.27, 91.29, 91.30, 91.36-91.39

The Office of the Secretary of State adopts amendments to §§91.21, 91.25-91.27, 91.29, and 91.30 and new §§91.36-91.39, without changes to the proposed text published in the December 20, 1983, issue of the *Texas Register* (8 TexReg 5317).

The amendments and new sections establish procedures for filing information which is the result of legislation passed by the 68th Legislature, 1983. Senate Bill 923 provides for the filing of lobby law opinions by the secretary of state, House Bill 2154 provides for the filing of opinions by the State Ethics Advisory Commission, House Bill 1487 provides for the filing of notices of adoptions and public hearings under the Insurance Code, Chapter 5, by the State Board of Insurance; and House Bill 179 requires a statement of economic effect on small businesses in each rule filed for proposal.

Amendments to §91.21 allow the Office of the Secretary of State to file lobby law opinions, the State Ethics Advisory Commission to file opinions; and the State Board of Insurance to file notices of adoptions pursuant to the Insurance Code, Article 5.96 and Article

5.97. Amendments to §91.25 and §91.27 also describe the procedure for filing emergency adoptions and adoptions, respectively, under the Insurance Code, Article 5.96 and Article 5.97.

Amendments to §91.26 adopt by reference the *Texas Register* proposed preamble form as amended in December 1983. House Bill 179, passed by the 68th Legislature, 1983, amends the Small Business Assistance Act of 1975, Texas Civil Statutes, Article 5190.3, by requiring a statement of economic effect of each rule filed for proposal with the *Texas Register* on small businesses.

Amendments to §91.29 and §91.30 change the title of the governor and attorney general form adopted by reference in §91.96 to include the secretary of state and the State Ethics Advisory Commission.

New §91.36 and §91.37 describe the procedure for filing a notice of adoption and notice of public hearing, respectively, under the Insurance Code, Article 5.96 and Article 5.97. New §91.38 describes the procedure for filing actions of the secretary of state, and new §91.39 details the procedure for the State Ethics Advisory Commission.

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

The amendments and new sections are adopted under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, which created the *Texas Register* within the Office of the Secretary of State and authorizes the office to adopt rules

governing the submission of documents for publication.

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 29, 1984

TRD-843653 John W. Fainter, Jr.
Secretary of State

Effective date: April 20, 1984
Proposal publication date: December 20, 1983
For further information, please call (512) 475-7886.

Texas Civil Statutes, Article 6252-13a, which created the *Texas Register* within the Office of the Secretary of State and authorizes the office to adopt rules governing the submission of documents for publication.

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 29, 1984

TRD-843654 John W. Fainter, Jr.
Secretary of State

Effective date: April 20, 1984
Proposal publication date: December 20, 1983
For further information, please call (512) 475-7886.

Submission Forms

1 TAC §§91.91, 91.95-91.98

The Office of the Secretary of State adopts amendments to §§91.91 and 91.95-91.97 and new §91.98, without changes to the proposed text published in the December 20, 1983, issue of the *Texas Register* (8 TexReg 5318)

The amendments and new section establish procedures for filing information which is the result of legislation passed by the 68th Legislature, 1983. Senate Bill 923 provides for the filing of lobby law opinions by the secretary of state, House Bill 2154 provides for the filing of opinions by the State Ethics Advisory Commission; House Bill 1487 provides for the filing of notices of adoptions and public hearings under the Insurance Code, Chapter 5, by the State Board of Insurance, and House Bill 179 requires a statement of economic effect on small businesses in each section filed for proposal.

Amendments made to the Insurance Code by the 68th Legislature, 1983, require notices of adoptions filed pursuant to the Code, Article 5.96 and Article 5.97, to be published in the *Texas Register*. At the same time, the law exempts these notices from the Administrative Procedure and Texas Register Act. Sections 91.91, 91.97, and 91.98 accomplish the administrative function of bringing the State Board of Insurance and *Texas Register* procedures in line with state law.

Section 91.95 is amended to exclude appointments by the governor, summaries of election law opinions, requests for lobby law opinions, and lobby law opinions of the secretary of state, and summaries of opinions of the State Ethics Advisory Commission from filing on a miscellaneous form.

Amendments to §91.96 change Form TR-5 to include summaries of election law opinions, requests for lobby law opinions, and lobby law opinions of the secretary of state and summaries of opinions of the State Ethics Advisory Commission.

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

The amendments and new section are adopted under the Administrative Procedure and Texas Register Act,

TITLE 22. EXAMINING BOARDS Part V. Texas State Board of Dental Examiners Chapter 109. Conduct Suspended or Revoked Licenses

22 TAC §109.112

The Texas State Board of Dental Examiners adopts the repeal of §109.112, without changes to the proposal published in the December 16, 1983, issue of the *Texas Register* (8 TexReg 5244).

The repeal is adopted because this agency does not have the authority to take action against someone's degree, only their license. The board will no longer enforce this rule.

No comments were received regarding adoption of the repeal.

This repeal is adopted under Texas Civil Statutes, Article 4551d, which provide the board with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

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 29, 1984.

TRD-843596 William S. Nail
Executive Director
Texas State Board of Dental
Examiners

Effective date: April 19, 1984
Proposal publication date: December 16, 1983
For further information, please call (512) 475-2443.

Definitions

22 TAC §109.212

The Texas State Board of Dental Examiners adopts the repeal of §109.212, without changes to the proposal published in the December 16, 1983, issue of the *Texas Register* (8 TexReg 5245).

The board is repealing this section because these definitions are in the dental laws. The repeal will eliminate duplicity with the existing dental laws.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 4551d, which provide the board with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

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 29, 1984

TRD-843597 William S. Nail
 Executive Director
 Texas State Board of Dental
 Examiners

Effective date April 19, 1984
Proposal publication date December 16, 1983
For further information, please call (512) 475-2443.

**Chapter 115. Extension of Duties of
Auxiliary Personnel
Dental Hygiene**

22 TAC §115.2

The Texas State Board of Dental Examiners adopts amendments to §115.2, with changes to the proposed text published in the December 16, 1983, issue of the *Texas Register* (8 TexReg 5248).

The amendments simplify and clarify this section. One of the services a dental hygienist may perform is moved from subsection (a) to subsection (b) for clarification. The board adds "placing or removing a matrix" in subsection (b)(5). A matrix is similar to a preformed band or crown, and since dental hygienists are allowed to place or remove preformed crowns or bands (subsection (b)(1)), the board adds this amendment for clarification. Also, subsection (c) was added to clarify that only a dentist may fit, adapt, seat, or cement any fixed dental appliance or restoration.

The permitted duties which a dental hygienist is allowed to perform under the general supervision of his/her dentist-employer are all listed together under subsection (a). Those duties which a dental hygienist is

allowed to perform under the direct supervision of his/her employer are listed together under subsection (b). This separation and categorization of these duties permits easier reference for the reader.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 4551d, which provide the board with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

§115.2. Permitted Duties.

(a) A dental hygienist may perform the following services and procedures in the dental office of her dentist-employer under his general supervision, direction, and responsibility, to-wit:

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

(7) Insert cleaned or repaired removable dental prostheses

(8) Remove ligature ties, cut and tuck ligatures, remove tension devices and any loose or broken bands or arch wires

(9) A tension device, usually or normally placed in the mouth of a patient by such patient, may be placed in such patient's mouth; a tension device not controllable by the patient shall only be placed and/or activated by the dentist.

(10) Remove sutures.

(11) Insert or remove temporary medicinal fillings with hand instruments. This does not include alloy, gold, plastics, porcelain, composites, or any restorative material.

(12) Insert or remove socket dressings.

(13) Place or remove periodontal packs.

(14) Make dental plaque and oral mucosal smears.

(b) A dental hygienist may perform the following services and procedures in the dental office of his/her dentist-employer under his/her direct supervision, direction, and responsibility, to-wit:

(1) place or remove celluloid or plastic strips between teeth for subsequent placement of filling by the dentist. Place or remove temporary nonmetallic separating devices, place or remove preformed crowns or bands for determining size. The dentist shall shape, festoon, contour, fit, seat, or cement all crowns and bands;

(2) place or remove rubber dam;

(3) apply pit and fissure sealants only after completing a course of instruction in a Texas dental or dental hygiene school or college approved by the Texas State Board of Dental Examiners;

(4) place ligatures only on those sections of arch wires which have been securely seated in the bracket or tube by the dentist;

(5) placing or removing a matrix.

(c) The fitting, adaptation, seating, and cementation of any fixed dental appliance or restoration, including, but not limited to, inlays, crowns, bands, space main-

tainers or regainers, habit devices, or splints, whether temporary or permanent, shall only be done by the dentist.

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 29, 1984

TRD-843598

William S. Nail
Executive Director
Texas State Board of Dental
Examiners

Effective date April 19, 1984

Proposal publication date December 16, 1983

For further information, please call (512) 475-2443

TITLE 25. HEALTH SERVICES
Part I. Texas Department of Health
Chapter 325. Solid Waste
Management
Subchapter L. Hazardous Waste
Management

The Texas Department of Health adopts amendments to §§325.271-325.274, 325.291, 325.292, 325.295, 325.298, 325.299, 325.311, 325.332, 325.335, 325.336, and 325.338-325.350. In addition, it also adopts the repeal of §325.300.

The amended sections deal with general provisions, generator and transporter requirements, processing, storage, disposal, and permit procedures

These adoptions make the department's hazardous waste management rules equivalent to federal regulations promulgated by the United States Environmental Protection Agency (EPA). Since the enactment of the federal Resource Conservation and Recovery Act of 1976 (RCRA), which amended the federal Solid Waste Disposal Act, 42 United States Code 6901 *et seq.*, the department and the Texas Department of Water Resources (TDWR) have jointly pursued federal authorization for the state's hazardous waste program to operate in lieu of the EPA's administration of the federal program in Texas. If this authorization is not obtained, municipal hazardous waste generators, transporters, and facility owners/operators will be subject to regulation by both EPA and the department

The state is now prepared to make final application to the EPA for full authorization. (The TDH and TDWR have already obtained all levels of interim authorization.) When applying for interim authorization, it was only necessary that department hazardous waste rules be substantially equivalent to EPA rules. However, §6926(b) of the federal Solid Waste Disposal Act stipulates that the administrator of the EPA may reject a state's application for final authorization if the administrator finds that the state program is not equivalent to the federal program. These adopted amendments and the repealed section are required to make

the department's rules equivalent, rather than substantially equivalent, to rules promulgated by the EPA under the RCRA. The rules must be equivalent to the federal program no later than the beginning of the public comment period on the state's application for authorization, which will be April 7, 1984.

A major change in §325.350 on permit procedure is a result of the EPA's requirement that the department's permit preparation procedure be the same as the EPA's draft permit procedure, including allowable time periods. Changes in other parts of the department's rules and public notice standards and procedures correspond to the changes in §325.350.

A second major change is the repeal of §325.300, which outlines the procedure for petition for exclusion of listed wastes (delisting). This section is repealed to prohibit a duplication of the federal task of identifying wastes to be delisted.

Other changes result from the need to be equivalent rather than substantially equivalent. Changes in the third category include an expansion of the definitions of "solid waste" and "hazardous waste" in §325.274, an expansion of the definition of signatories as related to permit applications in §325.271, and an expansion of the exclusions from processing, storage, and disposal facility rules in §325.332. The department is adopting these amendments as part of the state's application for final authorization to administer a state hazardous waste management program in lieu of a federal program.

General

25 TAC §§325.271-325.274

The amendments are adopted under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purpose of the Act and establish minimum standards of operation for all aspects of the management and control of solid waste under its jurisdiction. In addition, these amendments are being adopted pursuant to federal requirements contained in the federal Solid Waste Disposal Act, 42 United States Code §6926(b), as explained in this preamble

§325.271 Purpose, Applicability, and Release of Information

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

(d) Signatories.

(1) All permit applications must be signed by a person who is authorized to bind the facility and subject it to liability in an enforcement action. All permit applications shall be signed as follows:

(A) For a corporation, by a responsible corporate officer. For the purpose of this subsection, a responsible corporate officer means the following:

(i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar

policy- or decision-making functions for the corporation; or

(ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. (The department does not require specific assignments or delegations of authority to responsible corporate officers identified in clause (i) of this subparagraph. The department will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the department to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under clause (ii) of this subparagraph rather than to specific individuals.)

(B) (No change.)

(C) For a municipality, state, federal, or other public agency, by either a principal executive officer or ranking elected official. For purposes of this subsection, a principal executive officer of a federal agency includes the following:

(i) the chief executive officer of the agency; or

(ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

(2)-(3) (No change.)

(4) Any persons signing permit applications, reports, or written information shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment

(e) (No change.)

§325.272. Definitions of Terms and Abbreviations.

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

Administrator—The administrator of the Environmental Protection Agency or the administrator's designee.

CWA—The Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act amendments of 1972) Public Law 92-500, as amended by Public Law 95-576; 3 United States Code §1251, *et seq.*

Existing hazardous waste management (HWM) facility or existing facility—A facility which was in operation or for which construction commenced on or before November 19, 1980. A facility has commenced construction if the owner or operator has obtained the federal,

state, and local approvals or permits necessary to begin physical construction and either a continuous on-site physical construction program has begun or the owner or operator has entered into contractual obligations—which cannot be cancelled or modified without substantial loss—for physical construction of the facility to be completed within a reasonable time. "Federal, state, and local approvals or permits necessary to begin physical construction" means permits and approvals required under federal, state, or local hazardous waste control statutes, regulations, or ordinances.

Facility—All contiguous land and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units, e.g., one or more landfills, surface impoundments, or combinations of them.

Hazardous waste management facility—HWM facility

New HWM facility—A hazardous waste management facility which began operation or for which construction commenced after November 19, 1980.

§325.273. Hazardous Waste Determination.

(a) Procedures. A person whose act or process produces any municipal solid waste must determine if the waste is a hazardous waste and subject to these regulations by using the following steps:

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

(3) Determine if any nonexcluded waste or any constituent thereof, though not specifically listed as a hazardous waste, exhibits any characteristics of hazardous waste identified in 40 Code of Federal Regulations Part 261, Subpart C, by either:

(A) testing the waste according to the methods set forth in 40 Code of Federal Regulations Part 261, Subpart C, or according to an equivalent method approved by the administrator under 40 Code of Federal Regulations §260.21; or

(B) applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used.

(b) (No change.)

§325.274. Hazardous Waste Regulated, Exclusions, and Exceptions.

(a) Environmental Protection Agency (EPA) definition of hazardous waste. This section identifies hazardous waste as identified and listed by EPA in 40 Code of Federal Regulations Part 261. The Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, defines hazardous waste as solid waste identified or listed as a hazardous waste by the administrator of the U.S. Environmental Protection Agency pursuant to RCRA. Therefore, this section must be consistent with the meaning and use of the terms of solid waste and hazardous waste as used by EPA in regulations promulgated under RCRA and regulate the same universe of municipal hazardous waste as regulated by EPA.

(1) Solid waste.

(A) A solid waste is any garbage, refuse, sludge, or any other waste material which is not excluded under subsection (c)(1) of this section.

(B) "Other waste material" is any solid, liquid, semi-solid, or contained gaseous material resulting from commercial or community activities which:

(i) is discarded or is being accumulated, stored, or physically, chemically, or biologically treated prior to being discarded; or

(ii) has served its original intended use and sometimes is discarded

(C) A material is "discarded" if it is abandoned (and not used, reused, reclaimed, or recycled) by being:

(i) disposed of;

(ii) burned or incinerated, except where the material is being burned as a fuel for the purpose of recovering usable energy; or

(iii) physically, chemically, or biologically treated (other than burned or incinerated) in lieu of or prior to being disposed of

(D) A material is "disposed of" if it is discharged, deposited, injected, dumped, spilled, leaked, or placed into or on any land or water so that such material or any constituent thereof may enter the environment or be emitted into the air or discharged into ground or surface waters

(2) Hazardous waste The hazardous waste regulated in subsection (b) of this section is consistent with the hazardous waste listed and identified by EPA

(b) Hazardous waste regulated The solid wastes identified in paragraphs (1)-(8) of this subsection are hazardous wastes and are subject to this subchapter unless the provisions of subsections (c) (exclusions) and (d) (exceptions) of this section apply or unless the solid waste has been excluded from the lists of 40 Code of Federal Regulations Subpart D (see paragraphs (1), (2), and (4) of this subsection) in accordance with 40 Code of Federal Regulations §260.20 and §260.22

(1)-(2) (No change)

(3) Any material which is intended to be discarded, is discarded, is being stored or treated prior to being discarded, or has served its original intended purpose and is sometimes discarded and which exhibits one or more of the characteristics identified in 40 Code of Federal Regulations Part 261, Subpart C

(4) (No change)

(5) Any mixture of a solid waste and one or more hazardous wastes listed in 40 Code of Federal Regulations Part 261, Subpart D, unless the mixture is excluded because:

(A) (No change.)

(B) The hazardous waste in the mixture has been delisted by petition in accordance with 40 Code of Federal Regulations §260.20 and §260.22, or

(C) (No change)

(6) Any quantity of hazardous waste residue remaining in a container or an inner liner removed from a container which exceeds the allowable level or quantity for an empty container or liner (See exceptions under subsection (d) of this section for an explanation of allowable residue level or quantity which qualifies a container or liner to be considered empty) Unless the residue in a container or inner liner is being beneficially used or reused, or legitimately recycled or reclaimed or is being accumulated, stored, transported, or treated prior to such

use, reuse, recycling, or reclamation, the residue shall be considered for discard and thus a hazardous waste. An example of a legitimate reuse of the residue would be where the residue remains in the container and the container is used to hold the same commercial chemical product or manufacturing chemical intermediate it previously held. An example of the discard of the residue would be where a drum (container) is sent to a reconditioner who reconditions the drum but discards the residue.

(7) Any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill into or on any land or water of any commercial chemical product or manufacturing chemical intermediate having the generic name listed in 40 Code of Federal Regulations §261.33(e) or (f), or any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill into or on any land or water of any off-specification chemical product and manufacturing chemical intermediate which, if it met specifications, would have a generic name listed in 40 Code of Federal Regulations §261.33(e) or (f). The phrase "commercial chemical product or manufacturing chemical intermediate having the generic name listed in 40 Code of Federal Regulations §261.33(e) or (f)" refers to a chemical substance which is manufactured or formulated for commercial or manufacturing use which consists of the commercially pure grade of the chemical, any technical grades of the chemical that are produced or marketed, and all formulations in which the chemical is the sole active ingredient. It does not refer to a material, such as a manufacturing process waste, that contains any of the substances listed in 40 Code of Federal Regulations §261.33(e) or (f). Where a manufacturing process waste is deemed to be a hazardous waste because it contains a substance listed in 40 Code of Federal Regulations §261.33(e) or (f), such waste will be listed in either 40 Code of Federal Regulations §261.31 or §261.32 or will be identified as a hazardous waste by the characteristics set forth in 40 Code of Federal Regulations Part 261, Subpart C

(8) Any solid waste generated from the treatment, storage, or disposal of a hazardous waste—including any sludge, spill residue, ash, emission control dust, or leachate (but not including precipitation run-off)—is a hazardous waste unless the solid waste does not exhibit a hazardous waste characteristic identified in paragraph (4) of this subsection or has been demonstrated to not be a hazardous waste in accordance with 40 Code of Federal Regulations §260.20 and §260.22.

(c) (No change)

(d) Exceptions. (Although not regulated under this subchapter, the wastes identified in paragraphs (1) and (2) of this subsection are subject to regulations under other provisions of this chapter.)

(1) (No change.)

(2) Empty containers (including bags). A basic determination must be made, before considering if a container (or liner) is empty or not; i.e., whether the container has held nonacute hazardous waste, whether the container has held compressed hazardous waste gas, or whether the container has held acute hazardous waste.

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

(C) Acute hazardous waste. A container or an inner liner removed from a container that has held acute hazardous waste is empty if:

(i) The container or inner liner has been triple-rinsed using a solvent capable of removing the acute hazardous waste. (Triple rinsing means rinsing the container three times with a solvent capable of removing the commercial chemical product or manufacturing intermediate from the container or liner using a volume of solvent equal to 10% of the volume of the container or liner for each rinse. The resulting rinsate must be managed as a hazardous waste, except in the case of pesticide rinsate which is generated by a farmer and disposed of on his own property.)

(ii)-(v) (No change.)

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

Issued in Austin, Texas, on February 28, 1984.

TRD-843630 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Effective date: April 7, 1984

Proposal publication date: N/A

For further information, please call (512) 458-7236.

Generators

25 TAC §§325.291, 325.292, 325.295,
325.298, 325.299

These amendments are adopted under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4 (c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of solid waste under its jurisdiction. In addition, these amendments are being adopted pursuant to federal requirements contained in the federal Solid Waste Disposal Act, 42 United States Code §6926(b), as explained in this preamble.

§325.291. *Generators.* The regulations contained in §§325.291-325.299 of this title (relating to Generators) establish standards for persons who generate municipal hazardous waste.

§325.292. *Scope and Applicability.*

(a) A generator who treats, stores, or disposes of municipal hazardous waste on-site must comply with requirements for facility operators and owners, §§325.331-325.350 of this title (relating to Facility Owners and Operators) in addition to the requirements of §§325.271-325.276 of this title (relating to General) and §§325.291-325.299 of this title (relating to Generators).

(b) A person who generates municipal hazardous waste in amounts which are in excess of any of the weight quantity portions of the small quantity generator waste exclusion limits as described in §325.298 of this title (relat-

ing to Special Requirements for Small Quantity Generators) and who does not treat, store, or dispose of the waste on-site is subject to provisions of §§325.271-325.276 of this title (relating to General) and §§325.291-325.299 of this title (relating to Generators) and is responsible for shipping the waste to an approved facility which may be one of the facilities outlined in paragraphs (1)-(3) of this subsection:

(1) A facility permitted or otherwise approved in accordance with §§325.331-325.350 of this title (relating to Facility Owners and Operators) which includes the following:

(A) a municipal hazardous waste management facility qualified to operate under the interim status requirements of §3005(e) of RCRA or subsection (a)(1)(A) of §325.350 of this title (relating to Permits);

(B) a municipal hazardous waste management facility authorized to operate by a compliance order under §3008 of RCRA or subsection (a)(1)(A) of §325.350 of this title (relating to Permits);

(C) a municipal hazardous waste management facility permitted by the department;

(D) a facility which beneficially uses or reuses or legitimately recycles or reclaims a hazardous waste in compliance with §325.299 of this title (relating to Hazardous Waste Which Is Used, Reused, Recycled, or Reclaimed).

(2) In the case of municipal hazardous waste which exhibits characteristics similar to industrial hazardous waste, a facility permitted by the Texas Department of Water Resources, if:

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

(3) A hazardous waste management facility permitted or otherwise authorized by EPA or an authorized state in accordance with the regulations applicable to the facility.

(c)-(e) (No change.)

§325.295. *Manifest Requirements.*

(a)-(d) (No change.)

(e) Any person who exports municipal hazardous waste to a foreign country or imports municipal hazardous waste from a foreign country must comply with the requirements of paragraphs (1) and (2) of this subsection.

(1) Exporting. When shipping hazardous waste outside the United States, the generator must:

(A) Notify the Texas Department of Health and the administrator (EPA) in writing four weeks before the initial shipment of hazardous waste to each country in each calendar year.

(i)-(ii) (No change.)

(iii) The notification must be sent to: Hazardous Waste Export Office of International Activities (A-106), U.S. Environmental Protection Agency, Washington, D.C. 20460.

(iv) (No change.)

(B)-(D) (No change.)

(2) (No change.)

§325.298. *Special Requirements for Small Quantity Generators.*

(a) Definition. A generator is a small quantity generator if he generates less than 1,000 kilograms per

month of hazardous waste, including the reduced quantities of acute hazardous waste as set forth in subsection (b) of this section, in any calendar month. A small quantity generator's hazardous waste, except for those wastes identified in subsection (c) of this section, is not subject to the requirements of this subchapter provided the following conditions are met. Hazardous waste generated in quantities greater than this amount is fully regulated. Small waste quantities may be subject to control under other provisions of this chapter.

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

(3) The generator treats or disposes his hazardous waste in an on-site facility or ensures delivery to an off-site storage, treatment, or disposal facility either of which is:

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

(C) A Type I, V, or VII municipal solid waste site specifically approved by the department to receive quantities of hazardous waste exempt from full controls under §325.136 of this title (relating to Disposal of Special Wastes);

(D)-(E) (No change.)

(4) (No change.)

(5) The generator may exclude from his small quantity determination:

(A) hazardous waste that is beneficially used or reused or legitimately recycled or reclaimed and that is excluded from regulation by subsection (a) of §325.299 of this title (relating to Hazardous Waste Which Is Used, Reused, Recycled, or Reclaimed);

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

(6) The generator may not exclude from his small quantity determination a hazardous waste which is subject to the requirements of subsection (b) of §325.299 of this title (relating to Hazardous Waste Which Is Used, Reused, Recycled, or Reclaimed). Such waste is subject to the small quantity generator rules

(b) Acute waste quantities. Acute hazardous waste generated by a small quantity generator in quantities which are equal to or less than the following limits in a calendar month are subject only to the rules of this section and are to be included in the determination of the 1,000 kilograms per month set forth in subsection (a) of this section. Acute hazardous waste in quantities greater than these amounts is fully regulated. Acute hazardous waste generated in quantities excluded from full regulation under this subchapter may be subject to control under other provisions of this chapter.

(1) (No change.)

(2) A total of 100 kilograms of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill into or on any land or water of any commercial products or manufacturing chemical intermediates having the generic names listed in 40 Code of Federal Regulations §261.33(e), or

(3) (No change.)

(c) Accumulation of small quantity wastes on-site

(1) Small quantity generator hazardous waste may be accumulated on-site without authorized or permitted storage and with the wastes subject to the reduced requirements of this section if the generator complies with the requirements for containers, packaging, marking, and labeling in §325.293 of this title (relating to Hazardous

Waste Accumulation) and the following provisions until any of the weight quantity portions of the exclusion limits set forth in paragraph (2) of this subsection are reached.

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

(2) At the time the small quantity generator's waste accumulation exceeds the weight quantity portion of the exclusion limitation of subsection (a) of this section or an acute hazardous waste weight quantity portion of the exclusion limitations as described in subsection (b) of this section, the generator's waste for which a weight quantity portion of an accumulation limit has been exceeded is subject to the full 90-day accumulation requirements of §325.293 of this title (relating to Hazardous Waste Accumulation) as well as the other requirements in §§325.291-325.299 of this title (relating to Generators).

(3) A person who accumulates unmanifested hazardous wastes collected from one or more small quantity generators during any calendar month where the total accumulated hazardous waste exceeds the small quantity generator limits of subsections (a) and (b) of this section is subject to §§325.291-325.299 of this title (relating to Generators).

(d) (No change.)

§325.299 Hazardous Waste Which Is Used, Reused, Recycled, or Reclaimed.

(a) Except as otherwise provided in subsection (b) of this section, a hazardous waste which meets any of the following criteria is subject only to the requirements for determination under §325.273 of this title (relating to Hazardous Waste Determination) and for notification under §325.275 of this title (relating to Notification of Hazardous Waste Activity) if:

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

(3) It is a spent pickle liquor, EPA Waste Code Number K-062, Texas Municipal Waste Code Number 92062, which is reused or being stored or treated prior to reuse in a wastewater treatment facility holding a National Pollution Discharge Elimination System (NPDES) permit.

(b) Except for those wastes listed in subsection (a)(3) of this section, a hazardous waste that is a sludge, or that is listed in 40 Code of Federal Regulations §261.31 or §261.32, or that contains one or more hazardous wastes listed in 40 Code of Federal Regulations §261.31 or §261.32 and that is transported or stored prior to being used, reused, recycled, or reclaimed is subject to the requirements of this subchapter with respect to such transportation or storage

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

Issued in Austin, Texas, on February 28, 1984

TRD-843631

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

Effective date April 7, 1984

Proposal publication date N/A

For further information, please call (512) 458-7236.

25 TAC §325.300

The repeal is adopted under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of solid waste under its jurisdiction. In addition, these amendments are being adopted pursuant to federal requirements contained in the federal Solid Waste Disposal Act, 42 United States Code §6926(b), as explained in this preamble.

§325.300. Procedure for Petition for Exclusion of Listed Wastes (Delisting).

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

Issued in Austin, Texas, on February 28, 1984

TRD-843632 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Effective date: April 7, 1984
Proposal publication date: N/A
For further information, please call (512) 458-7236.

Transporters

25 TAC §325.311

The amendment is adopted under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of solid waste under its jurisdiction. In addition, these amendments are being adopted pursuant to federal requirements contained in the federal Solid Waste Disposal Act, 42 United States Code §6926(b), as explained in this preamble.

§325.311. Scope.

(a)-(b) (No change)

(c) Transporters who accumulate unmanifested municipal hazardous waste in amounts which are in excess of the small quantity generator exclusion limits identified in §325.298 of this title (relating to Special Requirements for Small Quantity Generators) are subject to requirements under §§325.291-325.299 of this title (relating to Generators)

(d) Transporters who accumulate and store manifested or unmanifested hazardous waste regulated under §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions) and who store such waste in containers which meet the requirements of §325.294(a) of this title (relating to Pretransport Require-

ments) for no more than 10 days at a transfer facility are not subject to §§325.331-325.350 of this title (relating to Facility Owners and Operators) with respect to storage of the waste.

(e) A transporter of municipal hazardous waste must comply with requirements under §§325.291-325.299 of this title (relating to Generators) if he:

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

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

Issued in Austin, Texas, on February 28, 1984

TRD-843633 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

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For further information, please call (512) 458-7236.

Facility Owners and Operators

**25 TAC §§325.332, 325.335, 325.336,
325.338-325.350**

The amendments are adopted under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of solid waste under its jurisdiction. In addition, these amendments are being adopted pursuant to federal requirements contained in the federal Solid Waste Disposal Act, 42 United States Code §6926(b), as explained in this preamble.

§325.332. Applicability.

(a) The standards of §§325.331-325.350 of this title (relating to Facility Owners and Operators) apply to owners and operators of municipal solid waste facilities which treat, store, or dispose of hazardous waste. Such a facility shall not be operated without the owner or operator obtaining a permit from the department in accordance with the requirements of §325.350 of this title (relating to Permits) or fully complying with the requirements for interim status under §3005(e) of RCRA and subsections (a)(1)(A) and (a)(3) of §325.350 of this title (relating to Permits). In either case, the owner or operator shall operate the facility in compliance with applicable requirements of this subchapter, except as specifically provided otherwise in this subchapter. A permit holder of a municipal solid waste disposal site may be authorized to operate a hazardous waste activity on his permitted site by obtaining a permit amendment from the department in accordance with §325.350 of this title (relating to Permits) to authorize the establishment of a hazardous waste activity within a designated portion of the site. The hazardous waste design and operating criteria will be applicable only to the designated portion of the site. The procedures for obtaining a permit for a new or

separate hazardous waste facility are as prescribed in §325.350 of this title (relating to Permits). A prospective permit applicant, in all cases, should consult with the department to determine specific application requirements for the proposed facility.

(b) The standards in §§325.331-325.350 of this title (relating to Facility Owners and Operators) do not apply to:

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

(10) The owner or operator of a facility which treats or stores hazardous waste when the treatment or storage meets the criteria of subsection (a) of §325.299 of this title (relating to Hazardous Waste Which Is Used, Reused, Recycled, or Reclaimed), except to the extent that subsection (b) of §325.299 of this title (relating to Hazardous Waste Which Is Used, Reused, Recycled, or Reclaimed) provides otherwise.

(11) A farmer disposing of waste pesticides from his own use in compliance with subsection (e) of §325.292 of this title (relating to Scope and Applicability).

(12) The owner or operator of a facility permitted to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under §325.298 of this title (relating to Special Requirements for Small Quantity Generators).

(c) (No change.)

§325.335. Contingency Plan and Emergency Procedures.

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

(f) Emergency procedures.

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

(7) Immediately after an emergency, the emergency coordinator must provide for treating, storing, or disposing of recovered waste, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility. Unless the owner or operator can demonstrate that the recovered material is not a hazardous waste, the owner or operator becomes a generator of hazardous waste for any hazardous waste removed from the facility and must manage it in accordance with §§325.291-325.299 of this title (relating to Generators).

(8)-(10) (No change.)

(g) (No change.)

§325.336. Manifest System, Record Keeping, and Reporting.

(a) Use of manifest system. If a facility receives hazardous waste accompanied by a manifest, the owner or operator or his authorized agent must:

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

(6) If a facility receives from a rail or water (bulk shipment) transporter hazardous waste which is accompanied by a shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator's certification, and signatures), the owner or operator or his agent must:

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

(F) Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility must comply with the requirements of §§325.291-325.299 of this title (relating to Generators). The provi-

sions of §325.293 of this title (relating to Hazardous Waste Accumulation) are applicable to the on-site accumulation of hazardous wastes by generators. Therefore, the provisions of §325.293 of this title (relating to Hazardous Waste Accumulation) only apply to owners or operators who are shipping hazardous waste which they generated at that facility.

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

(d) Availability, retention, and disposition of records.

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

(3) A copy of records of waste disposal locations and quantities required under subsection (c)(2) of this section must be submitted to the Texas Department of Health and to local land authority upon closure of the facility.

(e) (No change.)

§325.338. Closure and Post-Closure Requirements.

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

(c) Closure plan and amendment of plan.

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

(3) Notification of closure. The owner or operator must notify the Texas Department of Health at least 180 days prior to the date he expects to begin closure of his facility. The date when he expects to begin closure should be within 30 days after the date on which he expects to receive the final volume of wastes. If the facility's permit or interim status is terminated (except when a permit is issued to the facility simultaneously with termination of interim status) or if the facility is otherwise ordered by judicial decree, compliance order under §3008 of RCRA, provisions of the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, or by other state laws or regulations to cease receiving wastes or to close, then the requirement of this paragraph does not apply and the owner or operator of an interim status facility shall submit his closure plan to the department no later than 15 days after the termination. However, the owner or operator must close the facility in accordance with deadline requirements established in subsection (d) of this section.

(4) (No change.)

(d) Time deadlines for closure.

(1) (No change.)

(2) Within 180 days after receiving the final volume of waste, or for an interim status facility, within 180 days after approval of the closure plan if that is later, the owner or operator must complete facility closure activities in accordance with the approved closure plan. The Texas Department of Health may approve a longer closure period if the owner or operator can demonstrate that completing closure requirements will of necessity take longer than 180 days or that the conditions explained in paragraphs (1)(B) and (1)(C) of this subsection will apply. Any extension of the 90- or 180-day time periods may be made as a minor modification of the facility permit. If operation of a facility is recommenced, the Texas Department of Health may defer completion of closure activities until the new operation is terminated.

(e) Disposal or decontamination of equipment. When closure is completed, all facility equipment and structures must have been properly disposed of or decontaminated by removing all hazardous waste and residues. At closure, as throughout the operating period, unless

the owner or operator can demonstrate that solid waste removed from a facility area is not a hazardous waste as identified by §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions), the owner or operator becomes a generator of hazardous waste for any waste removed from the facility and must manage it in accordance with §§325.291-325.299 of this title (relating to Generators) and other applicable requirements of this subchapter

(f) (No change.)

(g) Postclosure care and use of property.

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

(4) Except for interim status facilities for which the owners or operators shall comply with the procedures of subsection (h)(3) of this section, the department may require, at closure of a facility, continuation of any of the security requirements, see subsection (c) of §325.333 of this title (relating to General), during part or all of the post-closure care period when:

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

(5)-(6) (No change.)

(h) Postclosure plan and amendment of plan.

(1) Postclosure plan. The owner or operator of a hazardous waste management disposal facility must have a written post-closure plan.

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

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

(i) (No change.)

(j) Notice in deed to property.

(1) The owner of the property on which a disposal facility is located must record, in accordance with state law, a notation on the deed to the facility property or on some other instrument which is normally examined during title search that will in perpetuity notify any potential purchaser of the property that:

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

(C) The survey plat and record of the type, location, and quantity of hazardous wastes disposed of within each cell or area of the facility, required in subsection (i) of this section, have been filed with the local zoning authority or the authority with jurisdiction over local land use and with the Texas Department of Health.

(2) If at any time the owner or operator or any subsequent owner of the land upon which a hazardous waste facility was located removes the waste and waste residues, the liner, if any, and all contaminated underlying and surrounding soil, he may remove the notation on the deed to the facility property or other instrument normally examined during title search or he may add a notation to the deed or instrument indicating the removal of the waste. In either case, the Texas Department of Health shall be advised of the action. Or removing the waste and waste residues, the liner, if any, and the contaminated soil, the owner or operator, unless he can demonstrate that any solid waste removed is not a hazardous waste as set forth in §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions), becomes a generator of hazardous waste for any waste removed from the facility and must manage it in accordance with all applicable requirements of §§325.291-325.299 of this title (relating to Generators.)

§325.339. Financial Requirements

(a) Except as otherwise provided in this section and to the extent consistent with the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, and the rules of this chapter, the department adopts by reference the following EPA regulations:

(1) 40 Code of Federal Regulations Part 264, Subpart H, Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities—Financial Requirements.

(A)-(G) (No change.)

(H) §264.147, Liability Requirements, April 16, 1982, as amended July 1, 1982, July 13, 1982, and June 30, 1983.

(I) (No change.)

(2) 40 Code of Federal Regulations Part 265, Subpart H, Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities—Financial Requirements.

(A)-(G) (No change.)

(H) §265.147, Liability Requirements, April 16, 1982, as amended, July 1, 1982, July 13, 1982, and June 30, 1983

(I) (No change.)

(3) (No change.)

(b)-(e) (No change.)

§325.340. Use and Management of Containers.

(a)-(h) (No change.)

(i) Closure of container storage areas. At closure of a container storage area, all hazardous waste and hazardous waste residues must be removed from the containment system. Remaining containers, container liners, storage bases, and soil contaminated with or containing hazardous waste or hazardous waste residues must be decontaminated or removed. At closure, as throughout the operating period, unless the owner or operator can demonstrate that solid waste removed from the storage area containment system is not a hazardous waste as set forth in §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions), the owner or operator becomes a generator of hazardous waste for any waste removed from the facility and must manage it in accordance with §§325.291-325.299 of this title (relating to Generators) and other applicable requirements of this subchapter

§325.341. Tanks.

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

(g) Closure requirements. At closure, all hazardous waste and hazardous waste residues must be removed from tanks, discharge control equipment, and discharge confinement structures. At closure, as throughout the operating period, unless the owner or operator can demonstrate that any solid waste removed from his tank is not a hazardous waste as set forth in §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions), the owner or operator becomes a generator of hazardous waste for any waste removed from the facility and must manage it in accordance with all applicable requirements of §§325.291-325.299 of this title (relating to Generators.)

(h) Special requirements for ignitable or reactive wastes.

(1) Ignitable or reactive waste shall not be placed in a tank unless one of the following paragraphs (A)-(C) applies:

(A) The waste is treated, rendered, or mixed before or immediately after placement in the tank so that:

(i) the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste (see 40 Code of Federal Regulations Part 261, Subpart C); and

(ii) (No change.)

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

(2) (No change.)

(i) (No change.)

§325.342. *Interim Status Surface Impoundment Facilities.*

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

(f) Closure and post-closure.

(1) (No change.)

(2) If the owner or operator removes all the impoundment materials listed in paragraph (1) of this subsection or can demonstrate that none of the materials listed in paragraph (1) of this subsection remaining at any stage of removal are hazardous, the impoundment is not further subject to the requirements of surface impoundments. At closure, as throughout the operating period, unless the owner or operator can demonstrate that any solid waste removed from the surface impoundment is not a hazardous waste as set forth in §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions and Exceptions), he becomes a generator of hazardous waste for any waste removed from the facility and must manage it in accordance with all applicable requirements of §§325.291-325.299 of this title (relating to Generators).

(3) (No change.)

(g)-(h) (No change.)

§325.343. *Interim Status Waste Piles.*

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

(j) Closure of waste piles.

(1) (No change.)

(2) At closure, any component of waste pile containment system, subsoils, structures, or equipment which is contaminated with hazardous waste, leachate, or residues must be decontaminated or removed. At closure, as throughout the operating period, unless the owner or operator can demonstrate that any solid waste from a waste pile or containment system is not hazardous as set forth in §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions), the owner or operator becomes a generator of hazardous waste for any waste removed from the facility and must manage it in accordance with all applicable requirements of §§325.291-325.299 of this title (relating to Generators).

(3) (No change.)

§325.344. *Interim Status Land Treatment Facilities.*

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

(j) Removal of hazardous wastes. Throughout the operating period, at closure, or during the post-closure period, unless the owner or operator can demonstrate that any solid waste removed from a land treatment site is not hazardous as set forth in §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions), the owner or operator becomes a generator of

hazardous waste for any waste removed from the facility and must manage it in accordance with all applicable requirements of §§325.291-325.299 of this title (relating to Generators).

§325.345. *Interim Status Landfill Facilities.*

(a)-(h) (No change.)

(i) Removal of hazardous wastes. Throughout the operating period, at closure, or during the post-closure period, unless the owner or operator can demonstrate that any solid waste removed from a landfill site is not hazardous as set forth in §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions), the owner or operator becomes a generator of hazardous waste for waste removed from the facility and must manage it in accordance with all applicable requirements of §§325.291-325.299 of this title (relating to Generators).

§325.346. *Incinerators.*

(a) Applicability.

(1) (No change.)

(2) The department may exempt owners and operators of incinerators burning hazardous waste from all requirements of this section except subsections (a)(1), (b), (g), and (h) of this section if the waste to be burned is described as follows:

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

(D) It is a hazardous waste solely because it possesses the reactivity characteristics described by 40 Code of Federal Regulations §261.23(a)(1), (2), (3), (6), (7), or (8) and will not be burned when other hazardous wastes are present in the combustion zone (such documentation must be kept at the facility); or

(E) The waste contains none of the hazardous constituents listed in 40 Code of Federal Regulations Part 261, Appendix VIII, which would reasonably be expected to be in the waste or contains insignificant concentrations of the hazardous constituents listed in 40 Code of Federal Regulations Part 261, Appendix VIII, unless the department finds that the waste will pose a threat to human health and the environment when burned in an incinerator. (Documentation must be retained at the facility.)

(F) The owner or operator of an incinerator may conduct trial burns subject only to the requirements of subsection (d) of this section.

(b) (No change.)

(c) Performance standards for incinerators and principal organic hazardous constituents (POHC's). An incinerator burning hazardous waste must be designed, constructed, and maintained so that the incinerator, when operated in accordance with operating requirements specified in a permit, will meet the following standards.

(1) A destruction and removal efficiency (DRE) of 99.99% must be achieved for each principal organic hazardous constituent (POHC) designated in the facility permit for each waste feed.

(A) POHC. Principal organic hazardous constituents.

(i) Principal organic hazardous constituents in the waste feed must be treated to the extent required by the performance standard of this paragraph.

(ii) One or more POHC's will be specified in the facility permit from among those hazardous con-

stituents listed in 40 Code of Federal Regulations Part 261, Appendix VIII, for each waste feed to be burned. This specification will be based on the degree of difficulty of incineration of the organic constituents in the waste and on their concentration of mass in the waste feed considering the results of waste analysis and trial burns or alternative data submitted as part of the facility permit application.

(I)-(II) (No change.)

(iii) Trial POHC's will be designated for performance of trial burns in accordance with criteria and procedures established by the EPA. The Texas Department of Health will furnish specific guidance on short-term trial burn permits on a case-by-case basis.

(B) (No change.)

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

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

(g) Closure of incinerator site. At closure, the owner or operator must remove all hazardous waste and hazardous waste residues (including, but not limited to, ash, scrubber waters, and scrubber sludges) from the incinerator site. At closure, as throughout the operating period, unless the owner or operator can demonstrate that the residue from the incinerator is not a hazardous waste as set forth in §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions), the owner or operator of the incinerator becomes a generator of hazardous waste for any hazardous waste removed from the facility and must manage it in accordance with §§325.291-325.299 of this title (relating to Generators) and other applicable requirements of these regulations.

(h) (No change.)

§325.347. *Interim Status Thermal Processing Facilities.*

(a)-(d) (No change.)

(e) Closure. At closure, the owner or operator must remove all hazardous waste and hazardous waste residues (including, but not limited to ash) from the thermal processing system or equipment. At closure, as throughout the operating period, unless the owner or operator can demonstrate that any solid waste removed from his thermal processing system or equipment is not a hazardous waste as set forth in §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions), the owner or operator becomes a generator of hazardous waste for any hazardous waste removed from the facility and must manage it in accordance with all applicable requirements of §§325.291-325.299 of this title (relating to Generators)

(f) (No change.)

§325.348. *Interim Status Chemical, Physical, and Biological Processing Facilities.*

(a)-(d) (No change.)

(e) Closure. At closure, all hazardous waste and hazardous waste residues must be removed from processing systems or equipment, discharge control equipment, and discharge confinement structures. At closure, as throughout the operating period, unless the owner or operator can demonstrate that any solid waste removed from his processing system or equipment is not a hazardous waste as set forth in §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions), the owner or operator becomes a generator of

hazardous waste for any hazardous waste removed from the facility and must manage it in accordance with all applicable requirements of §§325.291-325.299 of this title (relating to Generators).

(f)-(g) (No change.)

§325.349. *General Standards for Land Disposal Facilities.*

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

(c) Standards for owners and operators of land disposal facilities.

(1) Except as otherwise provided in this section and to the extent consistent with the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, and other rules of this chapter, the department adopts by reference the following EPA regulations:

(A) 40 Code of Federal Regulations Part 264, Subpart F, Groundwater Protection, July 26, 1982, as amended April 1, 1983;

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

(D) 40 Code of Federal Regulations Part 264, Subpart M, Land Treatment, July 26, 1982, as amended April 1, 1983;

(E)-(G) (No change.)

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

(5) Throughout the operating period, at closure, or during the post-closure period, unless the owner or operator can demonstrate that any solid waste removed from a land disposal facility is not hazardous as set forth in §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions), the owner or operator becomes a generator of hazardous waste for any waste removed from the facility and must manage it in accordance with all applicable requirements of §§325.291-325.299 of this title (relating to Generators).

§325.350. *Permits.*

(a) Scope.

(1) Permits. No person may operate an existing municipal hazardous waste management facility without having obtained interim status or a permit from the department for that facility. For purposes of this subchapter, the term "operation" includes the storage, processing (treatment), or disposal of hazardous waste and any construction-related elements which may affect the safe and proper management of hazardous waste at the facility or the implementation of the standards prescribed by this subchapter.

(A) Existing hazardous waste management facility interim status. An owner or operator of an existing hazardous waste management facility shall satisfy the following requirements in clauses (i)-(iv) to obtain and maintain interim status under §3005(e) of RCRA (noncompliance may result in the determination of lack of entitlement to interim status and operation without a permit):

(i) Comply with §325.275 of this title (relating to Notification of Hazardous Waste Activity).

(ii) Submit Part A of a hazardous waste management facility permit application to the department by the earliest of the following dates.

(I) Six months after publication of federal (EPA) or department rules which first require compliance with the standards of 40 Code of Federal Regulations Parts 265 or 266 or the comparable standards of

§§325.331-325.350 of this title (relating to Facility Owners and Operators); or

(II) Thirty days after the date the owner or operator first becomes subject to the facility standards identified in subclause (I) of this clause.

(iii) By publication in the *Texas Register*, the department may extend the date by which owners or operators of specified classes of existing hazardous waste management facilities must submit their Part A if it finds that there is substantial confusion as to whether the owners or operators of such facilities are required to file a permit application and such confusion is attributed to ambiguities in the department's rules which relate to interim status.

(iv) By compliance order, the department may extend the date by which the owner or operator of an existing hazardous waste management facility is required to submit Part A of the permit application.

(B) New hazardous waste management facilities.

(i) An application may be filed with the department anytime after the effective date of these rules for a permit to construct and operate a facility for the treatment, storage, and/or disposal of hazardous waste.

(ii) Part A, Part B, and other applicable permit application forms included in §§325.901-325.906 of this title (relating to Forms and Documents), shall be submitted at least 180 days before physical construction is expected to commence

(C) Existing permit renewal application. Any hazardous waste management facility with an effective permit shall submit a new application at least 180 days before the expiration date of the effective permit.

(D) Permits for less than an entire facility. The department may issue or deny a permit for one or more units at a facility without simultaneously issuing or denying a permit to all of the units at the facility. The interim status of any unit for which a permit has not been issued or denied is not affected by the issuance or denial of a permit to any other unit at the facility

(2) Interim status facility Part B submission. Existing hazardous waste management facilities operating under interim status may be required to submit Part B of a permit application anytime after the effective date of these regulations. Any owner or operator of existing hazardous waste management facilities operating under interim status shall have six months from the date of the request to submit Part B of the permit application. Part B may be submitted voluntarily anytime. Failure to furnish full information or a timely Part B is grounds for termination of interim status. Termination of interim status also occurs when final administrative disposition of a permit application is made.

(3) (No change)

(b)-(c) (No change)

(d) Modification, revocation and reissuance, termination, and minor modifications

(1) Permit modifications. When the department receives any information; receives a request of an interested person (including the permittee) for modification, revocation, reissuance or termination, or conducts a review of the permit file, the department may determine whether or not cause exists for modification or revocation, reissuance, and termination.

The department may request additional information. If and only if cause exists, the department may modify or revoke and reissue the permit. An updated application may be required. When a permit is to be modified, only the conditions subject to modification are reopened. If a permit is to be revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term. Except for minor modifications, applicable procedures must be followed.

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

(c) (No change.)

(f) Emergency permits. Notwithstanding any other provision of these rules, in the event the commissioner finds an imminent and substantial endangerment to human health or the environment, the commissioner may issue an emergency permit to a nonpermitted facility to allow treatment, storage, or disposal of hazardous waste or to a permitted facility to allow treatment, storage, or disposal of a hazardous waste not covered by an effective permit. The emergency permit:

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

(g) Permit conditions. The following conditions shall be incorporated into each and every permit issued under this subchapter. (The conditions may be incorporated by specific reference to this subsection of the department's municipal solid waste management regulations.)

(1) Duty to comply. The permittee must comply with all conditions of the permit. Any permit noncompliance constitutes a violation of the Solid Waste Disposal Act and is grounds for enforcement action, for permit revocation or amendment, or for denial of a permit renewal application.

(2) Duty to reapply. If activities regulated by this permit are to be continued after the permit's expiration date, a new permit must be applied for and obtained.

(3) Need to halt or reduce activity not a defense. It shall not be a defense in an enforcement action to claim that it would have been necessary to halt or reduce activity in order to maintain compliance with the conditions of this permit.

(4) Duty to mitigate. In the event of noncompliance with the permit, the permittee shall take all reasonable steps to minimize releases to the environment and shall carry out such measures as are reasonable to prevent significant adverse impacts on human health or the environment.

(5) Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment, control, and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, adequate process controls, adequate waste analysis capability, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

(6) Permit actions. The permit may be revoked, amended, or terminated for cause. The filing of a request by permittee for a permit amendment, revocation, or ter-

mination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

(7) **Duty to provide information.** The permittee shall furnish to the department, within a reasonable time, any relevant information the department requests to determine whether cause exists for amending, revoking and reissuing, or terminating the permit or to determine compliance with the permit. The permittee shall also furnish to the department, upon request, copies of records required to be kept by the department.

(8) **Reporting and recording of monitoring results.** All permits shall specify.

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

(9) **Property rights.** The permit does not convey any property rights of any sort or any exclusive privilege (see also subsection (e) of this section).

(10) **Representative data.** Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

(11) **Records retention.** The permittee shall maintain records from all groundwater monitoring wells and associated groundwater surface elevations for the active life of the facility. In addition, records for disposal facilities shall be maintained for the post-closure care period as well. The permittee shall retain records of all monitoring information including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by the permit, and records of all data used to complete the application for the permit for a period of at least three years from the date of the sample, measurement, report, or application. This retention period may be extended on request of the department at any time.

(12) **Records content.** Records of monitoring information shall include.

(A)-(F) (No change.)

(13) **Planned changes.** Permittee shall give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility.

(14) **Anticipated noncompliance.** The permittee shall give advance notice to the department of any planned physical changes in the permitted facility or activity change which may result in noncompliance with permit requirements. For a new facility, the permittee shall not treat, store, or dispose of hazardous waste; and for a facility being modified, the permittee shall not treat, store, or dispose of hazardous waste in the modified portion of the facility until.

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

(15) **Compliance schedule.** Reports of compliance or noncompliance with, or any progress report on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

(16) **Twenty-four hour reporting.** The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the non-

compliance and its cause; the period of noncompliance, including exact dates and times; and if the noncompliance has not been corrected, the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The report shall include:

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

(17) **Manifest discrepancy report.** If a significant discrepancy in a manifest is discovered, the permittee must attempt to reconcile the discrepancy and comply with §325.336 of this title (relating to Manifest System, Record Keeping, and Reporting).

(18) **Unmanifested waste report.** An unmanifested waste report must be submitted to the department within 15 days of receipt of unmanifested waste as explained under subsection (e)(3) of §325.336 of this title (relating to Manifest System, Record Keeping, and Reporting).

(19) **Annual report.** An annual report must be submitted covering facility activities during the previous calendar year as required under subsection (e)(1) of §325.336 of this title (relating to Manifest System, Record Keeping, and Reporting).

(20) **Other information.** Where the permittee becomes aware that he failed to submit any relevant facts in a permit application or submitted incorrect information in a permit application or in any report to the department, he shall promptly submit such facts or information.

(21) **Monitoring reports.** Monitoring results shall be reported at the intervals specified in the permit, and as may be required by subsection (c)(1)(A) of §325.349 of this title (relating to General Standards for Land Disposal Facilities).

(22) **Facility siting.** Suitability of the facility location will not be considered at the time of permit modification or revocation and reissuance unless new information or standards indicate that a threat to human health or the environment exists which was unknown at the time of permit issuance.

(23) **Monitoring well record retention.** The permittee shall maintain records from all groundwater monitoring wells and associated groundwater surface elevations for the active life of the facility and, for disposal facilities, for the post-closure care period as well. This period may be extended by the department at any time.

(24) **Information release, inspection and entry, and signatory requirements.** The provisions of subsections (d), (e), and (c) of §325.271 of this title (relating to Purpose, Applicability, and Release of Information) concerning signatories, inspections, and release of information respectively.

(25) **Listing of wastes.** A list of the wastes or classes of wastes which will be treated, stored, or disposed of at the facility and a description of the processes to be used for treating, storing, and disposing of these hazardous wastes at the facility including design capacities of each storage, treatment, and disposal unit. Except in the case of containers, the description must identify the particular wastes or classes of wastes which will be treated, stored, or disposed of in particular equipment or locations.

(26) **Regulatory standards.** Each of the applicable requirements specified in §§325.331-325.350 of this title (relating to Facility Owners and Operators). Compliance with a hazardous waste facility permit during its term

constitutes compliance with the regulations of this subchapter for the purposes of enforcement.

(27) Permit duration and schedules of compliance. The department shall establish conditions, as required on a case-by-case basis, for permits under subsections (b) and (r) of this section and paragraph (8) of this subsection concerning monitoring.

(28) Effect of new rules on a permit application. For a new permit application, an applicable requirement is a state statutory or regulatory requirement which takes effect prior to final administrative disposition of a permit.

(29) Effect of new rules on modifications. For a permit which is being modified or revoked and reissued, any rule which takes effect prior to the modification or revocation and reissuance of a permit shall be a requirement if applicable to that permit.

(30) Specific permit requirements. New or reissued permits and, to the extent allowed under subsection (d) of this section, modified or revoked and reissued permits shall incorporate each of the applicable requirements referenced in paragraphs (8), (26), (27), (28), and (29) of this subsection.

(31) Other noncompliance. The permittee shall report all instances of noncompliance not reported as required by this subsection at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (16) of this subsection.

(32) Transfers. See subsection (c) of this section.

(h) Application information

(1) All permit applicants must provide the department with the following information, as a minimum, using the application form provided by the department:

(A)-(E) (No change)

(F) A listing of all permits or construction approvals received or applied for under any of the following programs; e.g ,

(i)-(vi) (No change.)

(vii) Hazardous Waste Management Program under RCRA

(viii) Nonattainment program under the Clean Air Act

(ix) Other relevant environmental regulatory programs.

(G)-(H) (No change)

(2) (No change)

(3) Part B of the application consists of requirements for general and technical information applicable to the facility and requirements for groundwater protection. The technical information requirements reflect the standards promulgated in §§325.331-325.350 of this title (relating to Facility Owners and Operators) Part B of the application shall include the following

(A) General information for all facilities.

(i)-(xix) (No change)

(xx) Applicants may be required to submit such information as may be necessary to enable the department to carry out its duties under other state laws.

(B) Specific information requirements. Except as provided in §325.332 of this title (relating to Applicability), the following additional information is required from owners or operators of facilities that are used or

to be used for storage, treatment, or disposal of hazardous waste.

(i)-(ii) (No change.)

(iii) For facilities that store or treat hazardous waste in surface impoundments, the department adopts by reference the requirements of 40 Code of Federal Regulations §270.17 which was adopted by the EPA on April 1, 1983. These regulations are indexed and filed in the Bureau of Solid Waste Management, Texas Department of Health office, located at 1100 West 49th Street, Austin, Texas 78756, and are available for public inspection during regular working hours.

(I)-(III) (No change.)

(iv) For facilities that store or treat hazardous waste in waste piles, the department adopts by reference the requirements of 40 Code of Federal Regulations §270.18 which was adopted by the EPA on April 1, 1983. These regulations are indexed and filed in the Bureau of Solid Waste Management, Texas Department of Health office, located at 1100 West 49th Street, Austin, Texas 78756, and are available for public inspection during regular working hours.

(I)-(III) (No change.)

(v) For facilities that incinerate hazardous waste, the department adopts by reference the requirements of 40 Code of Federal Regulations §270.19 which was adopted by the EPA on April 1, 1983, as amended on June 30, 1983, and 40 Code of Federal Regulations §270.62 which was adopted by the EPA on April 1, 1983. These regulations and any referenced federal regulations are indexed and filed in the Bureau of Solid Waste Management, Texas Department of Health office, located at 1100 West 49th Street, Austin, Texas 78756, and are available for public inspection during regular working hours. The following subclauses of this clause identify references made by the EPA in the rules adopted in this clause and note the equivalent rule in this subchapter to which reference can be more properly made

(I)-(II) (No change)

(III) Where adopted federal regulations refer to 40 Code of Federal Regulations Part 261, Appendix III or Appendix VIII, reference must be made to the federal regulations because there are no comparable department regulations

(IV)-(IX) (No change.)

(X) Where the adopted federal regulations refer to Hazard Codes, reference must be made to the hazardous waste listings in 40 Code of Federal Regulations Part 261, Subpart D, and the equivalent Texas Municipal Waste Code numbers

(vi) For facilities that use land treatment to dispose of hazardous waste, the department adopts by reference the requirements of 40 Code of Federal Regulations §270.20 which was adopted by the EPA on April 1, 1983, as amended on June 30, 1983, and 40 Code of Federal Regulations §270.63 which was adopted by the EPA on April 1, 1983. These regulations and any referenced federal regulations are indexed and filed in the Bureau of Solid Waste Management, Texas Department of Health office, located at 1100 West 49th Street, Austin, Texas 78756, and are available for public inspection during regular working hours. The following subclauses of this clause identify the references made by the EPA in

the rules adopted by this clause with the equivalent rule in this subchapter to which references can be more properly made.

(I)-(IX) (No change.)

(X) Reference to 40 Code of Federal Regulations §270.14(b)(5) or §270.14(b)(13) is equivalent to subsection (h)(3)(A)(v) or (xiii) of this section, respectively.

(vi) For facilities that dispose of hazardous waste in landfills, the department adopts by reference the requirements of 40 Code of Federal Regulations §270.21 which was adopted by the EPA on April 1, 1983, as amended on June 30, 1983. These regulations and any referenced federal regulations are indexed and filed in the Bureau of Solid Waste Management, Texas Department of Health office, located at 1100 West 49th Street, Austin, Texas 78756, and are available for public inspection during regular working hours.

(I)-(IV) (No change.)

(C) For the protection of groundwater at land disposal facilities, the department adopts by reference the requirements of 40 Code of Federal Regulations §270.14(c) which was adopted by the EPA on April 1, 1983, as amended on June 30, 1983. These regulations and any referenced federal regulations are indexed and filed in the Bureau of Solid Waste Management, Texas Department of Health office, located at 1100 West 49th Street, Austin, Texas 78756, and are available for public inspection during regular working hours.

(i) Where adopted federal regulations refer to 40 Code of Federal Regulations §270.14(b)(19), reference is more properly made to subsection (h)(3)(A)(xix) of this section.

(ii)-(v) (No change.)

(4) (No change.)

(5) All of the information and data requirements of this subsection shall be submitted as part of the application, except where the chief of the bureau or his designated representative temporarily grants a request by an applicant for a waiver of a requirement which the bureau considers not essential to the evaluation of the application or for holding a public hearing. A temporary waiver/variance shall be affirmed, modified, or set aside at the public hearing or during the final decision-making process. The applicant is responsible for presenting justification at the public hearing for the waiver/variance temporarily granted by the chief of the bureau. The request will be incorporated into the application.

(i)-(k) (No change.)

(l) Application review process. Upon receipt of an application, the bureau will make a preliminary evaluation to determine if the application is administratively and technically complete. If additional information is required, it will be requested of the applicant before continuing with the processing of the application. No permit shall be issued without a complete application. The completeness of any application for a permit shall be judged independently of the status of any other permit application or permit for the same facility.

(1) Application processing. Following receipt of all required information, the bureau will provide copies of the application or summaries of its contents to those agencies which have or may have a jurisdictional interest

in the case and request their comments or recommendations. The agencies include:

(A)-(I) (No change.)

(J) Federal and state agencies with jurisdiction over fish, shellfish, and wildlife resources and over coastal zone management plans; the Advisory Council on Historic Preservation; the state historic preservation officer; and other appropriate government authorities including any other states affected;

(K) U S Environmental Protection Agency, Region VI, and any other agency which has issued or is required to issue a RCRA hazardous waste, Underground Injection Control (UIC), Prevention of Significant Deterioration (PSD), National Pollution Discharge Elimination System (NPDES), or Section 404 permit for the same facility, and

(L) Others as determined appropriate by the bureau

(2) Regional director of environmental and consumer health protection. In addition, a copy of the application will be provided to the appropriate regional director of environmental and consumer health protection of the department.

(3) Period for comments. Normally, the entities to whom copies of the application are mailed shall have 30 days to present comments and recommendations on the permit application. If any of the review agencies or the bureau require additional data in order to conduct a proper evaluation, the additional data will be requested by the bureau. Following the time for receipt of comments and recommendations from various review agencies, the designated project engineer and other staff members assigned under the supervision of the bureau chief will perform a detailed technical evaluation and prepare a written summary of the application taking into consideration all comments received from the review agencies. Consideration will be given to any recommendation or action taken by the governing body of a city or county within whose jurisdiction the proposed site is to be located.

(4) Draft permit and summary document. The bureau shall prepare a draft permit and a summary document for each completed permit application.

(A) Draft permit denial. If the bureau tentatively decides to recommend the denial of the application for a permit, a notice of intent to deny shall be issued by the bureau. The notice of intent to deny is a type of draft permit and shall follow the same procedures as any permit.

(B) Draft permit contents. The draft permit shall contain the following information:

(i) permit conditions as required in subsection (g) of this section;

(ii) all compliance schedules as required in subsection (r) of this section;

(iii) all monitoring requirements as required in subsection (g) of this section,

(iv) standards applicable to the applicant's facility as required in subsection (g) of this section, and

(v) a statement that the draft permit is based upon the application and the rules which will be considered the best evidence at the hearing and any errors in the draft permit are not fatal. Reliance upon the draft permit without an appearance at the hearing is at one's

own risk. The draft permit is not a substitute for the application or the rules.

(C) Summary document contents. A summary document shall be prepared to accompany each draft permit. The document shall summarize the informational basis of both the application and the department's rules and briefly set forth the principal facts and significant factual, legal, methodological, and policy questions considered in preparing the draft permit. The document shall include the following information in clauses (i)-(xiii).

(i) the name and address of the owner and operator of the site;

(ii) the permit application number;

(iii) the date the application was received;

(iv) a list of the components of the application and supporting material;

(v) the type and quantity of wastes which are proposed to be or are being treated, stored, or disposed of;

(vi) any variances to the rules or compliance schedules the applicant has requested in the application (the applicant is not foreclosed from making additional requests at the public hearing), including reasons why any requested variances or alternatives to required standards do or do not appear justified;

(vii) a brief description of the procedures for reaching a final decision;

(viii) a brief description of the type of facility or activity to be operated;

(ix) the name, address, and telephone number of a person to contact for additional information;

(x) locations where the application is available for inspection,

(xi) a citation from the rules on design standards for the type of facility proposed,

(xii) a citation from the rules on monitoring standards for the type of facility proposed; and

(xiii) a brief summary of the basis for the draft permit conditions, including references to applicable statutory or regulatory provisions and appropriate supporting references

(D) EPA review. The bureau shall submit each draft permit and summary document to the EPA regional administrator for review. The EPA shall respond within 30 days. The bureau shall revise the documents in consultation with the EPA and, when the revision is complete, shall provide public notice of the availability of the documents within approximately 15 days of the receipt of the comments from the EPA.

(E) Public notice. A public notice that the draft permit and the summary document are available for inspection and that comments from any person will be accepted shall be issued as set forth in subsection (u) of this section. The notice announcing the public hearing, required in subsection (m)(3) of this section, may be combined with the notice announcing the availability of the draft permit and summary document.

(m) Scheduling and preparation for a public hearing.

(1) Upon completion of the draft permit and summary document, the department will normally make arrangements with the applicant for a time and place for the conduct of the required public hearing.

(2) (No change)

(3) The department will provide the applicant with a public hearing notice prepared in compliance with subsection (u) of this section announcing the time, place, and purpose of the public hearing and advising all citizens of their right to present comments for or against the issuance of a permit. The applicant shall be responsible for insuring that such notice of the public hearing is published at least once in a newspaper regularly published or circulated in the county in which the disposal site is located. The applicant shall be responsible for paying for and publishing the hearing notice. The department, at its option in any individual case, may require that publication of the notice be made in additional newspapers in the county or other counties. Publication shall not be less than 45 days before the date of the hearing. The applicant shall provide the department with proof that the publication was timely by submitting within five days after the publication of the notice an affidavit of the publisher which shows the date of publication. The affidavit shall be accompanied by a copy of the published notice.

(n) Conduct of the public hearing

(1) The public hearing will be conducted by a hearing examiner designated by the commissioner. The bureau will be represented at the hearing by the bureau chief, his designated representative, and/or the designated project engineer assisted by appropriate staff members. Any interested person may be made a party to the hearing.

(2) The applicant or his duly authorized representative is required to be present at the public hearing to present the application and answer any questions that may arise during the hearing or to clarify any of the information previously submitted. In view of the possibility that legal questions may arise, the applicant should be accompanied by his legal counsel. The professional engineer who prepared the site development plan for the site and other technical personnel who conducted soils or site investigations should also be present at the hearing to answer any technical questions. Failure of an applicant to be present at the public hearing or to be properly represented could result in the denial of a permit.

(3) All hearings held by the department on hazardous waste permit applications are conducted in accordance with the department's formal hearing procedure rules and the Administrative Procedure and Texas Register Act which requires that evidence submitted be legally admissible (as opposed to hearsay) if such evidence is to be used as a basis for a final decision. Because this statute requires that administrative hearings follow the same rules of evidence as those used in nonjury district court cases, applicants are advised to seek assistance from their legal counsel in preparing for a hearing and, although not required, it is advisable that the applicant's attorney actually participate in the hearing, particularly if there is opposition to the permit application.

(4) (No change)

(o) Final determination on application

(1) Revision to application. If during the public hearing additional engineering or design data are necessary as a result of questions raised or the introduction of conflicting data by witnesses, or if significant modifications or changes are proposed by the applicant regarding site design and/or development and operational concepts,

the hearing examiner will entertain a motion for continuance. If the hearing examiner grants a continuance, he shall take the following actions, as appropriate:

(A) The applicant shall be directed to prepare an updated application incorporating the additional engineering or design data and other changes in facility design, construction, and operational concepts proposed or concurred in by the applicant through testimony and/or exhibits offered into evidence at the public hearing.

(B) The updated application shall be identified as an exhibit for the public hearing record in order that its contents may be considered in the commissioner's final decision.

(C) All persons designated as parties at the public hearing shall be afforded the option of receiving a copy of the revised application.

(D) The public hearing may be reconvened to allow cross-examination of the applicant to clarify, as necessary, the revised portions of the application.

(2) Unopposed cases. After the record is closed, the bureau will complete the technical evaluation of all data submitted prior to and during the hearing and before the closing of the record, including comments received from the various review agencies and the public. The chief of the bureau will submit a brief containing the bureau's technical evaluation of the permit application, analysis, conclusions, and recommendations to the hearing examiner, providing a copy to the applicant. The hearing examiner reviews the bureau's brief and, if he does not receive any exceptions to the brief from the applicant, forwards the brief to the commissioner together with his findings of fact and conclusions of law. The commissioner reviews the findings of fact, conclusions of law, and recommendations and either approves or denies the permit. Normally, the final decision will be made within 60 days after the closing of the hearing record, but this time may be extended by the hearing examiner at the public hearing when required by circumstances. The applicant will be advised by the department of the commissioner's final decision by letter. If the applicant determines that the bureau's brief contains conclusions and recommendations that are adverse to the applicant and files exceptions with the hearing examiner, the hearing examiner will prepare a proposal for decision and provide copies to the applicant and the chief of the bureau. The ensuing actions and final determination will then be as for an opposed case, as described in paragraph (3) of this subsection.

(3) Opposed cases. In opposed cases in which the commissioner neither hears the evidence nor reads the complete record, a proposal for decision shall be prepared by the hearing examiner based on the record taking into consideration initial briefs and reply briefs filed by all parties to the action. Prior to the closing of the hearing record, the hearing examiner shall establish a schedule for all ensuing actions through the final determination by the commissioner. All parties shall have an opportunity to file briefs with the hearing examiner, providing copies thereof to all other parties who shall then have an opportunity to file reply briefs with the hearing examiner. The chief of the bureau shall file a brief in all cases (see subsection (p) of this section). The hearing examiner will then prepare a proposal for decision and provide copies

to all parties. All parties filing exceptions and briefs to the proposal for decision shall provide copies of such exceptions and briefs to all other parties who shall then have an opportunity to file replies with the hearing examiner. Following the receipt of replies from all parties or the termination of the specified period of time for receipt of such replies, the office of general counsel shall forward the proposal for decision, together with all briefs, exceptions, and replies received, through the associate commissioner of health for environmental and consumer health protection to the commissioner. Following his review of the proposal for decision, exceptions, briefs, replies, and staff recommendations, the commissioner shall issue a final decision in the form of a permit, with special provisions attached thereto, a denial order, containing the grounds for such denial; or any other action as may be authorized by state law. Subsequent to this final decision by the commissioner, a motion for rehearing may be filed by any person affected by the decision. This must be filed within 15 days of the commissioner's decision and persons opposing or otherwise responding to the motion for rehearing will be provided an opportunity to file a reply to the motion. The commissioner shall have 45 days from the time of the final decision (i.e., the issuance of the permit or denial order) to rule on the motions for rehearing, unless such time is extended by the commissioner by written order. Anyone who has filed a motion for rehearing may appeal the commissioner's final decision to a district court in Travis County within 30 days after a motion for rehearing has been overruled either by written order of the commissioner or by operation of law. Time limitations for the filing of motions, responses, exceptions, and briefs shall be governed by the provisions of the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a.

(p) Filing of party briefs

(1) After the completion of the public hearing, but before the proposal for decision is issued, parties shall have 30 days to file briefs with the hearing examiner. Copies shall be provided to all parties. Parties shall have 15 days to file reply briefs with the hearing examiner.

(2) If the comments received present new evidence or other relevant information that the bureau feels should be considered at the hearing, the bureau, as a party, will present the relevant information or will make a motion to the hearing examiner to reopen the hearing.

(3) At the time any final permit decision is issued by the commissioner, the bureau shall issue a response to comments received from persons other than parties. This response shall:

(A) specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change;

(B) briefly describe and respond to all significant comments from persons other than parties raised during the public comment period or during any hearing;

(C) be available to the public.

(q)-(t) (No change)

(u) Public notice and comments

(1) Occasions for public notice

(A) A draft permit and summary document have been prepared in compliance with subsection (l)(4) of this section.

(B) A permit application has been tentatively denied

(C) A public hearing has been scheduled.

(D) Public notice is not required when a request for permit modification, revocation and reissuance, or termination is denied under subsection (d) of this section. Written notice of that denial shall be given to the requester and to the permittee.

(E) Public notices may describe more than one permit or permit action

(2) Time allowances provided.

(A) Public notice of the preparation of a draft permit (including a notice of intent to deny a permit application) and the summary document required under paragraph (1)(A) of this subsection shall allow at least 45 days for public comment.

(B) Public notice of a public hearing shall be given at least 45 days before the hearing. (Public notice of the hearing may be given at the same time as public notice of the draft permit and the two notices may be combined)

(3) Methods used for public notice. Public notice of activities described in paragraph (1) of this subsection shall be given using the methods outlined in subparagraphs (A)-(D) of this paragraph.

(A) A copy of a notice shall be mailed to the following persons (any person otherwise entitled to receive notice under this paragraph may waive his or her rights to receive notice for any classes and categories of permits):

(i) the applicant,

(ii) any other agency, including the EPA, which has issued or is required to issue a hazardous waste, Underground Injection Control (UIC), Prevention of Significant Deterioration (PSD), National Pollution Discharge Elimination System (NPDES), or Section 404 permit for the same facility,

(iii) the agencies identified in subsection (1)(1)(J) of this section;

(iv) persons on a mailing list developed by:

(I) including those who request in writing to be on the list;

(II) soliciting persons for "area lists" drawn from participants in past permit proceedings in that area; and

(III) notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in such publications as regional- and state-funded newsletters, environmental bulletins, or state law journals (The bureau may update the mailing list from time to time by requesting written indication of continued interest from those listed. The bureau may delete from the list the name of any person who fails to respond to such a request),

(IV) including any unit of local government having jurisdiction over the area where the facility is proposed to be located, and

(V) including each state agency having any authority under state law with respect to the construction or operation of such facility

(B) A notice shall be published in a daily or weekly major newspaper of general circulation and broadcast over local radio stations.

(C) Any other method reasonably calculated to give actual notice of the action in question to the persons potentially affected by it, including press releases or any other forum or medium to elicit public participation.

(D) Public notices shall be accomplished in a manner constituting legal notice to the public under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a.

(4) Contents of a public notice

(A) All public notices All public notices issued under this section shall contain all the minimum information outlined in clauses (i)-(vi) of this subparagraph

(i) Name and address of the office processing the permit action for which notice is being given.

(ii) Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit.

(iii) A brief description of the business conducted at the facility or activity described in the permit application or the draft permit

(iv) Name, address, and telephone number of a person from whom interested persons may obtain further information and a statement that copies of the documents may be reviewed at the office of the Texas Department of Health, 1100 West 49th Street, Austin, Texas, or at the department's appropriate public health regional office.

(v) A brief description of the comment procedures required by paragraph (6) of this subsection and the Administrative Procedure and Texas Register Act and the time and place of any hearing that will be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled) and other procedures by which the public may participate in the final permit decision.

(vi) Any additional information considered necessary or proper

(B) Public notices for hearings. In addition to the general public notice described in subparagraph (A) of this paragraph, the public notice of a hearing shall contain all the information outlined in clauses (i)-(iii) of this subparagraph.

(i) A reference to the date or dates of previous public notices relating to the permit

(ii) The date, time, and place of the hearing

(iii) A brief description of the nature and purpose of the hearing, including the applicable rules and procedures.

(5) Distribution of document copies. All persons identified in paragraph (3)(A)(i)-(iii) of this subsection shall be mailed a copy of the documents identified in subparagraphs (A)-(C) of this paragraph (unless an identified recipient received a previously officially distributed copy of one or more of the documents):

(A) the permit application,

(B) the draft permit, and

(C) the summary document

(6) Comments During the public comment period provided for in this subsection, any person may submit written comments on the draft permit and any interested person may request a public hearing if a hearing has not been scheduled. A request for a public hear-

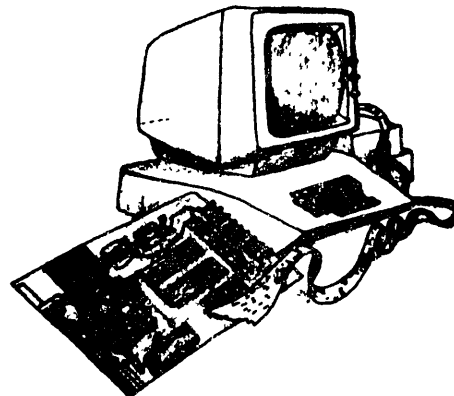
ing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. All comments shall be considered and shall be answered as provided in subsection (p) of this section.

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

Issued in Austin, Texas, on February 28, 1984.

TRD-843634 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Effective date: April 7, 1984
Proposal publication date: N/A
For further information, please call (512) 458-7236.



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Resources

Chapter 29. Purchased Health Services

Subchapter L. General Administration 40 TAC §29.1116

The Texas Department of Human Resources adopts an amendment to §29.1116, without changes to the proposed text published in the January 27, 1984, issue of the *Texas Register* (9 TexReg 475)

The amendment clarifies procedures for referring fraudulent and program abuse cases to the appropriate state agencies and law enforcement agency. The amendment expands the current rule by providing for some cases to be referred to state agencies for investigation, licensing agencies for censure, and law enforcement agencies for prosecution

No comments were received regarding the adoption of the amendment

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

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

Issued in Austin, Texas, on March 28, 1984

TRD-843559 Marlin W. Johnston
Commissioner
Texas Department of Human
Resources

Effective date: April 18, 1984
Proposal publication date: January 27, 1984
For further information, please call (512) 441-3355, ext. 2037.

Part VI. Texas Commission for the Deaf

Chapter 181. General Rules of Practice and Procedure Special Services Operations

40 TAC §181.41

The Texas Commission for the Deaf adopts new §181.41, without changes to the proposed text published in the January 20, 1984, issue of the *Texas Register* (9 TexReg 409).

The new section is necessary because of its affect on state agencies and emergency response centers and the need to provide procedures by which these entities may participate in the commission's program of telecommunication device for the deaf (TDD) placement.

The new section functions as a guideline to increase direct communication between deaf and hearing-impaired consumers and state agencies and emergency response centers and to show the responsibilities of state agencies and emergency response centers in regard to this program

No comments were received regarding adoption of the new section.

The new section is adopted under the Human Resources Code, Chapter 81, §81.011, which authorizes the Texas Commission for the Deaf to provide telecommunication devices for the deaf to state agencies and local units of government.

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 29, 1984

TRD-843626 Fred R. Tammen
Executive Director
Texas Commission for the Deaf

Effective date: April 20, 1984
Proposal publication date: January 20, 1984
For further information, please call (512) 475-2492.

Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. 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*.

Texas Department of Agriculture

Thursday, April 19, 1984, 10:30 a.m. The Texas Department of Agriculture will meet at 1127 North Valley Mills Drive, Waco. According to the agenda, the department will conduct an administrative hearing to review alleged violations of the Texas Agriculture Code, §§101 003, 101 013, and 103 009, by Roger Mead, doing business as Mead Produce.

Contact: Patrick D. Redman, P.O. Box 12847, Austin, Texas, (512) 475-6686.

Filed: March 29, 1984, 10:25 a.m.
TRD-843586

Thursday, April 26, 1984, 10:30 a.m. The Texas Department of Agriculture will meet in Suite 120, 1949 Stemmons Freeway, Dallas. According to the agenda, the department will conduct an administrative hearing to review an alleged violation of the Texas Agriculture Code, §101 013, by Big K Produce, as petitioned by Gerald E. Mann Produce.

Additions to the above agenda:

An administrative hearing to review a possible violation of the Texas Agriculture Code, §101 013, by R. A. Canales, doing business as R. A. Canales Produce, and holder of commission merchant license 1179, as petitioned by Jerry Brannon.

An administrative hearing to review an alleged violation of the Texas Agriculture Code, §101 013, by R. A. Canales, doing business as R. A. Canales Produce, and holder of commission merchant license 1179, as petitioned by Prater and Pal's Produce.

Contact: Patrick D. Redman, P.O. Box 12847, Austin, Texas, (512) 475-6686.

Filed: March 29, 1984, 10:24 a.m.
TRD-843587-843589

Texas Air Control Board

Friday, April 13, 1984. A committee of the Texas Air Control Board and the full board will meet at 6330 U.S. Highway 290 East, Austin. Times and agendas follow:

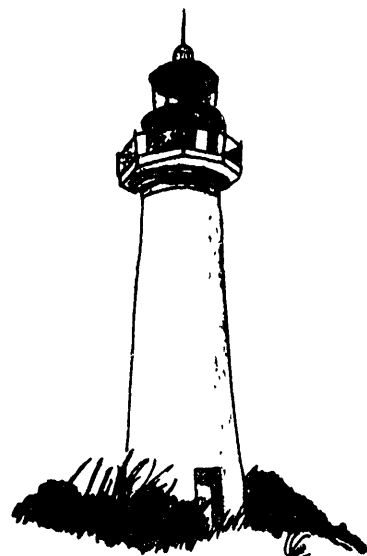
9:30 a.m. The Regulation Development Committee will consider a rule-making proposal concerning Regulation VI—Permits.

10:30 a.m. The Texas Air Control Board will approve the March 16, 1984, minutes, present service awards; hear a report on the evaluation of ambient ozone data in Texas; consider federal state implementation plan requirements regarding automobile inspec-

tion and maintenance, a revision to board resolutions pertaining to signatures on permits and financial accounts, and new business, and hear the examiner's report and other reports.

Contact: Ramon Dasch, 6330 U.S. Highway 290 East, Austin, Texas 78723, (512) 451-5711, ext. 354.

Filed: March 30, 1984, 2:42 p.m.
TRD-843655, 843656



Texas Commission on the Arts

Committees of the Texas Commission on the Arts will meet in the commission offices, fifth floor, E. O. Thompson Building, 920 Colorado Street, Austin. Days, times, committees, and agendas follow.

Tuesday, April 10, 1984, 2 p.m. The Benefit Funds Committee will conduct a public discussion and consider the development of a recommendation on the use of benefit proceeds

Wednesday, April 11, 1984, 8:30 a.m. The Assistance Review Committee will conduct a public hearing; approve the February 22, 1984, minutes, review grants applications; and consider panel nominations.

Contact: Richard E. Huff, P.O. Box 13406, Austin, Texas 78711, (512) 475-6593.

Filed: April 2, 1984, 3:50 p.m.
TRD-843705, 843703

**Automated Information Systems
Advisory Council**

Friday, April 13, 1984, 9 a.m. The Board of the Automated Information Systems Advisory Council will meet in Room 100-E, John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda, the board will consider procurement proposals, recommendations of the Computer Procurement Working Committee, procedures for evaluating procurement proposals, and a section of the long-range plan relating to a legislative appropriations request

Contact: Charlotte Craig, P.O. Box 13564, Austin, Texas 78711, (512) 475-2408 or STS 822-2362.

Filed: April 2, 1984, 11:19 a.m.
TRD 843678

State Commission for the Blind

Tuesday and Wednesday, April 10 and 11, 1984, 1:15 p.m. and 8 a.m. respectively. The Consumer Advisory Committee of the State Commission for the Blind will meet at the Criss Cole Rehabilitation Center, 4800 North Lamar Boulevard, Austin. Items on the agenda include presentations of members going off the committee, new appointments, and the chairperson appointee, comments by the executive director; an update on pertinent issues; statewide topics, including commission rules and regulations, tuition exemption, EEO/AA, and other

matters; a presentation on the 1986-1987 budget request and comments by the staff and the work group; and completion of travel forms.

Contact: Jerry L. Schlothauer, 314 West 11th Street, Suite 509, Austin, Texas 78701, (512) 475-1783.

Filed: March 29, 1984, 4:23 p.m.
TRD-843621

**Texas Coastal and Marine
Council**

Friday, April 13, 1984, 9 a.m. The Texas Coastal and Marine Council will meet at the Bahia Mar Resort Hotel, 6300 Padre Island Boulevard, South Padre Island. According to the agenda, the council will elect a chairman; approve the minutes; consider current congressional activities of significance to Texas marine commerce, an overview of the Port of Brownsville, the Texas Gulf shrimp industry, shellfish management and development potential, committee and staff reports, and past and future business; hear public testimony, and discuss the location of the June meeting

Contact: Charles L. Branton, P.O. Box 13407, Austin, Texas 78711, (512) 479-5041.

Filed: April 2, 1984, 12:47 p.m.
TRD-843686

Criminal Justice Policy Council

Wednesday, April 18, 1984, 1:30 p.m. The Criminal Justice Coordinating Council of the Criminal Justice Policy Council will meet in the Texas Commission on Law Enforcement Officer Standards and Education Building, 1606 Headway Circle, Austin. According to the agenda, the council will consider reports from the Information Systems Subcommittee, the Policy Recommendations Subcommittee, and the Subcommittee on Strategies, and other business

Contact: Phyllis Pinegar, Sam Houston Building, Room 410, 201 East 14th Street, Austin, Texas 78701, (512) 475-1281.

Filed: April 2, 1984, 4:23 p.m.
TRD-843711

Friday, April 27, 1984, 10 a.m. The Commission on Sentencing Practices and Procedures of the Criminal Justice Policy Council will meet in Room 309, State Capitol, Aus-

tin. According to the agenda summary, the commission will hear public testimony on issues involving sentencing.

Contact: Mark Burk, Sam Houston Building, Room 410, 201 East 14th Street, Austin, Texas 78701, (512) 475-2150 or (512) 475-1281.

Filed: April 2, 1984, 4:24 p.m.
TRD-843712

Texas School for the Deaf

Friday, April 6, 1984. Committees of the Governing Board of the Texas School for the Deaf (TSD) will meet in the board room, TSD campus, 1102 South Congress Avenue, Austin. Times, committees, and agendas follow.

1 p.m. The Curriculum and Student Life Committee will consider student life issues and an update on curriculum and 24-hour programming

1 p.m. The Policy Committee will review policies, hiring practices, termination of employment, contract and noncontract employment, status of employment, and employment requirements and restrictions.

2 p.m. The Budget Committee will review the cash budget in preparation for the biennium budget.

Contact: Sheila O'Leary, 1102 South Congress Avenue, Austin, Texas 78704, (512) 442-7821, ext. 303

Filed: March 29, 1984, 1:54 p.m.
TRD-843601-843603

Friday and Saturday, April 6 and 7, 1984, 3 p.m. and 10 a.m. respectively. The Governing Board of the Texas School for the Deaf will meet in the board room, TSD campus, 1102 South Congress Avenue, Austin. According to the agenda summary, the board will approve the February 17, 1984, minutes, consider business requiring board action, including professional contracts for 1983-1984, a policy for addressing the board, consultant contracts, preparation for a leadership workshop on May 4 and 5, 1984, elections for the regional ESC board, approval of the 1984-1985 school calendar, the TAD centennial convention, an appraisal services update, and personnel and legal matters, consider business for information purposes, including the health services report, the monthly financial report, an update on the Interagency Task Force on Child Abuse and Neglect, the summer school report, end-of-school-year ac-

tivities, and student life issues, hear individuals from the audience wishing to make a report, and hear reports from board members. The board also will meet in executive session to consider personnel matters.

Contact: Sheila O'Leary, 1102 South Congress Avenue, Austin, Texas 78704, (512) 442-7821, ext. 303.

Filed: March 29, 1984, 1:55 p.m.
TRD-843604

Texas Employment Commission

The Texas Employment Commission (TEC) will meet in Room 644, TEC Building, 15th Street and Congress Avenue, Austin. Days, times, and agendas follow.

Tuesday, April 10, 1984, 9 a.m. Items on the agenda summary include prior meeting notes, internal procedures of the Office of Commission Appeals, consideration and action on higher level appeals in unemployment compensation cases on Docket 15, and setting the date of the next meeting.

Wednesday, April 11, 1984, 9 a.m. The TEC made additions to a rescheduled meeting concerning internal procedures of the Office of Commission Appeals and consideration and action on higher level appeals in unemployment compensation cases on Docket 14A. The meeting was originally scheduled for March 27, 1984, as published at 9 TexReg 1705.

Contact: Courtenay Browning, TEC Building, Room 608, 15th Street and Congress Avenue, Austin, Texas, (512) 397-4415.

Filed: April 2, 1984, 4:10 p.m.
TRD-843708, 843707

Texas Engineering Extension Service

Friday, April 6, 1984, 10 a.m. The Firemen's Training School Advisory Board of the Texas Engineering Extension Service will meet in emergency session in the conference room, Henderson Hall, Texas A&M University, College Station. According to the agenda, the board will consider the July 23, 1983, minutes and an interim statistical report, hear presentations on the annual school program planning workshops from Chiefs Richard Russell, C. A. Shelton, and Tom P. Foster of the Municipal School, Chief Robert J. Wood of the Industrial School, and Chief Henry D. Smith of the Spanish School; receive an overview of state

association activities, including the McAllen Conference, from Ray Williamson; and consider general comments. The emergency status is necessary to provide the board with an opportunity to consider proposed revisions to the Fire School Program.

Contact: Henry D. Smith, Texas A&M University System, College Station, Texas 77843-8000.

Filed: April 2, 1984, 10:53 a.m.
TRD-843679

Governor's Commission on Physical Fitness

Monday, April 9, 1984, 6 p.m. The Governor's Commission on Physical Fitness will meet in the Forum Room, Austin Hilton Inn, 6000 Middle Fiskville Road, Austin. According to the agenda summary, the commission will hear a report on the employee health fitness conference; discuss special items for board information, including budget considerations and consideration and action on a foundation reply to the commission's contract proposal; hear reports from Dr. Ted Edwards' subcommittee and the executive director; and consider a special agency procedure for a committee to be appointed by the chairman and special action resulting from it, special action resulting from the director's personal privilege comments, and new business.

Contact: Albert A. Rooker, 4200 North Lamar Boulevard, #110, Austin, Texas 78756, (512) 475-6718.

Filed: March 30, 1984, 2:40 p.m.
TRD-843657

Texas Health Facilities Commission

Thursday, April 5, 1984, 1:30 p.m. The Texas Health Facilities Commission made an emergency addition to the agenda of a meeting held in Suite 305, Jefferson Building, 1600 West 38th Street, Austin. The addition concerned the consideration of an application for a certificate of need for Aldine Bender Ambulatory Surgical Center, Houston, AS83-1007-202. The emergency status was necessary to allow the facility to avoid unnecessary and costly hardships resulting from a delay in providing improved services to the community.

Contact: Judith Monaco, P O Box 50049, Austin, Texas 78763.

Filed: April 2, 1984, 9:25 a.m.
TRD-843673

Thursday, April 12, 1984, 1:30 p.m. The Texas Health Facilities Commission will meet in Suite 305, Jefferson Building, 1600 West 38th Street, Austin. According to the agenda summary, the commission will consider the following applications.

Certificates of Need

Day Surgery Center of South Central Dallas, Inc., Dallas
AS83-0802-075

The University of Texas System Cancer Center, M. D. Anderson Hospital and Tumor Institute, Houston
AH84-0120-042

Hendrick Medical Center, Abilene
AH83-1025-224

The Methodist Hospital, Houston
AH84-0111-025

Petition for Reissuance of Certificate of Need

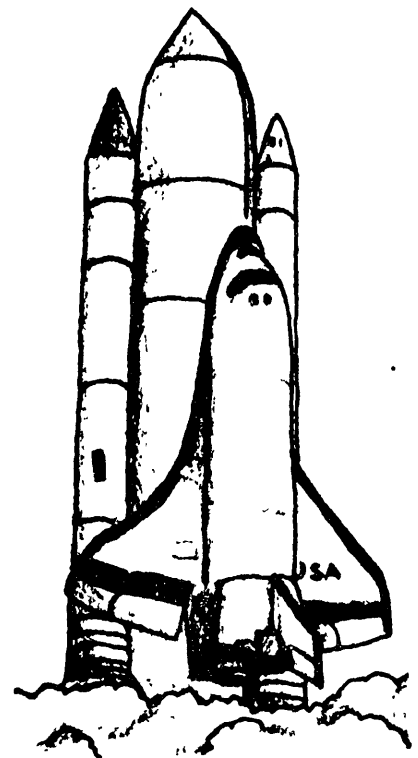
Westminster Manor, Austin
AN82-1223-281R(021084)

Motion for Rehearing/Petition for Reconsideration

Doctors Hospital of Permian Basin and Parkview Hospital, Midland
AH83-0701-008

Contact: Judith A. Monaco, P.O. Box 50049, Austin, Texas 78763

Filed: April 2, 1984, 9:25 a.m.
TRD-843674



Task Force on Indigent Health Care

Tuesday and Wednesday, April 10 and 11, 1984, 9 a.m. daily. Subcommittees, the Task Force, and the Executive Committee of the Task Force on Indigent Health Care will meet at the Joe C. Thompson Center, 26th and Red River Streets, Austin. According to the agenda summary, the subcommittees will continue discussions relative to their charge. The Task Force will meet on April 11 to exchange preliminary proposals developed by the subcommittees. The Executive Committee will then meet to discuss the directions of the Task Force.

Contact: Shanna Igo or Bryan Sperry, P. O. Box 12068, Austin, Texas 78711, (512) 475-1051.

Filed: April 2, 1984, 9:17 a.m.
TRD-843668

State Board of Insurance

Tuesday, April 3, 1984, 10 a.m. The State Board of Insurance made an emergency addition to the agenda of a meeting held in Room 414, 1110 San Jacinto Street, Austin. The addition concerned the consideration of the approval of riders to be used when the blanket position bond or comprehensive 3-D policy Form D are issued to health maintenance organizations. The emergency status was necessary to make it possible for health maintenance organizations to meet the requirements of the Texas Health Maintenance Organization Act, §30.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

Filed: April 2, 1984, 4:27 p.m.
TRD-843714

The Commissioner's Hearing Section of the State Board of Insurance will conduct public hearings in Room 342, 1110 San Jacinto Street, Austin. Days, times, and dockets follow.

Monday, April 9, 1984, 1:30 p.m. Docket 7641—application for original charter of Universal Surety of America, Houston.

Contact: Tom I. McFarling, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-1076

Filed: March 29, 1984, 10:50 a.m.
TRD-843591

Tuesday, April 10, 1984, 9 a.m. Docket 7612—application by E. F. Hutton Life In-

surance Company, La Jolla, California, for variable annuity authority

Contact: John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

Filed: April 2, 1984, 1:40 p.m.
TRD-843692

Tuesday, April 10, 1984, 2 p.m. The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. According to the agenda summary, the board will consider a decision on the appeal of Domestic Lloyds of Texas Insurance Company from Commissioner's Order 83-3093; a decision on a joint motion for dismissal in the appeal of William and Nancy Sartain from action of the Texas Catastrophe Property Insurance Association, hear the commissioner's and fire marshal's reports, both including personnel matters; and discuss board orders on several different matters as itemized on the complete agenda.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

Filed: April 2, 1984, 2:47 p.m.
TRD-843702

The Commissioner's Hearing Section of the State Board of Insurance will conduct public hearings at 1110 San Jacinto Street, Austin. Days, times, rooms, and dockets follow.

Wednesday, April 11, 1984, 10:30 a.m. In Room 342, Docket 7642—stock purchase of Preferred Employers Insurance Company, McAllen.

Contact: Tom I. McFarling, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-1076

Filed: April 2, 1984, 1:40 p.m.
TRD-843693

Monday, April 16, 1984, 9 a.m. In Room 353, Docket 7638—whether certain acts or transactions between Safe Mate Life Insurance Company, El Paso, and Safe Mate Corporation should be set aside, rescinded, revoked, reversed, or rendered void.

Contact: Tom I. McFarling, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-1076.

Filed: April 2, 1984, 1:40 p.m.
TRD-843694

Texas State Board of Medical Examiners

Saturday, April 14, 1984, 10 a.m. The Medical School Committee of the Texas State

Board of Medical Examiners will meet at 1101 Camino LaCosta, Austin. According to the agenda, the committee will discuss visitation to medical schools, a response regarding preceptor rules, visiting professor permit rules and institutional permit rules and possible suggested changes, and an update on evaluating educational quality. The committee may also meet in executive session under authority of Texas Civil Statutes, Article 6252-17, as related to Article 4495b, §4.05(d) and §5.06(e)(1), and Attorney General Opinion 1974, H-484.

Contact: Jean Davis, 1101 Camino LaCosta, Suite 201, Austin, Texas, (512) 452-1078.

Filed: April 2, 1984, 2:08 p.m.
TRD-843689

Texas Department of Mental Health and Mental Retardation

Monday, April 2, 1984, 6 p.m. The Executive Committee of the Texas Board of Mental Health and Mental Retardation of the Texas Department of Mental Health and Mental Retardation met in emergency session in Room 240, 909 West 45th Street, Austin. According to the agenda, the committee reviewed the department's relationship with the Austin-Travis County Mental Health and Mental Retardation Center. The emergency status was necessary because clarification of this relationship was needed before the community center executive directors' meeting on April 7, 1984.

Contact: Gary E. Miller, P. O. Box 12668, Austin, Texas, (512) 465-4588

Filed: April 2, 1984, 2:18 p.m.
TRD-843691

Board of Nurse Examiners

Tuesday-Thursday, April 10-12, 1984, 8 a.m. daily. The Board of Nurse Examiners made additions to the agenda of a meeting to be held at the Sunrise Motor Hotel, 7622 IH 35 North, Austin. The additions concern new business regarding Bobbie J. Chatman and a report from the Area III meeting.

Contact: Margaret Rowland, 1300 East Anderson Lane, C-225, Austin, Texas 78752 (512) 835-4880

Filed: March 29, 1984, 10:27 a.m.
TRD-843585

Board of Pardons and Paroles

Monday-Friday, April 16-20, 1984, 9 a.m. daily. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will review cases of inmates for parole consideration, take action on requests for executive clemency, review and act upon reports regarding administrative releasees, review procedures affecting the daily operation of staff, consider and act regarding needed administrative rule changes, take action upon gubernatorial directives, take action concerning certifying and contracting with community residential facilities; and consider and act in personnel matters.

Contact: John W. Byrd, 8610 Shoal Creek Boulevard, Austin, Texas, (512) 459-2716

Filed: April 2, 1984, 11:08 a.m.
TRD-843680

**Texas State Board of Plumbing
Examiners**

Friday, April 13, 1984, 9:30 a.m. The Texas State Board of Plumbing Examiners will meet at 929 East 41st Street, Austin. According to the agenda, the board will consider the previous meeting minutes, review a financial report, consider license and examination data, a report of licenses issued and examination statistics, hardship cases, and reports by Don Nelson on the International Association of Plumbers and Mechanical Officials (IAPMO) Ad Hoc Backflow Committee and the IAPMO Code Changes Committee meeting, hear a status report on an attorney general investigation, regarding overcharges during the freeze, by Bill Pickens, discuss the term of license, i.e., one-year, two-year, or three-year and fees in amounts divisible by 12, 24, or 36, meet with William Roe, president of the Associated Plumbing, Heating, & Cooling Contractors of Texas, discuss the mechanical vent, hear report from the attorney general regarding authority for licensing of plumbing inspectors in this state, hold a preliminary budget discussion, discuss the advisability of adding one more year to the master waiting period, review and discuss the master and journeyman examinations, and consider the status of negotiations between the board and the Texas Department of Labor and Standards.

Contact: Lynn Brown, P.O. Box 4200, Austin, Texas 78765, (512) 458-2145

Filed: April 2, 1984, 10:19 a.m.
TRD-843676

State Property Tax Board

Tuesday, April 10, 1984, 8:30 a.m. The State Property Tax Board will meet in the agency conference room, 9501 IH 35 North, Austin. According to the agenda, the board will approve the December 9, 1983, and January 6, 1984, minutes, receive an orientation on the review process for hearing appraisal district protests of preliminary assigned ratios; and consider amendments to the fiscal year 1984 operating budget.

Contact: Ron Patterson, 9501 IH 35 North, Austin, Texas, (512) 837-8622

Filed: March 29, 1984, 3:25 p.m.
TRD-843620

**Public Utility Commission of
Texas**

Friday, April 6, 1984, 9 a.m. The Public Utility Commission made an emergency addition to the agenda of a meeting held in Suite 450N, 7800 Shoal Creek Boulevard, Austin. The addition concerned a motion for rehearing of the commission's order granting appeals and dismissing Step 2 in Docket 5560—application of Gulf States Utilities Company for authority to change rates. The emergency status was necessary so that this motion could be ruled upon prior to the commencement of the hearing on the merits.

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

Filed: April 2, 1984, 3:55 p.m.
TRD-843706

Tuesday, April 10, 1984, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the commission will conduct a prehearing conference in Docket 5649—application of Center Point Water Works for a rate increase in Kerr County.

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

Filed: March 30, 1984, 2:40 p.m.
TRD-843658

Friday, April 13, 1984, 9 a.m. The Hearings Division of the Public Utility Commission of Texas rescheduled a meeting to be held in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the division will conduct a hearing on the merits in Docket 5591—application of

Southwest Water Services, Inc., for a rate increase for the Oak Trail Shores subdivision in Hood County, and Docket 5592—application of Resort Water Services, Inc., for a rate increase for Arrowhead Shores and Lake Granbury Harbor subdivision in Hood County. The meeting originally was scheduled for April 5, 1984.

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

Filed: April 2, 1984, 2:09 p.m.
TRD-843688

The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. Days, times, and agendas follow.

Friday, April 13, 1984, 10 a.m. A prehearing conference in Docket 5655—application of Green Valley Water Supply Corporation for a cease and desist order against the City of Schertz.

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

Filed: March 30, 1984, 9:58 a.m.
TRD-843628

Friday, June 15, 1984, 9 a.m. A final prehearing conference in Docket 5640—application of Texas Utilities Electric Company for a rate increase.

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

Filed: March 29, 1984, 2:32 p.m.
TRD-843615

Monday, June 18, 1984, 9 a.m. A settlement prehearing conference in Docket 5640—application of Texas Utilities Electric Company for a rate increase.

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

Filed: March 29, 1984, 2:32 p.m.
TRD-843616

Tuesday, June 19, 1984, 9 a.m. A hearing on the merits in Docket 5640—application of Texas Utilities Electric Company for a rate increase.

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

Filed: March 29, 1984, 2:32 p.m.
TRD-843617



Railroad Commission of Texas

Monday, April 2, 1984, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas made an emergency addition to the agenda of a meeting held at 1124 IH 35 South, Austin. The addition concerned Docket 1-81,345—Railroad Commission District I to consider whether Brown Enterprises or Harlan Karner should properly be designated for purposes of filing commission Form P-4, the operator for the Steele Lease, Well 1, Somerset Field, Atascosa County. The emergency status was necessary because this item was properly noticed for the meeting of March 26, 1984, and was passed.

Contact: Priscilla Hubenak, P O Drawer 12967, Austin, Texas 78711, (512) 445-1293

Filed: March 30, 1984, 1:37 p.m.
TRD-843636

Monday, April 2, 1984, 9 a.m. The Transportation Division of the Railroad Commission of Texas made an emergency addition to the agenda of a meeting held in Room 309, third floor conference room, 1124 IH 35 South, Austin. The addition concerned consideration of the publishing of "Complaint and Request for Interim Relief," filed by River City Coaches, assessing that Greyhound Lines, Inc., and Trailways Bus Systems, Inc., refused their request to use their terminals in Houston and San Antonio, thus precluding River City's compliance with a commission emergency order. The emergency status was necessary because refusal to permit use of the terminals precludes River City Coaches from complying with the commission's emergency order dated March 6, 1984, authorizing transportation of passengers and their baggage as well as package express in motor buses between San Antonio and Houston, and vice versa. Without the use of these terminals, River City cannot serve the public.

Contact: Walter Wendlandt, 1124 IH 35 South, Austin, Texas, (512) 445-1330

Filed: March 30, 1984, 1:37 p.m.
TRD-843637

Monday, April 9, 1984, 9 a.m. Divisions of the Railroad Commission of Texas will meet in Room 309, 1124 IH 35 South, Austin. Divisions and agendas follow.

The Administrative Services Division will consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

Contact: Roger Dillon, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1211

Filed: March 30, 1984, 1:38 p.m.
TRD-843638

The Automatic Data Processing Division will consider and act on the division director's report on division administration, budget, procedures, equipment acquisitions, and personnel matters.

Contact: Bob Kmetz, P O Drawer 12967, Austin, Texas 78711, (512) 445-1204

Filed: March 30, 1984, 1:37 p.m.
TRD-843639

The Flight Division will consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

Contact: Ken Fossler, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1103

Filed: March 30, 1984, 1:36 p.m.
TRD-843640

The Office of Information Services will consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P O Drawer 12967, Austin, Texas 78711

Filed: March 30, 1984, 1:38 p.m.
TRD-843641

The I P-Gas Division will consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

Contact: Thomas D. Petru, P O Drawer 12967, Austin, Texas 78711

Filed: March 30, 1984, 1:36 p.m.
TRD-843642

The Oil and Gas Division will consider various matters falling within the commission's oil and gas regulatory jurisdiction.

Contact: Liz Nauert, P O Drawer 12967, Austin, Texas 78711, (512) 445-1307.

Filed: March 30, 1984, 1:37 p.m.
TRD-843643

Additions to the above agenda:

Consideration of Oil and Gas Docket 8-81,468—application of Holland Resources Company for permanent field rules in the Stringer (San Angelo) Field, Sterling County, (unprotested); and Oil and Gas

Docket 1-80,922—a hearing concerning the CRB Oil and Gas Company, Inc., Garcia Lease, in the Kens (serpentine) Field, Guadalupe County (protested).

Contact: Felix Dailey, P O Drawer 12967, Austin, Texas 78711, (512) 445-1307, or Priscilla Hubenak, (512) 445-1293.

Filed: March 30, 1984, 1:38 p.m.
TRD-843644

Consideration of category determinations under the Natural Gas Policy Act of 1978, §§102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108.

Contact: Madalyn J. Girvin, P O Drawer 12967, Austin, Texas 78711, (512) 445-1209.

Filed: March 30, 1984, 1:38 p.m.
TRD-843645

The Personnel Division will consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

Contact: Herman I. Wilkins, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1120.

Filed: March 30, 1984, 1:39 p.m.
TRD-843646

The Office of Research, Analysis, and Statistics will consider and act on the division director's report relating to division administration, budget, procedures, and personnel matters.

Contact: Gail Gemberling, P O Drawer 12967, Austin, Texas 78711

Filed: March 30, 1984, 1:38 p.m.
TRD-843647

The Office of the Special Counsel will consider and act on the division director's report relating to pending litigation, state and federal legislation, and other budget, administrative, and personnel matters.

Contact: Walter Earl Lile, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1186.

Filed: March 30, 1984, 1:36 p.m.
TRD-843648

The Surface Mining and Reclamation Division will consider promulgating regulations applicable to iron ore and iron ore gravel mining and reclamation operations, the acceptance of new incremental bonds for the surface coal mining operations of the Sabine Mining Company under Permit 13, and consider and act on the division

Texas Register

director's report on division administration, budget, procedures, and personnel matters

Contact: J. Randel (Jerry) Hill, 105 West Riverside Drive, Austin, Texas, (512) 475-8751

Filed: March 30, 1984, 1:39 p.m.
TRD-843649

The Transportation Division will consider various matters falling within the commission's transportation regulatory jurisdiction

Contact: Walter Wendlandt, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1330.

Filed: March 30, 1984, 1:39 p.m.
TRD-843650

Addition to the above agenda

A revision of Docket 019063A5A—application of Jack Cogbill, Inc., doing business as JC, to amend SMC Certificate 10963 to authorize the transportation of Fly Ash between all points in Texas restricted to service in bulk, and consideration of a motion of reconsideration

Contact: Walter Wendlandt, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1330.

Filed: March 30, 1984, 1:38 p.m.
TRD-843651

Office of the Secretary of State

Friday, March 30, 1984, 2 p.m. The Elections Division of the Office of the Secretary of State met in emergency session in Room 915, Sam Houston Building, 201 East 14th Street, Austin. According to the agenda, the division conducted a hearing for certification of a voting device. The emergency status was necessary due to a scheduling conflict.

Contact: Donnette Smith, Sam Houston Building, Room 915, 201 East 14th Street, Austin, Texas 78711, (512) 475-3091

Filed: March 29, 1984, 4:24 p.m.
TRD-843622

Boards for Lease of State-Owned Lands

Wednesday, April 11, 1984, 8:30 a.m. The Board for Lease of State Department of Highways and Public Transportation of the Boards for Lease of State-Owned Lands will meet in Room 833, General Land Office,

Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board will approve the previous meeting minutes, discuss pooling applications, and consider a request to revise acreage to be pooled.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 835, Austin, Texas 78701, (512) 475-4307

Filed: April 3, 1984, 9:27 a.m.
TRD-843720

State Commission on Standards for the Teaching Profession

Sunday and Monday, April 15 and 16, 1984, 8 p.m. and 8:30 a.m. respectively. The Committee on Certification Programs and Requirements of the State Commission on Standards for the Teaching Profession will meet in Room 105, Texas Education Agency North Building, 1200 East Anderson Lane, Austin. According to the agenda, the committee will study the requirements for professional certificates and special service positions.

Contact: Dr. Edward M. Vodicka, 201 East 11th Street, Austin, Texas 78701, (512) 834-4042.

Filed: April 2, 1984, 4:28 p.m.
TRD-843716

Teachers' Professional Practices Commission

Tuesday and Wednesday, April 10 and 11, 1984, 9 a.m. daily. The Teachers' Professional Practices Commission will meet in Room 101-E, Texas Education Agency North Building, 1200 East Anderson Lane, Austin. According to the agenda, a three-member panel of the commission will conduct a closed hearing on three complaints filed by an active, certified member of the teaching profession against three active, certified members of the teaching profession, pursuant to the Texas Education Code, §§13.201-13.218. This hearing is a continuation of the March 26, 1984, commission meeting.

Contact: James Salmon, 201 East 11th Street, Austin, Texas 78701, (512) 834-4091

Filed: April 2, 1984, 4:28 p.m.
TRD-843715

Veterans Affairs Commission

Friday, May 4, 1984, 10 a.m. The Veterans Affairs Commission will meet on the sixth floor, E. O. Thompson Building, 10th and Colorado Streets, Austin. According to the agenda, the commission will consider reports on commission activities and make decisions relative to general administrative matters pertaining to Texas' veterans' programs.

Contact: Aubrey L. Bullard, P.O. Box 12277, Austin, Texas 78711, (512) 475-4185.

Filed: April 2, 1984, 10:54 a.m.
TRD-843681

Texas Water Commission

The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Days, times, and agendas follow.

Tuesday, April 10, 1984, 10 a.m. The commission will consider water district bond issues, a release from escrow, water quality proposed permits, amendments and renewals, the dismissal of waste discharge renewal, water use applications, an amendment to certificate of adjudication, the approval of plans on a levee project, and the filing and setting of hearing dates.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514

Filed: March 30, 1984, 10:16 a.m.
TRD-843629

Wednesday, May 16, 1984, 10 a.m. A hearing on a petition for the creation of Clear Creek Forest Municipal Utility District (MUD), containing 493.6988 acres of land.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: March 29, 1984, 10:04 a.m.
TRD-843574

Addition to the above agenda:

A hearing on a petition for the creation of Brazoria County MUD 7, containing 208.2113 acres of land.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: March 29, 1984, 10:05 a.m.
TRD-843575

Wednesday, May 16, 1984, 2 p.m. A hearing on a petition for the creation of Greens

Parkway MUD, containing 457.8865 acres of land.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: March 29, 1984, 10:04 a.m.
TRD-843576

Regional Agencies Meeting Filed March 29

The Dallas Area Rapid Transit Authority, Board, met in emergency session in Room 6ES, Dallas City Hall, Dallas, on March 30 and 31, 1984, at 9 a.m. daily. Information may be obtained from Michael Miles, 601 Pacific Avenue, Dallas, Texas 75202, (214) 748-3278

TRD-843592

Meetings Filed March 30

The Angelina and Neches River Authority, Board of Directors, made an addition to the agenda of a meeting held at the Crown Colony Country Club, 900 Crown, Colony Drive, Lufkin, on April 4, 1984, at noon. Information may be obtained from William A. Elmore, P.O. Box 387, Lufkin, Texas 75901, (409) 632-7795

The Archer County Appraisal District, Board of Directors, will meet at 106 West Main Street, Archer City, on April 11, 1984, at 5 p.m. Information may be obtained from A. G. Reis, P.O. Box 1141, Archer City, Texas 76351, (817) 574-2172

The Region I Education Service Center, Board of Directors, will meet at 1900 West Schunior, Edinburg, on April 10, 1984, at 6 p.m. Information may be obtained from Lauro R. Guerra, 1900 West Schunior, Edinburg, Texas 78539, (512) 383-5611

The Region VIII Education Service Center, Board of Directors, met at 100 North Riddle Street, Mount Pleasant, on April 5, 1984, at 6 p.m. Information may be obtained from Scott Ferguson, 100 North Riddle, Mount Pleasant, Texas 75455, (214) 572-8551

The Region XI Education Service Center, Board of Directors, will meet at 3001 North Freeway, Fort Worth, on April 11, 1984, at noon. Information may be obtained from R. P. Campbell, Jr., 3001 North Freeway, Fort Worth, Texas 76106, (817) 625-5311, ext 102

The Region XVI Education Service Center, Board of Directors, will meet at 1601 South Cleveland, Amarillo, on April 10, 1984, at 2:30 p.m. Information may be obtained from Dr. Kenneth M. Laycock, P.O. Box 30600, Amarillo, Texas 79120, (806) 376-5521.

The Fannin County Appraisal District, Board of Directors, met in the Peeler Building, 401 North Main, Bonham, on April 3, 1984, at 7 p.m. Information may be obtained from Joe Hart or Kay Brent, 401 North Main, Bonham, Texas 75418, (214) 583-9546.

The Fisher County Appraisal District, Appraisal Review Board, will meet in the district courtroom, Fisher County Courthouse, Roby, on April 9, 1984, at 10 a.m. Information may be obtained from Harvie Davis, Route 2, Box 99, Sweetwater, Texas 79556, (915) 776-2771

The Fisher County Appraisal District, Board of Directors, will meet in the commissioner's courtroom, Fisher County Courthouse, Roby, on April 10, 1984, at 7:30 p.m. Information may be obtained from Clay Fowler, Drawer J, Rotan, Texas 79546, (915) 735-2578

The Houston-Galveston Area Council, Project Review Committee, met in the large conference room, 3701 West Alabama Street, Houston, on April 3, 1984, at 9:30 a.m. Information may be obtained from Geraldine McCray, P.O. Box 22777, Houston, Texas 77027, (713) 627-3200

The Lone Star Municipal Power Agency will meet at 1101 Texas Avenue, College Station, on April 9, 1984, at 6:30 p.m. Information may be obtained from R. Michael Simmons, 8240 Mopac, Suite 298, Austin, Texas 78759, (512) 346-4011.

The North Plains Water District, Board of Directors, will meet at the district office, 702 East First Street, Dumas, on April 13, 1984, at 10 a.m. Information may be obtained from Orval E. Allen, Box 795, Dumas, Texas 79029, (806) 935-6401.

The Wood County Appraisal District, Appraisal Review Board, will meet in the conference room, 217 North Main, Quitman, on April 6, 1984, at 9 a.m. Information may be obtained from W. Carson Wages, P.O. Box 951, Quitman, Texas 75783, (214) 763-4946.

TRD-843652

Meetings Filed April 2

The Austin-Travis County Mental Health and Mental Retardation Center, Board of Trustees, met in emergency session in Room 240, 909 West 45th Street, Austin, on April 2, 1984, at 6 p.m. Information may be obtained from Sharor Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141. The Board of Trustees and the Personnel Committee also met in the boardroom, 1430 Collier Street, Austin, on April 5, 1984, at 5:30 p.m. Information may be obtained from Gay F. Chase, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141.

The Canadian River Municipal Water Authority, Board of Directors, will meet at K-Bob's Restaurant, 1300-C Olton Road, Plainview, on April 11, 1984, at 10:30 a.m. Information may be obtained from John C. Williams, P.O. Box 99, Sanford, Texas 79078, (806) 865-3325

The Carson County Appraisal District, Appraisal Review Board, will meet at 220 Main Street, Panhandle, on April 11, 1984, at 6 p.m. The Board of Directors will meet at the same location on the same day at 6:30 p.m. Information may be obtained from Dianne Lavake, Box 970, Panhandle, Texas 79068, (806) 537-3569

The Concho Valley Council of Governments, Concho Valley Regional Review Committee, will meet at 5002 Knickerbocker Road, San Angelo, on April 11, 1984, at 2 p.m. Information may be obtained from Robert R. Weaver, P.O. Box 60050, San Angelo, Texas 76906, (915) 944-9666.

The Copano Bay Soil and Water Conservation District 329 will meet at Shay Plaza, 106 South Alamo, Refugio, on April 11, 1984, at 8:30 a.m. Information may be obtained from Jim Wales, P.O. Drawer 340, Refugio, Texas 78377, (512) 526-2334.

The East Texas Council of Governments, Executive Committee, met at the Stoneridge Plaza Office Building, 3800 Stone Road, Kilgore, on April 5, 1984, at 2 p.m. Information may be obtained from Glynn J. Knight, 3800 Stone Road, Kilgore, Texas 75662, (214) 984-8641

The Region II Education Service Center, Board of Directors, will meet in the administrative conference room, 209 North Water, Corpus Christi, on April 17, 1984, at 6:30 p.m. Information may be obtained from Gerald V. Cook, 209 North Water, Corpus Christi, Texas 78401, (512) 883-9288.

The Region IX Education Service Center, Board of Directors, will meet in the board room, 301 Loop 11, Wichita Falls, on April 12, 1984, at 2 p.m. Information may be obtained from Dr. Jim O. Rogers, 301 Loop 11, Wichita Falls, Texas 76305, (817) 322-6928.

The Central Appraisal District of Erath County, Board of Directors, will meet at 1191 South Loop, Stephenville, on April 11, 1984, at 10 a.m. Information may be obtained from James Bachus, 1191 South Loop, Stephenville, Texas, (817) 965-5434.

The Gregg County Appraisal District, Board of Directors, will meet at 2010 Gilmer Road, Longview, on April 10, 1984, at noon. Information may be obtained from William T. Carroll, P.O. Box 6700, Longview, Texas 75608, (214) 759-0015.

The Hood County Appraisal District, Board of Directors, will meet at the district office, 1902 West Pearl, Granbury, on April 10, 1984, at 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, will meet at 1523 Lamar Avenue, Paris, on April 9, 1984, at 4 p.m. Information may be obtained from L. F. Ricketson, 1523 Lamar Avenue, Paris, Texas 75460, (214) 785-7822.

The Northeast Texas Municipal Water District, Board of Directors, will meet at 1003 Linda Drive, Daingerfield, on April 9, 1984, at 7 p.m. Information may be obtained from Homer Tanner, P.O. Box 680, Daingerfield, Texas 75638, (214) 645-2241.

The Nueces River Industrial Development Authority, Board of Directors, met at the Sheraton-Marina Inn, 300 North Shoreline Boulevard, Corpus Christi, on April 5 and 6, 1984, at 11 a.m. daily. Information may be obtained from Con Mims, P.O. Box 349, Uvalde, Texas 78801, (512) 278-6810.

The Nueces River Authority, Board of Directors, revised the agenda of a meeting

held at the Sheraton-Marina Inn, 300 North Shoreline Boulevard, Corpus Christi, on April 5 and 6, 1984, at 11 a.m. daily. Information may be obtained from Con Mims, P.O. Box 349, Uvalde, Texas 78801, (512) 278-6810.

The Permian Basin Regional Planning Commission, Board of Directors, will meet at the Permian Basin Regional Planning Commission offices, Air Terminal, Midland, on April 11, 1984, at 1.30 p.m. The directors of the Permian Basin Housing Finance Corporation will meet at the same location on the same day at 2 p.m. Information may be obtained from Pam K. Hammit, P.O. Box 6391, Midland, Texas 79701, (915) 563-1061.

The San Patricio County Appraisal District, Board of Directors, will meet at the Court-house Annex, Sinton, on April 12, 1984, at 9.30 a.m. Information may be obtained from Bennie L. Stewart, P.O. Box 938, Sinton, Texas, (512) 364-5402.

TRD-843677

The *Register* is required by statute to publish applications to purchase control of state banks (filed by the banking commissioner), notices of rate ceilings (filed by the consumer credit commissioner), changes in interest rate and applications to install remote service units (filed by Texas Savings and Loan commissioner), and consultant proposal requests and awards (filed by state agencies, regional councils of government, and the Texas State Library and Archives Commission)

In order to aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows. This often includes applications for construction permits (filed by the Texas Air Control Board), applications for amendment, declaratory ruling, and notices of intent (filed by the Texas Health Facilities Commission), applications for waste disposal permits (filed by the Texas Water Commission), and notices of public hearing

In Addition

Texas Air Control Board Applications for Construction Permits

The Texas Air Control Board gives notice of applications for construction permits received during the period of March 19-23, 1984

Information relative to the following applications, including projected emissions and the opportunity to comment or to request a hearing, may be obtained by contacting the office of the executive director at the central office of the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723

A copy of all material submitted by the applicant is available for public inspection at the central office of the Texas Air Control Board at the previously stated address and at the regional office for the air quality control region within which the proposed facility will be located

Listed are the names of the applicants and the cities in which the facilities are located, type of facilities; location of the facilities (if available), permit numbers, and type of application—new source or modification

Cemco Products, Inc., El Paso, cultured marble manufacturing, 13001 Darrington, 9444; new source

Fiberite Corporation, Greenville, solvent solution drying ovens, 4300 Jackson Street; 9445; new source

Pioneer Concrete of Texas, Inc., McKinney; concrete batch plant; State Highway 121, two miles east of State Highway 289; 8095A, modification

Pioneer Concrete of Texas, Inc., Dallas; ready mix concrete plant; 10615 Spangler; 639C; modification

C&N Ready Mix, Inc., San Marcos; concrete batch plant, San Marcos; 6961A, modification

Seargeant Ranch, Inc., Brackettville, concrete batch plant; Highway 90 West; 4740A; modification

Control Burn, San Antonio; trench burner, 5534 Vance Jackson; 6967B; modification

A.J.C. Rental Corporation, Inc., San Antonio; drum mix asphalt concrete plant, San Antonio, Bexar County, 6966B, modification

Issued in Austin, Texas, on March 27, 1984

TRD-843557 Ramon Dasch
Director of Hearings
Texas Air Control Board

Filed March 28, 1984
For further information, please call (512) 451-5711,
ext. 354

Texas Commission on Alcoholism Request for Proposals

The Texas Commission on Alcoholism (TCA) announces the availability of funds appropriated under Public Law 98-8 to provide employment for the jobless and humanitarian assistance to the indigent. These funds will be used to purchase alcoholism services in 52 counties identified as having chronic high unemployment rates. The counties have been divided by the Office of the Governor into primary and secondary priorities based on population and unemployment rate figures. Primary counties are Anderson, Angelina, Bowie, Cameron, Cass, Cooke, El Paso, Galveston, Grayson, Gregg, Hardin, Hidalgo, Jefferson, Matagorda, Maverick, Morris, Orange, Starr, Upshur, Val Verde, and Webb. Secondary counties are Aransas, Brown, Calhoun, Camp, Deaf Smith, Dimmit, Fannin, Henderson, Jasper, Jim Hogg, Kenedy, La Salle, Marion, Newton, Palo Pinto, Polk, Presidio, Red River, Reeves, Robertson, Sabine, San Augustine, San Jacinto, Shelby, Titus, Tyler, Uvalde, Victoria, Willacy, Zapata, and Zavala.

Based on this information, the TCA is implementing the following breakdown of the allocation

A total of \$60,000 is designated for alcoholism prevention services to school districts in the 52 counties. Each eligible school district may purchase alcohol education curricula for grades 3-12 and for bilingual students. The choices of curricula are *Yo Puedo*, a bilingual peer leadership program for junior and senior high school students; *Here's Looking At You Two*, a K-12 alcohol/drug curriculum with accompanying materials and films; and/or *Decisions About Drinking*, a comprehensive alcohol curriculum for grades 3-12. Funds are also available for postage and handling costs. Funds are allocated to the eligible school districts on a first-come, first-served basis. Approved programs will be funded through August 31, 1984. The closing date for application submission is April 30, 1984.

A total of \$40,000 is designated for alcoholism services through juvenile probation departments. Only juvenile probation departments serving primary counties on the list are eligible. Each department is eligible to apply for funds to purchase screening, referral, and/or outpatient services for juveniles with alcohol problems. Approved programs are funded through August 31, 1984. The closing date for application submission is April 30, 1984.

A total of \$174,641 is designated for alcoholism services through adult probation departments serving the 52 eligible counties to purchase screening, referral, and treatment and rehabilitation services for adults with multiple DWI offenses. Approved programs are funded through August 31, 1984. The closing date for application submission is April 30, 1984.

To obtain additional information, contact Reta Bird, Director, Grants and Contracts Department, Texas Commission on Alcoholism, 1705 Guadalupe Street, Austin, Texas 78701

Issued in Austin, Texas, on March 30, 1984

TRD-843662 Ross Newby
Executive Director
Texas Commission on
Alcoholism

Filed: March 30, 1984
For further information, please call (512) 475-2577.

Banking Department of Texas Application to Acqui. . Control of a State Bank

Texas Civil Statutes, Article 342-401a, requires any person who intends to buy control of a state bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On February 28, 1984, the banking commissioner received an application to acquire control of Galena Park State Bank, Galena Park, by Daniel D. Dinur, Dallas; Gary C. Freeman, M D., Bellaire; Rodman E. Gorman, trustee, Baytown; Henry W. Locher III, Pearland; and

Jeffrey D. Love, Steven B. Marsh, Bev C. Matson, Sami Abilmona, Excess Electrical Company, and Roland R. Pennington, Jr., all of Houston.

On March 27, 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 27, 1984

TRD-843558 Archie P. Clayton III
General Counsel
Banking Department of Texas

Filed: March 28, 1984
For further information, please call (512) 475-4451.

Comptroller of Public Accounts Decision 13,926

For copies of the following opinion, contact Bob Bullock, Comptroller of Public Accounts, Attention: Administrative Law Judges, 111 East 17th Street, Austin, Texas 78774. Copies will be furnished without charge and edited to comply with confidentiality statutes.

Summary of Decision. The taxpayer, a domestic international sales corporation, contended that it was "deemed" by federal tax statutes to distribute dividends to its shareholders every year. Consequently the taxpayer did not formally declare dividends each year, as required by 34 TAC §3.405(e). The taxpayer contested the inclusion of the dividends in surplus, arguing that each year it had an "intention" of declaring dividends, and that all of the intentions were ratified by its board of directors at one time in a later year. The taxpayer further asserted that, because the dividend distributions were deemed for federal income tax purposes, they should be considered declared for franchise tax purposes. The comptroller held that one cannot ratify an intention, one can only ratify an act. Therefore the dividends were correctly included in surplus. Furthermore, the federal income tax provisions cannot control the state franchise tax.

Issued in Austin, Texas, on March 30, 1984

TRD-843623 Bob Bullock
Comptroller of Public Accounts

Filed: March 30, 1984
For further information, please call (512) 475-1938

Decision 14,039

For copies of the following opinion, contact Bob Bullock, Comptroller of Public Accounts, Attention: Administrative Law Judges, 111 East 17th Street, Austin, Texas 78774. Copies will be furnished without charge and edited to comply with confidentiality statutes.

Proposals will be evaluated by the appropriate TDC officials. The evaluation will judge the merits of the proposals using criteria outlined in the request for proposals. The contract award, if any, will be based upon the evaluation and selection of the proposal which constitutes the best offer to the TDC.

For a copy of the complete request for proposals, contact Bobby F. Maggard, Assistant Director for Special Services, P. O. Box 99, Huntsville, Texas 77340, Attention: RFP Request, (409) 295-6371.

Issued in Huntsville, Texas, on March 15, 1984

TRD-843659 Leonard W. Peck, Jr.
Legal Counsel
Texas Department of Corrections

Filed March 30, 1984

For further information, please call (409) 295-6371

Court Reporters Certification Board Announcement of Meeting

The Court Reporters Certification Board will meet in the Driskill Room, Driskill Hotel, 117 East Seventh Street, Austin, on Friday, April 13, 1984, at 6 p.m. and on Saturday, April 14, 1984, at 9 a.m. The meeting is not subject to Texas Civil Statutes, Article 6252-17.

Items on the agenda summary include a report on staff activities, a status report on applications received, a review of applications for certification renewals, and a disciplinary hearing.

For further information, contact C. Raymond Justice, Administrative Director, Office of Court Administration, Secretariat, 1414 Colorado Street, Suite 602, Austin, Texas 78701, (512) 475-3404.

Issued in Austin, Texas, on March 29, 1984

TRD-843627 Jim Hutcheson
Chief Counsel
Court Reporters Certification
Board

Filed March 30, 1984

For further information, please call (512) 475-3404

Texas Commission for the Deaf Recommended Fees for Interpreting Services for the Deaf

Pursuant to the Human Resources Code, Chapter 81, §81.006(a)(6), the Texas Commission for the Deaf has the authority to annually review the schedule of fees recommended by the commission for the payment of interpreters and, as the result of the findings of the review and other relevant information, adopt by rule a schedule of reasonable fees to be paid to interpreters with varied levels of skill. The schedule of fees must be made available and recommended for adoption by other state agencies.

Having reviewed the recommended hourly fee schedule, the commission has not made any changes from the existing recommended fee schedule, and thus finds it unnecessary to publish any changes in the recommended fees. Anyone interested in receiving a copy of the current and existing recommended fee schedule may do so by contacting the Texas Commission for the Deaf, P. O. Box 12904, Austin, Texas 78711, Attention: Kristy Godmich, (512) 475-2492.

The fees and related practices set forth through the recommended fee schedule represent a commission-adopted schedule for payment of interpreters for the deaf which is valid through August 31, 1985. No attempt is made, nor is one implied, to regulate in any manner the fees paid to interpreters for the deaf in the State of Texas.

Issued in Austin, Texas, on March 10, 1984

TRD-843618 Fred R. Tammen
Executive Director
Texas Commission for the Deaf

Filed March 29, 1984

For further information, please call (512) 475-2492

Texas Education Agency Correction of Error

A miscellaneous document submitted by the Texas Education Agency contained an error as submitted in the March 23, 1984, issue of the *Texas Register* (9 TexReg 1715). The document was incorrectly identified as a consultant proposal request filed under Texas Civil Statutes, Article 6252-11(c). The document is not filed under this article and should have been titled "Request for Applications."

Texas Department of Health Corrections of Errors

Proposed amendments submitted by the Texas Department of Health concerning Kidney Health Care Program benefits contained an error as submitted in the March 20, 1984, issue of the *Texas Register* (9 TexReg 1622). The statutory authority for the amendments should be Texas Civil Statutes, Article 4477-20, §3.

An adopted rule submitted by the Texas Department of Health contained an error as published in the March 13, 1984, issue of the *Texas Register* (9 TexReg 1477).

The fourth sentence of §145.84(a)(2) should read

Copies of any narratives or similar papers written to further describe the conditions found will be furnished to the facility.

Public Hearing

Under authority conferred by the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(e)(8), and the municipal solid waste management regulations of the Texas Department of Health effective July 12, 1983 (25 TAC §325.56(a)), the department proposes to revoke Municipal Solid Waste Disposal Permit 1229, issued to B&L Landfill and Leslie M. Griffin on December 1, 1983. The action is proposed upon the department's own motion. The permit holder has been served with the facts or conduct alleged to warrant the intended action, and has duly requested a public hearing to show cause why the intended action should not be taken. The hearing is authorized by the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §18(c), as well as the previously mentioned authorities.

Accordingly, this notice confirms that a public hearing will be held for the purpose of receiving evidence for and against the proposed revocation, at the Justice of the Peace Courtroom, Harris County Annex, 6831 Cypresswood Drive, Spring, Texas 77379, on Tuesday, May 1, 1984, at 9 30 a m

Issued in Austin, Texas, on March 30, 1984

TRD-843665 Robert A MacLean, M D
Deputy Commissioner
Professional Services
Texas Department of Health

Filed April 2, 1984

For further information, please call (512) 458-7236.

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.

Denton Bates and Dee Bates, Brownfield
AN84-0328-189

NIEH—Request for a declaratory ruling that a certificate of need is not required for Denton Bates and Dee Bates to acquire by purchase Roberts Memorial Nursing Home, an existing 30-bed ICF nursing facility located in Morton, from Pollard Enterprises, Inc., a Texas corporation.

Sisters of Charity of the Incarnate Word, doing
business as St. Elizabeth Hospital, Beaumont
AH78-1109-015A(032884)

CN/AMD—Request for an extension of the completion deadline from March 31, 1984, to August 1, 1985, in Certificate of Need AH78-1109-015, which authorized the certificate holder to purchase data processing equipment to implement the Duke University Medical Center/IBM patient care system.

Fort Worth Magnetic Imaging Institute, Ltd.,
Fort Worth
AO84-0326-183

NIE—Request for a declaratory ruling that a certificate of need is not required for Fort Worth Magnetic Imaging Institute, Ltd., a Texas limited partnership, to acquire by purchase a nuclear magnetic resonance 5.0 Kg Teslacon Imaging System S/N 160 and RF shielded enclosure. The proposed equipment will be located in the offices of Fort Worth Magnetic Imaging Institute, Ltd., 904 Bolland, Fort Worth, and will be utilized on an outpatient basis only.

Southeastern Health Care, Inc.,
Baton Rouge, Louisiana
AN84-0329-191

NIEH—Request for a declaratory ruling that a certificate of need is not required for Southeastern Health Care, Inc., to acquire by purchase Parkway Manor Nursing Home, an existing 61-bed skilled nursing home located in Lubbock, from Larry Claunch and William Colson, a general partnership.

Southeastern Health Care, Inc.,
Baton Rouge, Louisiana
AN84-0329-192

NIEH—Request for a declaratory ruling that a certificate of need is not required for Southeastern Health Care, Inc., to acquire by lease Garrett Park Manor, an existing 77-bed ICF nursing facility located in Dallas, from Larry Claunch and William Colson, a general partnership.

Southeastern Health Care, Inc.,
Baton Rouge, Louisiana
AN84-0329-193

NIEH—Request for a declaratory ruling that a certificate of need is not required for Southeastern Health Care, Inc., to acquire by purchase Fifth Avenue Care Center, an existing 65-bed ICF nursing facility located in Texas City, from Larry Claunch and William Colson, a general partnership.

Southeastern Health Care, Inc.,
Baton Rouge, Louisiana
AN84-0329-194

NIEH—Request for a declaratory ruling that a certificate of need is not required for Southeastern Health Care, Inc., to acquire by lease Brentwood Manor Care Center, an existing 134-bed skilled nursing facility located in Lubbock, from Larry Claunch and William Colson, a general partnership.

Southeastern Health Care, Inc.,
Baton Rouge, Louisiana
AN84-0329-195

NIEH—Request for a declaratory ruling that a certificate of need is not required for Southeastern Health Care, Inc., to acquire by purchase Heritage Manor Care Center, an existing 60-bed skilled nursing facility located in Dayton, from Larry Claunch and William Colson, a general partnership.

Issued in Austin, Texas, on April 2, 1984

TRD-843675 Judith Monaco
Assistant General Counsel
Texas Health Facilities
Commission

Filed: April 2, 1984
For further information, please call (512) 475-6940.

Texas Department of Human Resources Public Hearing

Pursuant to a request under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c), the Texas Department of Human Resources (DHR) will conduct a public hearing on the proposed rules for child protective services which were published in the March 6, 1984, issue of the *Texas Register* (9 TexReg 1326). The hearing is scheduled for April 11, 1984, at 9 a.m. in the DHR board room, 706 Banister Lane, Austin, Texas.

Issued in Austin, Texas, on March 30, 1984

TRD-843635 Marlin W. Johnston
Commissioner
Texas Department of Human
Resources

Filed: March 30, 1984
For further information, please call (512) 441-3355,
ext. 2037

Texas Low-Level Radioactive Waste Disposal Authority Correction of Error

A consultant proposal request submitted by the Texas Low-Level Radioactive Waste Disposal Authority contained two errors as published in the March 27, 1984, issue of the *Texas Register* (9 TexReg 1776)

A paragraph concerning the contract award date was inadvertently omitted and should read:

Proposals must be received at the authority's office, 1300-C East Anderson Lane, Suite 175, Austin, Texas 78752, no later than 5 p.m. on April 13, 1984. The contract will be awarded on May 7, 1984.

Under the paragraph titled *Description of Project Administration*, the second sentence should read:

Periodic progress reports may be required to coincide with billings, generally monthly.

North Central Texas Council of Governments Consultant Proposal Request

This request by the North Central Texas Council of Governments (NCTCOG) for consultant services is filed under the provisions of Texas Civil Statutes, Article 6252-11c.

Background. The purpose of this project is to conduct market research to provide a basis for developing a comprehensive marketing plan for the Fort Worth Transportation Authority. The project will concentrate on identifying the latent demand for transit services in the Fort Worth market. In addition, specific recommendations will be made regarding the transfer of this potential to active ridership. The project director will be the director of marketing for CITRAN who will bear responsibility for all coordination necessary under the consultant's contract.

The consultant will identify in his proposal the suggested work program for the study. The issues addressed by the consultant must relate to Fort Worth's entire public transportation system composed of CITRAN, Mobility Impaired Transportation Services (MITS), Transportation Services Information Center (TSIC), and the Fort Worth Airporter. The work program must address, but not be limited to:

- (1) market segment identification,
- (2) definition of mobility needs of market segments identified,
- (3) analysis of collected data for use in developing a future marketing program,
- (4) examination of current marketing efforts on a segment-specific basis, and
- (5) recommendations for marketing, employee relations, and community involvement improvements toward increasing system patronage.

Copies of the request for proposal providing detailed information on this project are available on request from

Martin Minkoff, Transportation Planner, North Central Texas Council of Governments, P.O. Drawer COG, Arlington, Texas 76005-5888.

Due Date. All proposal offers are due by 4 p.m. on April 10, 1984, in the office of Jo-Anne Kennedy, CITRAN, P.O. Box 1477, Fort Worth, Texas 76101.

All tasks shall be accomplished within two months after the date the consultant is authorized to proceed. The final report will document the data gathered from the tasks outlined in the work program and must include specific recommendations regarding the building of ridership of all services of the Fort Worth Transportation Authority.

Contract Award Procedures. The recommendation for the selection of a firm or agency for the Fort Worth Transportation Authority market research project will be accomplished by a Consultant Selection Committee. The contract award procedures which follow are not totally inclusive or mutually exclusive of other procedures which, in the opinion of the Consultant Selection Committee, require inclusion to achieve the best results possible within the scope of services requested. If the recommendation of the Consultant Selection Committee is approved by the executive board of the NCTCOG, the executive board of NCTCOG will award a contract to the firm or agency which is considered to be best able to perform the work set forth in said contract

Evaluation Criteria. The objective measurement of the criteria will be conducted and the methodology for measurement will be determined depending on its suitability and relationship to the scope of services requested:

- (1) approach and methodology suggested in the work program,
- (2) record of performance in related fields,
- (3) staff experience,
- (4) ability to meet specific time frames,
- (5) demonstrated knowledge of work to be performed,
- (6) project management,
- (7) firm's affirmative action policy and plan,
- (8) written proposal, and
- (9) oral presentation (if requested).

Evaluation Methodology. A written proposal evaluated by the Consultant Selection Committee and an oral presentation (if requested) evaluated by the Consultant Selection Committee

Contract Award. Following review of the Consultant Selection Committee's recommendation by the NCTCOG Executive Board to contract with the consultant, if approved, a contract will be awarded by the board.

The NCTCOG, in accordance with the Civil Rights Act of 1964, Title VI, 78 Statute 252, 42 United States Code 2000d-2000d-4, and the Code of Federal Regulations, Title 49, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, concerning nondiscrimination in federally assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in regard to any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this

invitation and will not be discriminated against on the grounds of race, color, sex, or national origin in consideration of an award.

Respondents must be willing to abide by all the applicable regulations of the Urban Mass Transportation Administration, U.S. Department of Transportation, including inspection and audit.

The ability of the NCTCOG to enter into a contract for performance of the proposed program will be dependent on the timely receipt of funds from the Urban Mass Transportation Administration.

The NCTCOG reserves the right to reject, in total or part, any and/or all proposals should it be advantageous to do so.

Since the maximum amount available for this project is \$20,000, project cost will be an item of evaluation. An Office of Management and Budget Optional Form 60 contract pricing proposal will be required for negotiation of reasonable costs.

Respondents should indicate proprietary interests where applicable. The contractor will comply with all federal and state laws and regulations applicable to subcontractors, including, but not limited to, equal employment opportunity, the Davis-Bacon Act, and records management

Issued in Arlington, Texas, on March 22, 1984

TRD-843590

William J Pitstick
Executive Director
North Central Texas Council of
Governments

Filed: March 29, 1984

For further information, please call (817) 461-3300.

Texas Parks and Wildlife Department Consultant Contract Award

This consultant service selection report is filed in accordance with the provisions of Texas Civil Statutes, Article 6252-11c. The consultant proposal request appeared in the January 13, 1984, issue of the *Texas Register* (9 TexReg 358)

The study to be performed includes a review of the department's present data processing operations; planned and pending automated information systems enhancements; and field office operations for possible automation opportunities for the purpose of determining and recommending computer and associated equipment requirements to support a long-range information systems plan.

The name and address of the consultant selected is Arthur Anderson & Company, Suite 2000, 221 West Sixth Street, Austin, Texas 78701. The total value of the study is not to exceed \$25,000. The contract is dated March 26, 1984.

The study is to be completed and study results delivered
by May 18, 1984.

Issued in Austin, Texas, on March 29, 1984.

TRD-843594

Charles D. Travis
Executive Director
Texas Parks and Wildlife
Department

Filed: March 29, 1984

For further information, please call (512) 479-4806.



In the second issue of every month, a guide to agency activity for the previous month is published. Quarterly and annual indexes to the *Register* are published separately and bound in light blue for distinction.

Also included in the Index section is a list of the Texas Administrative Code titles that were affected by the rule-making activity of the previous month.

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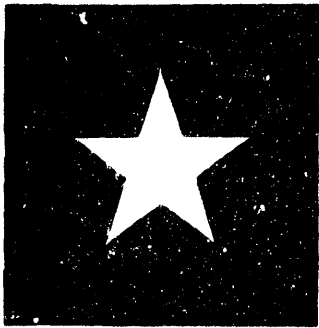
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