

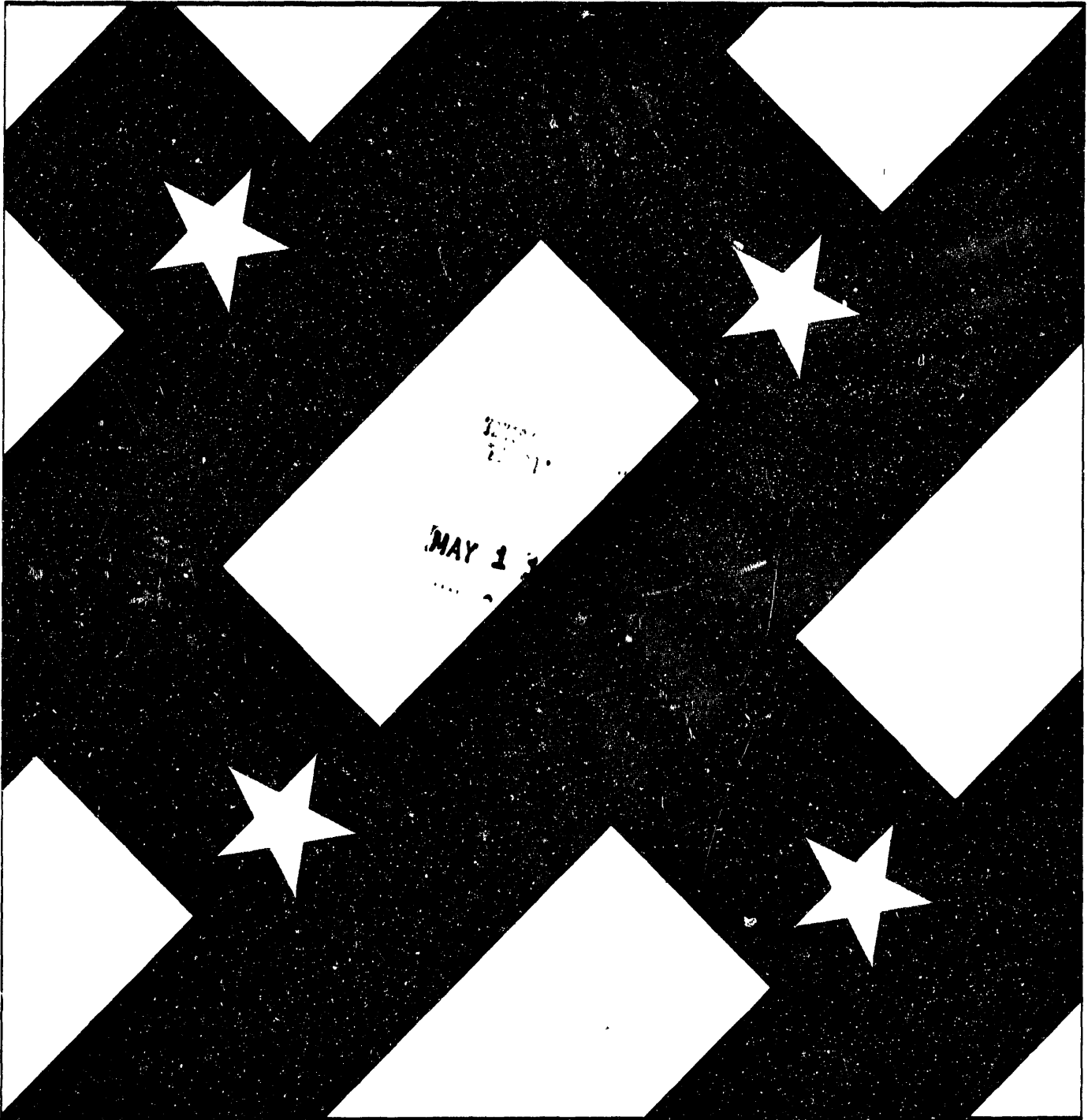
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Texas Register

Volume 9, Number 34, May 8, 1984

Pages 2511 - 2580



Highlights

The Texas Health Facilities Commission proposes new sections concerning certificate of need application procedures
 Proposed date of adoption - July 1 page 2530

The Texas Department of Human Resources

proposes new sections concerning standards for emergency shelters

Proposed date of adoption - July 8 page 2548

The Railroad Commission of Texas adopts amendments in a chapter concerning the Liquefied Petroleum Gas Division.

Effective date - May 21 page 2558

**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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POSTMASTER: Please send Form 3579 changes to the *Texas Register*, P.O. Box 13824, Austin, Texas 78711-3824.

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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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

a division of the
Office of the Secretary of State
P.O. Box 13824
Austin, Texas 78711-3824
512-475-7886

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Subscriptions— one year (96 regular issues and four index issues), \$70; six months (48 regular issues and two index issues), \$50. Single copies of most issues of the *Texas Register* are available at \$2.00 per copy.

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The Governor

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.

Appointment Made April 26

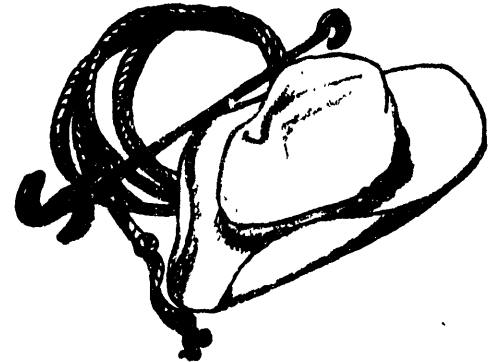
Galveston Bar and Houston Ship Channel

To be a branch pilot for a term to expire October 5, 1985:

Paul G. Brown
6363 West Airport, Apartment 206
Houston, Texas 77035

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

TRD-844803 Mark White
Governor of Texas



Before an agency may permanently adopt a new or amended rule, or repeal an existing rule, a proposal detailing the action must be published in the *Register* at least 30 days before any action may be taken. The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the rule. A public hearing on the proposal may also be granted if such a procedure is requested by a governmental subdivision or agency, or by an association consisting of at least 25 members.

The proposal, as published in the *Register*, must include a brief explanation of the proposed action; a fiscal statement indicating effect on state or local government 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.

Proposed Rules

TITLE 7. BANKING AND SECURITIES

Part II. Banking Department of Texas

Chapter 10. Trust Companies General

7 TAC §10.1

The Banking Department of Texas proposes new §10.1, concerning trust companies. The section requires all corporations organized under Texas law which exercise fiduciary powers to comply with the requirements of Texas Civil Statutes, Article 1513a, which require a minimum capital of \$500,000 and annual examination by the department.

Archie Clayton, general counsel, 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 section. The anticipated effect on state government is an estimated additional cost of \$30,000 in 1985, \$33,000 in 1986, \$35,000 in 1987, \$37,000 in 1988, and \$39,000 in 1989. The estimated increase in revenue will be \$30,000 in 1985, \$33,000 in 1986, \$35,000 in 1987, \$37,000 in 1988, and \$39,000 in 1989. There is no anticipated effect on local government. The anticipated cost of compliance with the section for small businesses is the preparation of the annual report to the Banking Department of Texas, the statutory filing fee of \$50,

and the annual examination. The cost of the examination is based upon the department's expenses in connection with that examination; therefore, the cost of compliance per employee will be less for small businesses since it will not take as long to examine a small business.

Mr. Clayton 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 increased confidence in the proper operation of trust companies which hold the property of persons in a fiduciary capacity.

The anticipated economic cost to individuals who are required to comply with the rule cannot be estimated since the total number of corporations which are exercising trust powers is not known. Such corporations will have to maintain a minimum capital of \$500,000, prepare and file an annual report with the Banking Department of Texas, and be subject to annual examinations by the department. The charge for the examination is \$225 per day per examiner.

Comments on the proposal may be submitted to Archie Clayton, General Counsel, Banking Department of Texas, 2601 North Lamar Boulevard, Austin, Texas 78705.

The new section is proposed under Texas Civil Statutes, Article 1513a, which provide the banking commissioner with the authority to supervise trust companies organized under the laws of the State of Texas.

§10.1. Scope of Statute. All corporations chartered under the laws of the State of Texas, existing or repealed, except banking corporations supervised pursuant to Texas Civil Statutes, Article 342-101, *et seq*, which are authorized to exercise trust powers and do exercise trust powers, are subject to the requirements of Texas Civil Statutes, Article 1513a.

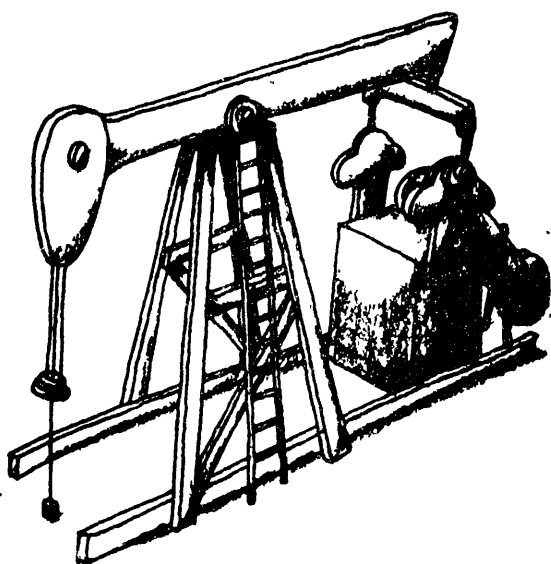
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 30, 1984

TRD-844840 Archie P. Clayton III
General Counsel
Banking Department of Texas

Earliest possible date of adoption:
June 8, 1984

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



**TITLE 16. ECONOMIC
REGULATION
Part II. Public Utility Commission of
Texas
Chapter 23. Substantive Rules
Energy Efficiency [Solar Standards]
16 TAC §23.82**

The Public Utility Commission of Texas proposes new §23.82, concerning commercial and apartment conservation. The Texas plan for commercial and apartment conservation arises out of the Federal National Energy Conservation Policy Act. The plan requires major gas and electric utilities to offer energy audits to certain apartment buildings and small commercial buildings. These audits are intended to show how the building can be made more energy efficient. The amount charged for these audits will depend on the utility and the regulatory authority, but the maximum will be \$15 per apartment or \$350 per commercial building.

Malcolm Verdict, Energy Efficiency Division assistant director, 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 estimated effect on state government is an additional cost of \$100,000 in 1985 and \$30,000 each year from 1986-1989. There is no anticipated economic effect on local government or small businesses.

Eddie M. Pope, General Counsel Division staff attorney, 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 increased awareness of potential energy efficient measures in commercial and apartment buildings through audits offered by public utilities. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Rhonda Colbert Ryan, Secretary of the Commission, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757.

The new section is proposed under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction and in administering the provisions of this Act; the National Energy Conservation Policy Act (NECPA), Title VII, Public Law 95-619, as amended by the Energy Security Act (ESA), Public Law 96-294; and U.S. Department of Energy Regulations at 20 Code of Federal Regulations 458.

§23.82. Commercial and Apartment Conservation.

(a) Any electric utility operating within Texas with a total sales in excess of 750 million kilowatt-hours for the second preceding calendar year for purposes other than resale beginning after 1975, and any natural gas utility operating within Texas with a total sales in excess of 10 billion cubic feet of natural gas for purposes other than resale during any calendar year beginning after December 31, 1975, and before the second preceding calendar year, shall comply with the Texas commercial and apartment conservation service plan.

(b) Each utility meeting or exceeding the requirements outlined in subsection (a) of this section shall submit the following:

(1) a letter, by certified mail, verifying the utility's intent to comply with the Texas commercial and apartment conservation service plan within 30 days after its approval by the United States Department of Energy; and

(2) any reports required by the plan, Part XIV.

(c) A utility covered by the Texas commercial and apartment conservation service plan may be exempted from the plan if the appropriate rate-making authority determines that the inclusion of additional duties related to the Texas commercial and apartment conservation service plan would significantly impair the utility's ability to either fulfill the requirements of the Texas Residential Conservation Service Program or to provide utility service

to its customers. The appropriate rate-making authority shall be required to grant such exemptions by June 4, 1984, in order to be effective.

(d) Copies of the Texas commercial and apartment conservation service plan can be obtained by calling or writing Malcolm Verdict, Energy Efficiency Division, Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, (512) 458-0301.

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 24, 1984.

TRD-844847 Rhonda Colbert Ryan
Secretary of the Commission
Public Utility Commission of
Texas

Earliest possible date of adoption:

June 8, 1984

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

TITLE 25. HEALTH SERVICES

Part V. Texas Health Facilities Commission

A notice appeared in the May 4, 1984, issue of the *Texas Register* indicating that the following proposals would appear in this issue. The proposed date of adoption for the documents is July 1, 1984.

Chapter 501 Description of the Commission

§§501.1, 501.3, 501.5, 501.7
(proposed for repeal)

§§501.1, 501.3, 501.5, 501.7
(proposed new)

Chapter 503 Rule-Making Procedures

§§503.1, 503.3, 503.5, 503.7, 503.9, 503.11,
503.13, 503.15, 503.17
(proposed for repeal)

503.1, 503.3, 503.5, 503.7, 503.9, 503.11,
503.13, 503.15, 503.17
(proposed new)

Chapter 505. Terms and Phrases

§505.1
(proposed for repeal)

§505.1
(proposed new)

Chapter 507 Certificate of Need Requirements

§§507.1, 507.3, 507.5, 507.7, 507.9, 507.11,
507.13, 507.15, 507.17
(proposed for repeal)

§§507.1, 507.3, 507.5, 507.7, 507.9, 507.11,
507.13, 507.15, 507.17
(proposed new)

Chapter 509 Application and Petition Procedures

Subchapter A. Certificate of Need Application Procedures

§§509.1, 509.3, 509.5, 509.7, 509.9, 509.11,
509.13, 509.15, 509.17, 509.19, 509.21,
509.23, 509.25, 509.27, 509.29, 509.31,

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509.63, 509.65, 509.67, 509.69, 509.71,
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(proposed for repeal)

§§509.1, 509.3, 509.5, 509.7, 509.9, 509.11,
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509.53, 509.55, 509.57, 509.59, 509.61,
509.63, 509.65, 509.67, 509.69, 509.71
(proposed new)

Subchapter B. Petition Procedures for Reissuance of Certificate of Need

§§509.81, 509.83, 509.85
(proposed for repeal)

§§509.81, 509.83, 509.85
(proposed new)

Subchapter C Declaratory Ruling Application Procedures

§§509.91, 509.93, 509.95, 509.97, 509.99,
509.101, 509.103, 509.105, 509.107
(proposed for repeal)

§§509.91, 509.93, 509.95, 509.97, 509.99,
509.101, 509.103, 509.105, 509.107
(proposed new)

Subchapter D Application Procedures for Amendment of Previously Issued Commission Order

§§509.121, 509.123, 509.125
(proposed for repeal)

§§509.121, 509.123, 509.123
(proposed new)

Subchapter E Application Procedures—Notice of Intent to Acquire Major Medical Equipment

§§509.131, 509.133, 509.135
(proposed for repeal)

§§509.131, 509.133, 509.135
(proposed new)

Subchapter F Application Procedures—Notices of Intent to Acquire an Existing Health Care Facility

§§509.141, 509.143, 509.145
(proposed for repeal)

§§509.141, 509.143, 509.145
(proposed new)

Subchapter G. Application Procedures—Notices of Intent Regarding Research Projects

§§509.151, 509.153, 509.155
(proposed for repeal)

§§509.151, 509.153, 509.155
(proposed new)

Subchapter H Application Procedures—Exemptions for HMO-Related Projects

§§509.161, 509.163, 509.165
(proposed for repeal)

§§509.161, 509.163, 509.165
(proposed new)

Chapter 501. Description of the Commission

25 TAC §§501.1, 501.3, 501.5, 501.7

(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 Health Facilities Commission, Suite 305, 1600 West 38th Street,

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

The Texas Health Facilities Commission proposes the repeal of §§501.1, 501.3, 501.5, and 501.7, concerning the description of the commission.

The repeal of these sections is necessary to adopt new rules which will clarify existing operational practices, policies, and procedures. The effect of the proposed repeals, if adopted, would be to allow the adoption of new rules which would achieve greater efficiency in the agency's operation by clarifying that a commission member can act as the administrative officer under the condition set out in the rules.

Carol S. Daniels, deputy administrator, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

John R. Neel, general counsel, 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 to permit the adoption of new rules which will provide greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements, and to achieve more efficient and timely processing of applications submitted for review. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Commission, 1600 West 38th Street, Suite 305, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, 1600 West 38th Street, Jefferson Building, Austin, to receive either written or verbal comments on the proposal.

The repeal is proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

- §501.1. *Origin of the Commission.*
- §501.3. *Purpose of the Commission.*
- §501.5. *Chief Executive and Administrative Officer.*
- §501.7. *General Powers and Duties of the Commission.*

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 27, 1984

TRD-844722 W. G. Kirklin
Chairman
Texas Health Facilities
Commission

Proposed date of adoption
July 1, 1984

For further information, please call (512) 475-6940.

The Texas Health Facilities Commission proposes new §§501.1, 501.3, 501.5, and 501.7, concerning the description of the commission. These new rules are necessary to clarify existing operational practices, policies, and procedures. The effect of the new rules, if adopted, would be to achieve greater efficiency in the agency's operations by clarifying that the commission member can act as the administrative officer under the condition set out in the rules.

Carol S. Daniels, deputy administrator, has determined that there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rules.

John R. Neel, general counsel, 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 greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements. The proposed rules will also provide for more efficient and timely processing of applications submitted for review, with a subsequent savings in time and cost to both applicants and the commission. 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 John R. Neel, General Counsel, Texas Health Facilities Commission, 1600 West 38th Street, Suite 305, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission at 1600 West 38th Street, Jefferson Building, Suite 305, Austin, to receive either written or verbal comments on the proposal.

The new rules are proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§501.1 *Origin of the Commission.* The Texas Health Facilities Commission (the commission) was established by the passage of the Texas Health Planning and Development Act, Texas Civil Statutes, Article 4418h, enacted by the 64th Legislature of the State of Texas, approved May 28, 1975.

§501.3 *Purpose of the Commission.* The Texas Health Planning and Development Act (the Act) was enacted to meet the requirements of the National Health Planning and Resources Development Act (Public Law 93-641), as amended by the Health Planning and Resources Development Amendments of 1979 (Public Law 96-79), and to insure that health services and facilities are made available to all citizens of the State of Texas in an orderly and economical manner.

§501.5. *Chief Executive and Administrative Officer.* The chairman is the chief executive and administrative officer of the commission. The chairman has all the powers and duties prescribed by the Texas Health Planning

and Development Act, as amended, and by these rules to the extent consistent with the Act, as amended. In the absence of the chairman for any cause, the vice-chairman has the powers and duties assigned to the chairman. In the absence of both the chairman and the vice-chairman for any cause, the commission member has the powers and duties assigned to the chairman.

§501.7. General Powers and Duties of the Commission. The general powers and duties of the commission are those prescribed by the Act, §2.06, as amended.

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

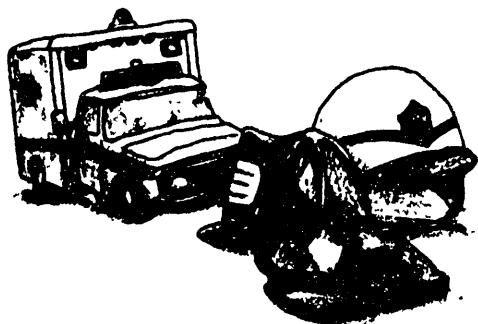
Issued in Austin, Texas, on April 27, 1984

TRD-844723 W. G. Kirklín
Chairman
Texas Health Facilities
Commission

Proposed date of adoption

July 1, 1984

For further information, please call (512) 475-6940.



Chapter 503. Rule-Making Procedures

25 TAC §§503.1, 503.3, 503.5, 503.7, 503.9, 503.11, 503.13, 503.15, 503.17

(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 Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Health Facilities Commission proposes the repeal of §§503.1, 503.3, 503.5, 503.7, 503.9, 503.11, 503.13, 503.15, and 503.17, concerning rule-making procedures. These repeals are necessary to adopt new rules which will delete all references to health systems agencies (HSAs) in recognition of the state's previous election, pursuant to the Public Health Service Act, §1536, to terminate HSA operations; and to clarify existing operational practices, policies, and procedures. The effect of the proposed repeals, if adopted, would be to allow the adoption of the new rules which would achieve conformity and consistency between federal/state law and state certificate of need requirements, advise potential applicants that HSA review is no longer required, and clarify the

agency's regulatory requirements and achieve greater efficiency in the agency's processing of applications.

Carol S. Daniels, deputy administrator, 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 the repeal.

John R. Neel, general counsel, 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 adoption of new rules which will provide greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements and more efficient and timely processing of applications submitted for review. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission at 1600 West 38th Street, Jefferson Building, Suite 305, Austin, to receive either written or verbal comments on the proposal.

The repeal is proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§503.1. Rule-Making Authority.

§503.3. Use and Effect of Rules.

§503.5. Severability.

§503.7. Amendment of Rules.

§503.9. Petition for Rule Adoption.

§503.11. Violations of Rules and Act.

§503.13. Dissemination of Proposed Rules.

§503.15. Dissemination of Adopted Rules.

§503.17. Emergency Rules

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 27, 1984

TRD-844724 W. G. Kirklín
Chairman
Texas Health Facilities
Commission

Proposed date of adoption

July 1, 1984

For further information, please call (512) 475-6940.

The Texas Health Facilities Commission proposes new §§503.1, 503.3, 503.5, 503.7, 503.9, 503.11, 503.13, 503.15, and 503.17, concerning rule-making procedures. These new sections are necessary to delete all references to health systems agencies

(HSAs) in recognition of the state's previous election, pursuant to the Public Health Service Act, §1536, to terminate HSA operations and to clarify existing operational practices, policies, and procedures. The effect of the new rules, if adopted, would be to achieve conformity and consistency between federal/state law and state certificate of need requirements, to advise potential applicants that HSA review is no longer required, and to clarify the agency's regulatory requirements and achieve greater efficiency in the agency's processing of applications.

Carol S. Daniels, deputy administrator, has determined that for the first five-year period the sections will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

John R. Neel, general counsel, 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 greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements. 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 John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, 1600 West 38th Street, Jefferson Building, Austin, to receive either written or verbal comments on the proposal.

The new rules are proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§503.1. Rule-Making Authority. The commission is empowered by the Act, as amended, to promulgate and adopt rules and regulations to effect the purpose of the Act and to carry out the duties of the commission. The commission shall review applications for certificates of need and other matters according to criteria for review established by the Act, as amended, and commission rules and shall issue orders pursuant thereto, as appropriate.

§503.3. Use and Effect of Rules. The rules set forth herein are prescribed for the performance of statutory functions by the commission.

§503.5. Severability. Where any terms or sections of these rules are found by judicial determination to be inconsistent with the Act, as amended, the Act shall apply and the remaining terms and sections of these rules shall continue in effect.

§503.7. Amendment of Rules. These rules may be amended by the commission. In proposing the adoption of additional rules or amendments to these rules, the commission shall comply with the provisions of the Adminis-

trative Procedure and Texas Register Act (APA), Texas Civil Statutes, Article 6252-13a.

§503.9. Petition for Rule Adoption.

(a) Any person may petition the commission to adopt a rule or amend an existing rule. To be considered by the commission, a petition must be in writing and must contain at least the following information:

- (1) the identity of the person making the request;
- (2) the text of the rule or rule amendment proposed for adoption; and
- (3) the reasons for adoption of the proposed rule or rule amendment.

(b) The commission shall consider the petition for rule adoption in open meeting within 60 days after submission of the petition. After consideration of the petition, the commission shall either deny the petition in writing, stating the reasons for denial, or initiate rule-making proceedings in accordance with the APA, §5.

§503.11. Violations of Rules and Act. The commission may enforce its rules by rejecting, dismissing, or suspending processing of a motion, application, or petition of a person the commission determines to be in violation of the commission rules or the Act.

§503.13. Dissemination of Proposed Rules.

(a) Prior to the adoption of a rule or rule amendment, the commission shall provide written notice of its intended action to statewide health agencies, the Health and Human Services Coordinating Council, the Statewide Health Coordinating Council, the secretary of the United States Department of Health and Human Services, and health-care related associations representing health-care facilities and services in the state. Prior to the adoption of a rule or rule amendment the commission shall provide notice of its intended action to all health-care facilities in the state that have been identified by the commission. The commission shall provide written notice of its intended action, pursuant to this section, without charge. The notice must include:

- (1) a brief explanation of the proposed rule;
- (2) the text of the proposed rule;
- (3) a statement of the statutory or other authority under which the rule is proposed to be promulgated; and
- (4) a request for comments on the proposed rule.

(b) The commission shall publish written notice of a proposed rule or rule amendment in the *Texas Register* at least 30 days prior to adoption, except when a proposed rule is adopted as an emergency rule.

§503.15. Dissemination of Adopted Rules. The commission shall distribute copies of its adopted rules to statewide health agencies, the Health and Human Services Coordinating Council, the Statewide Health Coordinating Council, the secretary of the United States Department of Health and Human Services, and health-care related associations representing health-care facilities and services in the state. The commission shall also distribute a copy of its adopted rules to all health-care facilities in the state that have been identified by the commission. The commission shall distribute copies of its adopted rules, pursuant to this section, without charge.

§503.17. Emergency Rules. When the commission finds that imminent peril to the public health, safety, or

welfare exists, it may adopt an emergency rule pursuant to the provisions of the APA, §5(d). When an emergency rule is adopted, the provisions of commission Rule 503.13 (§503.13 of this title (relating to Dissemination of Proposed Rules)) shall not apply. The commission may make the emergency rule effective for a period of 120 days, renewable once for a period not exceeding 60 days.

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 27, 1984.

TRD-844725 W. G. Kirklin
 Chairman
 Texas Health Facilities
 Commission

Proposed date of adoption:

July 1, 1984

For further information, please call (512) 475-8940.

Chapter 505. Terms and Phrases

25 TAC §505.1

(Editor's note: The text of the following rule proposed for repeal will not be published. The rule may be examined in the offices of the Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Health Facilities Commission proposes the repeal of §505.1, concerning terms and phrases. This repeal is necessary to adopt new rules which will delete all references to health systems agencies (HSAs) in recognition of the state's previous election, pursuant to the Public Health Service Act, §1536, to terminate HSA operations and clarify existing operational practices, policies, and procedures. The effect of the proposed repeal, if adopted, would be to allow the adoption of new rules which would achieve conformity and consistency between federal/state law and state certificate of need requirements, advise potential applicants that HSA review is no longer required, clarify the agency's regulatory requirements, and achieve greater efficiency in the agency's processing of applications.

Carol S. Daniels, deputy administrator, 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.

John R. Neel, general counsel, 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 adoption of new rules which will provide greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements and more efficient and timely processing of applications submitted for review.

There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, 1600 West 38th Street, Jefferson Building, Austin, to receive either written or verbal comments on the proposal.

The repeal is proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§505.1. Definitions.

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

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

TRD-844726 W. G. Kirklin
 Chairman
 Texas Health Facilities
 Commission

Proposed date of adoption:

July 1, 1984

For further information, please call (512) 475-8940.

The Texas Health Facilities Commission proposes new §505.1, concerning terms and phrases. This new rule is necessary to delete all references to health systems agencies (HSAs) in recognition of the state's previous election, pursuant to the Public Health Service Act, §1536, to terminate HSA operations and to clarify existing operational practices, policies, and procedures.

The effect of the new rule, if adopted, would be to achieve conformity and consistency between federal/state law and state certificate of need requirements, to advise potential applicants that HSA review is no longer required, and to clarify the agency's regulatory requirements and achieve greater efficiency in the agency's processing of applications.

Carol S. Daniels, deputy administrator, 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.

John R. Neel, general counsel, 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 greater clarity for the public concerning the commission's operational practices, policies, procedures, and regulatory requirements. The proposed rule also provides for more efficient and timely processing of applications submitted for review, with a subsequent savings in

time and cost to both applicants and the commission. 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 John R. Noel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, 1600 West 38th Street, Texas Health Facilities Commission, Jefferson Building, Austin, to receive either written or verbal comments on the proposal.

The new section is proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§505.1. Definitions. The following words and terms, when used in these rules, shall have the following meanings, unless the context clearly indicates otherwise:

APA—The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a.

Abandoned health-care facility—A health-care facility which has not offered health-care services for a period of 12 consecutive months or more. An abandoned health-care facility ceases to be a health-care facility for purposes of these rules and the Act.

Abandoned health-care service—A health-care service which has not been offered by a health-care facility for a period of 12 consecutive months or more. An abandoned health-care service ceases to be an offered health-care service for purposes of these rules and the Act, subject to the provisions of Texas Civil Statutes, Article 4442c, §7, subsection (k).

Acquire—To obtain by purchase, lease, donation, gift, transfer, or other comparable arrangement.

Act—The Texas Health Planning and Development Act, Texas Civil Statutes, Article 4418h.

Ambulatory surgical facility—A facility which provides surgical treatment to patients not requiring overnight care, including, but not limited to, those facilities which are defined as and are proposed to be certified as ambulatory surgical centers pursuant to Public Law 96-499, §934, the Omnibus Reconciliation Act of 1980, and 42 Code of Federal Regulations Part 416.

Applicant—A person who makes application to the commission pursuant to the Act.

Application—A written request for consideration by the commission pursuant to the Act.

Bed capacity—The number of beds a health-care facility is constructed and designed for and is capable of operating without physical change to the facility

Bed license—The number of licensed beds in a health-care facility.

Capital expenditure—A financial obligation which, under generally accepted accounting principles, is not properly chargeable as an expense of operation or maintenance.

Category of beds—Inpatient beds in an existing health-care facility within which health-care services are

provided to a defined and limited class of patients. The term "category of beds" includes, but is not limited to, the following: medical/surgical, obstetrical, gynecological, pediatric, psychiatric, intensive care, neonatal special care, extended care, coronary care, nursing care, intermediate nursing care, skilled nursing care, intermediate care mentally retarded-V (ICF-MR-V), intermediate care mentally retarded-VI (ICF-MR-VI), alcohol abuse treatment, drug abuse treatment, rehabilitation, and hospice.

Certificate holder—The person(s) named in the certificate of need.

Certificate of need—A written order of the commission setting forth the commission's affirmative finding that a proposed project sufficiently satisfies the criteria prescribed for such projects by the Act and by commission rules.

Commission—The Texas Health Facilities Commission.

Completion of a project—The date when all activities authorized in a commission order, including capital expenditures, construction, renovation, equipment acquisition, the offering of service(s), licensure, and certification, have been accomplished.

Declaratory ruling—A written order of the commission stating whether or not a proposed project requires a certificate of need or other action by the commission.

Department—The Texas Department of Health.

Development—

(A) Commencement of those activities or expenditures, other than planning or predevelopment, which upon their completion result in the consummation of a project or a significant financial commitment toward the consummation of a project. Development of a project may commence only after appropriate authorization by the commission. Commencement of development includes, but is not limited to:

(i) adoption of ordinances, orders, or resolutions authorizing the issuance of bonds to finance the project;

(ii) expenditures in excess of 20% of the total project cost authorized in the commission order;

(iii) execution of binding written contracts for construction or site preparation, or the actual commencement of construction or site preparation;

(iv) receipt of donated funds or grant funds which are designated for the project and which constitute at least 20% of the total project cost authorized in the commission order;

(v) execution of binding written contracts for interim or permanent financing for the project and which constitute at least 20% of the total project cost authorized in the commission order; or

(vi) in the case of no-cost projects, the offering of the service authorized in the commission order.

(B) For purposes of this rule, expenses incurred for studies, reports, and professional services in pursuit of obtaining a certificate of need shall not be included in the expenditures utilized in a determination of whether development has commenced. The execution of binding written contracts or the receipt of donated or grant funds for the project, which are made contingent upon obtaining a declaratory ruling, certificate of need, or other ap-

appropriate ruling authorizing development of the project, shall not be considered development as defined herein or a violation of the Act or commission rules.

Dialysis stations—The number of dialysis units or chairs in a health-care facility.

Existing health-care facility—A facility which is approved for operation, is currently operating, or which has not been out of operation for a period of 12 consecutive months or more.

Existing service—A service which is presently being offered by a health-care facility, or a service that a health-care facility has not ceased offering for a period of 12 consecutive months or more, subject to the provisions of Texas Civil Statutes, Article 4442c, §7, subsection (k).

Expenditure minimum—\$600,000 for capital expenditures other than major medical equipment. (See definition for major medical equipment.)

Federal law—Includes the National Health Planning and Resources Development Act of 1974 (Public Law 93-641), as amended by the Health Planning and Resources Development Amendments of 1979 (Public Law 96-79), the federal rules and regulations promulgated under those acts, and other pertinent federal authority.

Health—Physical or mental health.

Health-care facility—Referred to as facility, means, regardless of ownership, a public or private hospital, skilled nursing facility, intermediate care facility, ambulatory surgical facility, family planning clinic which performs ambulatory surgical procedures, rural health initiative clinic, urban health initiative clinic, kidney disease treatment facility, inpatient rehabilitation facility, inpatient hospice, and other facilities as defined by federal law, but does not include the office of physicians or practitioners of the healing arts singly or in groups in the conduct of their profession.

Health maintenance organization—Referred to as HMO, means any person who undertakes to provide or arrange for one or more health-care plans, pursuant to the provisions of the Texas Health Maintenance Organization Act, Texas Civil Statutes, Article 20A.01-20A.35. For purposes of commission rules relating to HMOs, the term "health-care plan" means any arrangement whereby any person undertakes to provide, arrange for, pay for, or reimburse any part of the cost of any health-care services, and at least part of such arrangement consists of arranging for or the provision of health-care services, as distinguished from mere indemnification against cost of such service on a prepaid basis through insurance or otherwise. For purposes of commission rules relating to HMOs, the term "health-care services" means furnishing to any individual medical care, dental care, or hospitalization, as well as the furnishing to any person of any other services for the purpose of preventing, alleviating, curing, or healing human illness or injury.

Health service area—A geographical region in which a designated regional planning agency has health planning responsibilities as provided pursuant to federal and state law.

Hearing—A public proceeding for examination of an application or other matter properly before the commission where the applicant, the commission, other parties, and interested persons may present evidence.

Hospital—An institution which has as its primary function inpatient diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or rehabilitation services for the rehabilitation of injured, disabled, or sick persons, by or under the supervision of physicians. The term "hospital" includes psychiatric hospitals and specialty hospitals designed for the treatment of patients suffering from alcohol or drug abuse.

Inpatient—a person who has been admitted for overnight care by a health-care facility and who has not been discharged from the facility.

Inpatient hospice—A medically oriented program of palliative and supportive services which primarily provides inpatient care for terminally ill patients. The term "inpatient hospice" includes, but is not limited to, those facilities which are defined as and are proposed to be certified as a hospice pursuant to the Tax Equity and Fiscal Responsibility Act of 1982 and 42 Code of Federal Regulations Parts 400, 405, 408, 409, 418, 420, 421, and 489.

Inpatient rehabilitation facility—A facility which is operated for the primary purpose of assisting in the inpatient rehabilitation of sick or disabled persons through a program of medical and medically related services which are provided under professional supervision. The term "inpatient rehabilitation facility" includes inpatient facilities designed for the rehabilitation of patients suffering from alcohol or drug abuse.

Interested person—A person who presents evidence at a hearing on an application, but who was not admitted by the commission as a party.

Intermediate care facility—An institution or part of an institution which regularly provides health-care services to inpatients who, because of their mental or physical condition, require health-care services above the level of room and board, but who do not require the degree of care and treatment which a hospital or skilled nursing facility provides.

Kidney disease (ESRD) treatment facility—A hospital unit or freestanding unit which offers at least one of the following kidney disease (ESRD) services:

- (A) dialysis service (chronic maintenance or inpatient acute dialysis);
- (B) self-care hemodialysis or peritoneal dialysis service; or
- (C) kidney transplantation.

Major medical equipment—A single unit of medical equipment or a single system of components with related functions which is used to provide medical and other health-care services and which costs more than \$400,000.

Medical service area—

(A) For an existing facility, a definable geographic area from which at least two-thirds of the facility's patients have originated in the most recent 12-month period;

(B) for a new facility or a new service at an existing facility, a definable geographic area from which at least two-thirds of the patients could reasonably be anticipated to originate. In establishing the medical service area, the factors set forth in commission Rule 513.3 (§513.3 of this title (relating to Medical Service Area)) shall be considered.

Offer—When used in connection with health services, means that a health-care facility holds itself out as capable of providing, and in fact has the means for the provision of, specified health-care services.

Open meeting—An open public meeting conducted by the commission for the purpose of rendering decisions on applications and other matters brought before the commission.

Party—A person who by formal intervention and action as determined by rule of the commission participates in the consideration of a specific application by the commission.

Person—An individual, sole proprietorship, charity, trust, estate, institution, group, association, firm, joint venture, partnership, joint stock company, cooperative, corporation, the state or a political subdivision or instrumentality of the state, any receiver, trustee, assignee, or other similar representative, or any other legal entity.

Project—Expenditures, services, acquisitions, construction, or other action requiring a certificate of need or other review pursuant to the Act and commission rules.

Project cost—

(A) The total expenditures required for a proposed project from initiation to completion, including at least the following:

- (i) expenditures for physical assets such as:
 - (I) site acquisition,
 - (II) soil tests and site preparation,
 - (III) construction and improvements required as a result of the project,
 - (IV) building, structure, or office space acquisition,
 - (V) renovation,
 - (VI) fixed equipment,
 - (VII) moveable equipment,
 - (VIII) energy provisions and alternatives;
- (ii) expenditures for professional services including:

- (I) planning consultants,
- (II) architectural fees,
- (III) fees for cost estimation,
- (IV) legal fees,
- (V) managerial fees,
- (VI) feasibility study;
- (iii) expenditures or costs associated with financing, excluding long-term interest, but including:

- (I) financial advisor,
- (II) fund-raising expenses,
- (III) lender's or investment banker's fee,
- (IV) bond attorney's fee,
- (V) interest on interim financing,
- (VI) debt service reserve fund; and
- (iv) expenditure allowances for contingencies, including:
 - (I) inflation,
 - (II) inaccurate estimates,
 - (III) unforeseen fluctuations in the money market, or
 - (IV) other unforeseen expenditures.

(B) The term of any lease arrangement and the rentals to accrue during that term shall not be controlling in determining the project cost. Rather, the project

cost shall be determined by the greater of either the lease payments to accrue during the term of the lease or the fair market value of the item to be acquired by lease. Regarding purchases, donations, gifts, transfers, and other comparable arrangements whereby the acquisition is to be made for no consideration or at less than the fair market value, the project cost shall be determined by the fair market value of the item to be acquired as a result of the purchase, donation, gift, transfer, or other comparable arrangement.

Rule—A commission rule.

Rural health initiative clinic—A public or private nonprofit, outpatient, primary-care clinic located in a nonurban (rural) area which has been designated as medically underserved, and which is funded by the Federal Community Health Centers Program, the National Health Service Corps Program, the Migrant Health Program, the Health Underserved Rural Areas Program, or other programs operated pursuant to Public Law 95-210 or Public Law 95-626.

Service—Also referred to as health service or health-care service, includes, but is not limited to, the following: emergency medicine, radiology, computerized tomographic scanning, nuclear magnetic resonance scanning, psychiatric care, surgery, intensive care, coronary care, pediatrics, neonatal special care, gynecology, obstetrics, laboratory, dialysis, general medical care, medical/ surgical care, inpatient nursing care, inpatient intermediate nursing care, inpatient skilled nursing care, intermediate care-mentally retarded-V (ICF-MR-V), intermediate care-mentally retarded-VI (ICF-MR-VI), inpatient alcohol or drug abuse treatment, extended care, cardiac catheterization, open-heart surgery, inpatient rehabilitation, and inpatient hospice care.

Skilled nursing facility—An institution or a distinct part of an institution which is primarily engaged in providing skilled nursing care and related services to inpatients.

Urban health initiative clinic—A public or private nonprofit, outpatient, primary-care clinic located in an urban area which has been designated as medically underserved, and which is funded by the Federal Community Health Centers Program, the National Health Service Corps Program, or other programs operated pursuant to Public Law 95-626.

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 27, 1984

TRD-844727

W G Kirklin
Chairman
Texas Health Facilities
Commission

Proposed date of adoption

July 1, 1984

For further information, please call (512) 475-6940.



Chapter 507. Certificate of Need Requirements

25 TAC §§507.1, 507.3, 507.5, 507.7, 507.9, 507.11, 507.13, 507.15, 507.17

(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 Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Health Facilities Commission proposes the repeal of §§507.1, 507.3, 507.5, 507.7, 507.9, 507.11, 507.13, 507.15, and 507.17, concerning certificate of need requirements.

The repeal is necessary to adopt new rules which will clarify existing operational practices, policies, and procedures and provide procedural changes designed to promote increased efficiency, timeliness, and quality in the processing of the applications presented to the commission for determination. The effect of the proposed repeal, if adopted, would be to allow the adoption of new rules which would achieve conformity and consistency between federal/state law and state certificate of need requirements, exempt more health maintenance organizations from certificate of need review requirements, clarify the agency's regulatory requirements, and achieve greater efficiency in the agency's processing of applications.

Carol S. Daniels, deputy administrator, 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.

John R. Neel, general counsel, has determined that for each of the first five years the repeal as proposed is in effect the public benefit anticipated as a result of the repeal is the adoption of new rules which will provide greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements, and more efficient and timely processing of applications submitted for review. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, 1600 West 38th Street, Jefferson Building, Austin, to receive either written or verbal comments on the proposal.

The repeal is proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

- §507.1. *Capital Expenditures.*
- §507.3. *Services.*
- §507.5. *Acquisition of Major Medical Equipment.*
- §507.7. *Acquisition of Existing Health-Care Facility.*
- §507.9. *Bed License.*
- §507.11. *Bed Capacity.*
- §507.13. *Health Maintenance Organizations (HMOs).*
- §507.15. *Research Projects.*
- §507.17. *Subsequent Reviews—Previously Approved Projects.*

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 27, 1984

TRD-844728

W. G. Kirklin
Chairman
Texas Health Facilities
Commission

Proposed date of adoption:

July 1, 1984

For further information, please call (512) 475-8940.

The Texas Health Facilities Commission proposes new §§507.1, 507.3, 507.5, 507.7, 507.9, 507.11, 507.13, 507.15, and 507.17, concerning certificate of need requirements. These new rules are necessary to clarify existing operational practices, policies, and procedures, and provide procedural changes designed to promote increased efficiency, timeliness, and quality in the processing of the applications presented to the commission for determination.

The effect of the new rules, if adopted, would be to achieve conformity and consistency between federal/state law and state certificate of need requirements, to exempt more health maintenance organizations from certificate of need review requirements, to clarify the agency's regulatory requirements, and to achieve greater efficiency in the agency's processing of applications.

Carol S. Daniels, deputy administrator, has determined that for the first five-year period the rules as proposed are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rules.

John R. Neel, general counsel, 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 greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements. The proposed rules will also provide for more efficient and timely processing of applications submitted for review, with a subsequent savings in time and cost to both applicants and the commission. 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 John R. Neel, General Counsel, Texas Health Facilities Com-

mission, 1600 West 38th Street, Suite 305, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, 1600 West 38th Street, Jefferson Building, Austin, to receive either written or verbal comments on the proposal.

The new sections are proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§507.1. Capital Expenditures. A person must obtain a certificate of need for a proposed project to obligate, by or on behalf of a health-care facility, a capital expenditure that exceeds the expenditure minimum.

§507.3. Services.

(a) A person must obtain a certificate of need:

(1) to offer a service which is not an existing service of that health-care facility, unless:

(A) the service is offered by a contract or other comparable arrangement with another health-care facility which has the authority to offer the service, or

(B) the service is offered by a contract or other comparable arrangement with an entity other than a health-care facility, provided that such contract is executed prior to the effective date of this rule, or

(C) the service(s) are to be provided in a replacement health care-facility where the capital expenditure provided in §507.1 of this title (relating to Capital Expenditures) is not exceeded in establishing the replacement facility and the facility's medical service area is not changed by the location of the replacement facility;

(2) to create or establish a category of beds;

(3) to redistribute more than 10 existing beds or more than 10%, whichever is less, among various existing categories of beds in a two-year period;

(4) to add more than five dialysis stations in a two-year period to a facility with existing dialysis services; or

(5) to terminate offering an existing service in a health-care facility, if the termination is associated with the obligation of a capital expenditure in any amount, by or on behalf of a health-care facility.

(b) For instructions on redistributing beds or adding dialysis stations without certificate of need review and computing the two-year periods referenced in paragraph (3) and paragraph (4) of this section, see commission Rule 527.1 (c) and (d) (§527.1 of this title (relating to Time Periods)).

§507.5. Acquisition of Major Medical Equipment.

(a) Any person must obtain a certificate of need for a proposed project to acquire major medical equipment that will be owned by or located in a health-care facility.

(b) Any person must obtain a certificate of need for a proposed project to acquire major medical equipment that will not be owned by or located in a health-care facility, if:

(1) the person fails to comply with the notice of intent procedures prescribed in commission Rules 509.131 and .133 (§509.131 and §509.133 of this title (relating to Notices of Intent to Acquire Major Medical Equipment and Forms for Notice of Intent to Acquire Major Medical Equipment)), or

(2) the commission finds, within 30 days after it accepts a notice of intent to acquire major medical equipment, that the equipment would be used to provide services for inpatients of a health-care facility on other than a temporary basis. For purposes of this rule, "temporary basis" means the short-term provision of services in order to address natural disasters, major accidents, or facility equipment failure.

(c) It is not necessary for a person to obtain a certificate of need or a notice of intent to acquire major medical equipment if:

(1) the acquisition of major medical equipment is being made by a person other than a health-care facility; and

(2) the major medical equipment being acquired has previously been approved in a certificate of need.

(d) Regarding the exception provided in subsection (c) of this section, the acquiring entity must, at least 30 days prior to acquiring the major medical equipment, file a letter notifying the commission of its intent. The letter shall contain at least the following information:

(1) the name, address, and business of the acquiring entity;

(2) a description of the major medical equipment to be acquired, including its current location; and

(3) an identification, by commission file number, of the certificate of need order previously issued regarding the equipment.

(e) If a person who has previously acquired major medical equipment without a certificate of need pursuant to the provisions of commission Rules 509.131, 509.133, and 509.135 (§§509.131, 509.133, and 509.135 of this title (relating to Notices of Intent to Acquire Major Medical Equipment; Forms for Notice of Intent to Acquire Major Medical Equipment; and Commission Review Procedures)) proposes, at any time, to use that equipment to serve inpatients of a health-care facility on other than a temporary basis, a certificate of need must be obtained. In this instance, the certificate of need must be obtained by the owner of the equipment and by the facility whose inpatients would be served, if the facility has not previously received authorization to offer the service or the service is not an existing service for the health-care facility.

§507.7. Acquisition of Existing Health-Care Facility.

(a) A person must obtain a certificate of need for a proposed project to purchase or lease, for any amount, an existing health-care facility, if:

(1) the person fails to comply with the notice of intent procedures prescribed in commission Rules 509.141 and 509.143 (§509.141 of this title (relating to Notices of Intent to Acquire an Existing Health-Care Facility) and §509.143 of this title (relating to Forms for Notice of Intent to Acquire an Existing Health-Care Facility)), or

(2) the commission finds, within 30 days after it accepts a notice of intent to acquire an existing health-care facility, that the bed capacity, bed license, or services of the existing facility would be changed in being

acquired. For purposes of this rule, a change in bed capacity, bed license, or services means:

(A) for bed capacity or bed license, the provisions of commission Rules 507.11 and 507.9 (§507.11 of this title (relating to Bed Capacity) and §507.9 of this title (relating to Bed License)) shall govern.

(B) for services, the provisions of commission Rule 507.3 (§507.3 of this title (relating to Services)) shall govern.

(b) If a person who has previously acquired an existing facility without a certificate of need pursuant to the provisions of commission Rules 509.141, 509.143, and 509.145 (§§509.141, 509.143, and 509.145 of this title (relating to Notices of Intent to Acquire an Existing Health-Care Facility; Forms for Notice of Intent to Acquire an Existing Health-Care Facility; and Commission Review Procedures)) proposes, within one year after the acquisition, to change the bed capacity, bed license, or services at the facility (as those terms are defined in commission Rules 507.11, 507.9, or 507.3 (§§507.11, 507.9, or 507.3 of this title (relating to Bed Capacity; Bed License; or Services))), the proposed change must be subjected to certificate of need review even in the absence of the obligation of an additional capital expenditure.

(c) For purposes of this rule, the phrase "acquire an existing health-care facility" means the acquisition of a 50% or more ownership or leasehold interest.

§507.9. *Bed License.*

(a) A person must obtain a certificate of need to obligate a capital expenditure in any amount which would:

(1) increase or decrease the total number of licensed beds in a facility by more than 10 beds or more than 10%, whichever is less, in a two-year period; or

(2) relocate more than 10 licensed beds or more than 10% of the licensed beds, whichever is less, from one physical facility or site to another in a two-year period.

(b) For instructions on adding or relocating beds without certificate of need review and computing the two-year periods referenced in paragraph (1) and paragraph (2) of this section, see commission Rule 527.1(b) (§527.1 of this title (relating to Time Periods)).

§507.11. *Bed Capacity.* A person must obtain a certificate of need to obligate a capital expenditure in any amount which would increase the bed capacity in the facility by more than 10 beds or more than 10% of the beds, whichever is less, in a two-year period. For instructions on adding bed capacity without certificate of need review and computing the two-year period referenced in this rule, see commission Rule 527.1(b) (§527.1 of this title (relating to Time Periods)).

§507.13. *Health Maintenance Organizations (HMOs).*

(a) With respect to an inpatient health-care facility which is controlled, directly or indirectly, by an HMO or combination of HMOs, a certificate of need must be obtained for a proposed project involving any of the activities specified in commission Rules 507.1, 507.3, 507.5, 507.7, 507.9, and 507.11 (§§507.1, 507.3, 507.5, 507.7, 507.9, and 507.11 of this title (relating to Expenditures; Services; Acquisition of Major Medical Equipment; Acquisition of Existing Health-Care Facility; Bed License;

and Bed Capacity), unless exempt pursuant to commission Rule 507.13(c) (subsection (c) of this section). For purposes of this rule, "inpatient health care facility" means hospitals, skilled nursing facilities, intermediate care facilities, inpatient rehabilitation facilities, and inpatient hospices.

(b) With respect to an ambulatory health-care facility which is controlled, directly or indirectly, by an HMO or combination of HMOs, a certificate of need must be obtained for a proposed project to acquire major medical equipment if the acquisition would otherwise require a certificate of need pursuant to commission Rule 507.5 (§507.5 of this title (relating to Acquisition of Major Medical Equipment)), unless exempt pursuant to commission Rule 507.13(c) (subsection (c) of this section). For purposes of this rule, "ambulatory health-care facility" means kidney disease treatment facilities, ambulatory surgical facilities, and family planning clinics which perform ambulatory surgical procedures.

(c) A certificate of need pursuant to the provisions of commission Rule 507.13(a) and (b) (subsections (a) and (b) of this section) does not have to be obtained, if:

(1) the applicant complies with the application for exemption procedures prescribed in commission Rules 509.161 and 509.163 (§509.161 of this title (relating to Application for Exemption—HMO-Related Project) and §509.163 of this title (relating to Application Forms for an Exemption for an HMO-Related Project)), and

(2) the commission finds that the activity is proposed to be undertaken by:

(A) an HMO or combination of HMOs where:

(i) the facility in which the service will be provided is or will be geographically located so that the service will be reasonably accessible to the enrolled individuals; and

(ii) at least 75% of the patients who can reasonably be expected to receive the service will be individuals enrolled with the HMO or combination of HMOs; or

(B) a health-care facility where:

(i) the facility primarily provides or will provide inpatient health-care services;

(ii) the facility is or will be controlled, directly or indirectly, by an HMO or combination of HMOs;

(iii) the facility is or will be geographically located so that the service will be reasonably accessible to the enrolled individuals; and

(iv) at least 75% of the patients who can reasonably be expected to receive the service will be individuals enrolled with the HMO or combination of HMOs; or

(C) a health-care facility (or portion thereof) where:

(i) the facility is or will be leased by an HMO or combination of HMOs;

(ii) there is at least 15 years remaining in the term of the lease at the time the application for exemption is submitted to the commission;

(iii) the facility is or will be geographically located so that the service will be reasonably accessible to the enrolled individuals; and

(iv) at least 75% of the patients who can reasonably be expected to receive the service will be individuals enrolled with the HMO or combination of HMOs.

(d) A health-care facility (or portion thereof) or major medical equipment for which an exemption was granted pursuant to commission Rules 507.13(c) (subsection (c) of this section), 509.161, 509.163, and 509.165 (§§509.161, 509.163, and 509.165 of this title (relating to Application for Exemption—HMO-Related Project; Application Forms for an Exemption for an HMO-Related Project; and Commission Review Procedures)) may not be sold or leased, a controlling interest in the facility or equipment or in a lease of the facility or equipment may not be acquired, and a leased health-care facility (as that term is defined in commission Rule 507.13(c)(2)(C) (subsection (c)(2)(C) of this section)), may not be operated by any person other than the lessee, unless:

(1) the commission, upon application therefor, issues a certificate of need for the sale, lease, acquisition, or use; or

(2) the commission, upon application therefor, finds that the entity which proposes to buy or lease the facility or equipment, or acquire the controlling interest in it, or to use it, is an HMO or combination of HMOs which meets the requirements of commission Rule 507.13(c)(2)(A)(i) (subsection (c)(2)(A)(i) of this section) and, with respect to the facility or equipment, the entity meets the requirements of commission Rules 507.13(c)(2)(A)(i) and (ii) and 507.13(c)(2)(B)(i) and (ii) (subsections (c)(2)(A)(i) and (ii) and (c)(2)(B)(i) and (ii) of this section).

(e) A health-care facility (or portion thereof) or major medical equipment for which a certificate of need was issued pursuant to commission Rule 507.13(a) and (b) (subsections (a) and (b) of this section) may not be sold or leased, and a controlling interest in the facility or equipment or in a lease of the facility or equipment may not be acquired, unless the commission, upon application therefor, issues a certificate of need for the sale, lease, or acquisition.

(f) For purposes of this rule, the phrase "controlled, directly or indirectly," means, respectively:

(1) that the ownership interest or a majority of the ownership interest in the facility is held by the HMO or combination of HMOs; or

(2) that:

(A) the majority of the board members of the facility are employees or officers of the HMO, or

(B) there is any overlapping membership between the board of the facility and the board of the HMO.

(g) For purposes of this rule, the term "controlling interest" means an ownership or leasehold interest of more than 50%.

§507.15. Research Projects.

(a) A certificate of need shall not be required for capital expenditures exceeding the expenditure minimum, acquisitions of major medical equipment, or offering of new services which are obligated, utilized, or provided, respectively, solely for research, if:

(1) the notice of intent procedures prescribed in commission Rules 509.151 and 509.153 (§509.151 of this title (relating to Notice of Intent Regarding a Research Project) and §509.153 of this title (relating to Forms for

Notices of Intent Regarding Research Projects)) are complied with, and

(2) the commission finds, within 30 days after it accepts a notice of intent regarding a research project, that the obligation, acquisition, or offering will not:

(A) affect the charges of the facility for the provision of medical or other patient care services other than the services which are included in the research project,

(B) change the bed capacity or bed license of the facility as is described in commission Rules 507.11 and 507.9 (§507.11 of this title (relating to Bed Capacity) and §507.9 of this title (relating to Bed License)), and

(C) change the services (other than the service to be offered for research purposes) offered at the facility as is described in commission Rule 507.3 (§507.3 of this title (relating to Services)).

(b) For purposes of this section, the term "solely for research" includes patient care provided on an occasional and irregular basis and not as part of a research program.

§507.17. Subsequent Reviews—Previously Approved Projects. A person must obtain a certificate of need to change a previously approved project for which a certificate of need was issued pursuant to commission Rules 507.1, 507.3, 507.9, or 507.11 (§§507.1, 507.3, 507.9, or 507.11 of this title (relating to Capital Expenditures; Services; Bed License; or Bed Capacity)), if the change is proposed at any time within one year after completion of the project. This section applies to proposed changes whether or not a capital expenditure is associated with the proposed change. For purposes of this section, a "change to a previously approved project" means:

(1) any change in the bed capacity or bed license of a facility as is described in commission Rules 507.11 and 507.9 (§507.11 of this title (relating to Bed Capacity) and §507.9 of this title (relating to Bed License)), or

(2) the addition or termination of a service as is described in commission Rule 507.3 (§507.3 of this title (relating to Services)).

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 27, 1984

TRD-844729

W. G. Kirklín
Chairman
Texas Health Facilities
Commission

Proposed date of adoption:

July 1, 1984

For further information, please call (512) 475-6940.



**Chapter 509. Application and Petition
Procedures**

**Subchapter A. Certificate of Need
Application Procedures**

25 TAC §§509.1, 509.3, 509.5, 509.7, 509.9,
509.11, 509.13, 509.15, 509.17, 509.19,
509.21, 509.23, 509.25, 509.27, 509.29,
509.31, 509.33, 509.35, 509.37, 509.39,
509.41, 509.43, 509.45, 509.47, 509.49,
509.51, 509.53, 509.55, 509.57, 509.59,
509.61, 509.63, 509.65, 509.67, 509.69,
509.71, 509.73, 509.75

(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 Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Health Facilities Commission proposes the repeal of §§509.1, 509.3, 509.5, 509.7, 509.9, 509.11, 509.13, 509.15, 509.17, 509.19, 509.21, 509.23, 509.25, 509.27, 509.29, 509.31, 509.33, 509.35, 509.37, 509.39, 509.41, 509.43, 509.45, 509.47, 509.49, 509.51, 509.53, 509.55, 509.57, 509.59, 509.61, 509.63, 509.65, 509.67, 509.69, 509.71, 509.73, and 509.75, concerning certificate of need application procedures. This repeal is necessary to adopt new rules which will delete all references to health systems agencies (HSAs) in recognition of the state's previous election, pursuant to the Public Health Service Act, § 1536, to terminate HSA operations, clarify existing operational practices, policies, and procedures, and provide procedural changes designed to promote increased efficiency, timeliness, and quality in the processing of the applications presented to the commission for determination.

The effect of the proposed repeal, if adopted, would be to allow the adoption of new rules which would advise potential applicants that HSA review is no longer required, shorten the time periods provided for publication of notice, contestation, and joinder of applications, provide a slightly larger "window" for scheduling applications, clarify the agency's regulatory requirements, and achieve greater efficiency in the agency's processing of applications.

Carol S. Daniels, deputy administrator, 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.

John R. Neel, general counsel, 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 adoption of new rules which will provide greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements, and to achieve more efficient and timely processing of applications submitted for review. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, 1600 West 38th Street, Jefferson Building, Austin, to receive either written or verbal comments on the proposal.

The repeal is proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

- §509.1. *A Request for Certificate of Need.*
- §509.3. *Pre-Application Reporting (Federally Reported).*
- §509.5. *Contents of Pre-Application Reports.*
- §509.7. *Pre-Application Reporting Schedule; Extension Request.*
- §509.9. *Failure to Submit Pre-Application Report.*
- §509.11. *Submission of Copy of Certificate of Need Application to HSA.*
- §509.13. *Submission of Related Documents to HSA.*
- §509.15. *Submission of Certificate of Need Application to Commission.*
- §509.17. *Form of Pre-Application Reports and Certificate of Need Application.*
- §509.19. *Certificate of Need Application Fees.*
- §509.21. *Review of the Application.*
- §509.23. *Failure to Comply With Certificate of Need Application Rules.*
- §509.25. *Incomplete Certificate of Need Application.*
- §509.27. *Conditional Acceptance of Certificate of Need Application.*
- §509.29. *Acceptance and Dating of Certificate of Need Application.*
- §509.31. *Hearing Scheduling Provisions.*
- §509.33. *Notification of Acceptance.*
- §509.35. *Form of Notice of Acceptance.*
- §509.37. *Public Notice of the Hearing.*
- §509.39. *Notice of Hearing—Project Description.*
- §509.41. *Time of Publication of Notice of Hearing.*
- §509.43. *Place of Publication of Notice of Hearing.*
- §509.45. *Submission of Proof of Published Notice.*
- §509.47. *Failure to Publish Notice of Hearing.*
- §509.49. *Failure to Submit Evidence of Publication to the Commission.*
- §509.51. *Effect of Withdrawal of Acceptance.*
- §509.53. *Republication—Postponed Hearing.*
- §509.55. *Amendment of Application.*
- §509.57. *Motion to Amend Application.*
- §509.59. *Contents of Motion to Amend Scope of Project.*
- §509.61. *Action on Motion to Amend Application.*
- §509.63. *Notice of Hearing on Amended Application.*
- §509.65. *Change or Alteration in Application Not Affecting Project Scope.*
- §509.67. *Withdrawal of Certificate of Need Application.*

- §509.69. *Suspension of Receipt of Certificate of Need Applications.*
- §509.71. *Reclassification of Application for Certificate of Need.*
- §509.73. *Joinder of Certificate of Need Applications*
- §509.75. *HMO Certificate of Need Applications.*

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 27, 1984.

TRD-844730 W. G. Kirklin
 Chairman
 Texas Health Facilities
 Commission

Proposed date of adoption
July 1, 1984

For further information, please call (512) 475-6940.

25 TAC §§509.1, 509.3, 509.5, 509.7, 509.9, 509.11, 509.13, 509.15, 509.17, 509.19, 509.21, 509.23, 509.25, 509.27, 509.29, 509.31, 509.33, 509.35, 509.37, 509.39, 509.41, 509.43, 509.45, 509.47, 509.49, 509.51, 509.53, 509.55, 509.57, 509.59, 509.61, 509.63, 509.65, 509.67, 509.69, 509.71

The Texas Health Facilities Commission proposes new §§509.1, 509.3, 509.5, 509.7, 509.9, 509.11, 509.13, 509.15, 509.17, 509.19, 509.21, 509.23, 509.25, 509.27, 509.29, 509.31, 509.33, 509.35, 509.37, 509.39, 509.41, 509.43, 509.45, 509.47, 509.49, 509.51, 509.53, 509.55, 509.57, 509.59, 509.61, 509.63, 509.65, 509.67, 509.69, and 509.71, concerning certificate of need application procedures.

These new rules are necessary to delete all references to health systems agencies (HSAs) in recognition of the state's previous election, pursuant to the Public Health Service Act, § 1536, to terminate HSA operations, to clarify existing operational practices, policies, and procedures, and to provide procedural changes designed to promote increased efficiency, timeliness, and quality in the processing of the applications presented to the commission for determination. The effect of the new rules, if adopted, would be to advise potential applicants that HSA review is no longer required, to shorten the time periods provided for publication of notice, contestation, and joinder of applications, to provide a slightly larger "window" for scheduling applications, and to clarify the agency's regulatory requirements and achieve greater efficiency in the agency's processing of applications.

Carol S. Daniels, deputy 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 or small businesses as a result of enforcing or administering the rules.

John R. Neel, general counsel, has determined that for each year of the first five years the rules as pro-

posed are in effect the public benefit anticipated as a result of enforcing the rules as proposed is greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements. The proposed rules will also provide for more efficient and timely processing of applications submitted for review, with a subsequent savings in time and cost to both applicants and the commission. 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 John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, 1600 West 38th Street, Jefferson Building, Austin, to receive either written or verbal comments on the proposal.

The new sections are proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§509.1. *A Request for Certificate of Need.* A person requesting a certificate of need must submit a written application to the commission pursuant to the rules in this subchapter. The application must be prepared in the correct form and contain the information required by commission rules. Before submitting a certificate of need application involving a construction or renovation project, a person must comply with the rules governing preapplication reporting in this subchapter.

§509.3. *Preapplication Reporting.* Potential applicants for a certificate of need involving a construction or renovation project shall submit a quarterly preapplication report (THFC Form 20) to the commission for each application to be presented for certificate of need review.

§509.5. *Contents of Preapplication Reports.* A potential applicant in presenting preapplication reports shall identify and describe the construction or renovation projects that will be presented to the commission for certificate of need review during the upcoming three-month period. The preapplication report must contain the information required by the commission.

§509.7. *Preapplication Reporting Schedule; Extension Request.*

(a) The quarterly preapplication reports shall be submitted to the commission according to the following schedule:

| Deadline for Preapplication Report | Certificate of Need Application Submission |
|---------------------------------------|---|
| December 1 | January 1—March 31 |
| March 1 | April 1—June 30 |
| June 1 | July 1—September 30 |
| September 1 | October 1—December 31 |

(b) Once filed, a preapplication report shall be automatically extended to the three subsequent and consecutive preapplication reporting periods. The chairman shall, upon written request by the applicant, apply a previously-filed preapplication report to the next four subsequent and consecutive reporting periods. A preapplication report is not required to be resubmitted subsequent to the filing of the certificate of need application.

§509.9. Failure to Submit Preapplication Report. The chairman shall reject a certificate of need application involving a construction or renovation project if a preapplication report has not been submitted or if the project differs materially from the project description in the preapplication report. The chairman may, upon a showing of good cause by the applicant, waive the preapplication reporting requirements in this subchapter. A waiver may be granted upon the filing of a written request to do so, and in cases where the application materially differs from an earlier submitted preapplication report, a detailed explanation of the differences and the reasons therefor must be submitted.

§509.11. Submission of Certificate of Need Application to Commission. The original and one copy of the certificate of need application must be submitted to the commission. Written material and pleadings relating to the certificate of need application subsequently filed with the commission must be submitted in duplicate. An application submitted to the commission shall be typewritten or printed. The impression shall be on one side of the paper only, and lines shall be doublespaced on all attachments. Exhibits attached to the application shall be of a size that, when folded and presented in final form, will not exceed a legal-sized document (8½ inches by 14 inches).

509.13. Form of Certificate of Need Application.

(a) An application for a certificate of need shall consist of an executed THFC Form 21. The application shall identify the scope of the project for which authorization is sought. For purposes of this rule, the scope includes the following, as applicable to the project: existing and proposed bed capacity and licensed beds; categories of beds and numbers of beds in a category; moveable and fixed equipment; services; gross area to be constructed and/or renovated; gross area to be purchased, leased, or donated; legal ownership; medical service area; project site; and project cost. Additionally, information shall be provided, as specified in Form 21, regarding the need for the proposed project. The commission shall treat a certificate of need application as a pleading and not as evidence unless stipulated to by the commission and all parties.

(b) A person submitting an application may designate another person to serve as the agent. In this event, the commission shall direct all application matters to the designated agent only. Should an applicant desire to change the agent, the applicant or the new agent of the applicant must notify the commission and any parties or interested persons, in writing.

(c) The commission may not require information of an applicant which is not prescribed in the Act, these rules, or the commission forms.

§509.15. Certificate of Need Application Fees. When submitted to the commission, an application for a cer-

tificate of need must be accompanied by the correct application fee, as set forth in commission Rule 511.3 (§511.3 of this title (relating to Certificate of Need Application Fee)).

§509.17. Initial Review of the Application. The commission shall review and acknowledge an application for a certificate of need within 10 working days after the date of its receipt. The commission will determine whether the application complies with the rules governing the preparation and submission of an application.

§509.19. Failure to Comply With Certificate of Need Application Rules. Failure to comply with the rules of preparation and submission of a certificate of need application in this subchapter shall constitute deficiencies and will result in a determination that the application is incomplete.

§509.21. Incomplete Certificate of Need Application. When it is determined that a certificate of need application is incomplete, the chairman may reject the application, notify the applicant in writing of the rejection of the application, and provide the applicant with a written list of deficiencies for correction. Failure of the applicant to submit corrections to the stated deficiencies within 60 days from the date of the letter of notification may result in the chairman's administrative withdrawal of the application and forfeiture of the application filing fee.

§509.23. Conditional Acceptance of Certificate of Need Application. The chairman may conditionally accept and date a certificate of need application with minor deficiencies and prescribe the conditions of the acceptance. Should deficiencies not be corrected as prescribed in the conditions of acceptance, the chairman may withdraw conditional acceptance and subject the application to a subsequent 10-workday review.

§509.25. Acceptance and Dating of Certificate of Need Application. When it is determined by the chairman that a certificate of need application is complete, the chairman shall accept and date the application and shall notify the applicant in writing of the acceptance of the application. Upon dating of a certificate of need application, the chairman shall schedule a hearing on the application.

§509.27. Hearing Scheduling Provisions. When an application for a certificate of need is accepted and dated, the chairman shall, unless otherwise provided in commission rules, schedule a hearing for a date not less than 65 days and no more than 95 days subsequent to the dating of the application. The chairman, on a showing of good cause by the applicant or party, may postpone the hearing on an accepted and dated certificate of need application for a reasonable period not to exceed 45 days from the original hearing date. The chairman may also, upon proper motion, reschedule a hearing on a certificate of need application by redating and reaccepting the original application. A hearing, in this event, shall be scheduled for a date not less than 65 days nor more than 95 days following the redating and reacceptance. When an application is redated and reaccepted, the commission shall not require an additional application filing fee.

§509.29. *Notification of Acceptance.* The chairman shall provide written notice of acceptance of a certificate of need application to the applicant by certified mail, return receipt requested. The chairman shall mail written notice of acceptance of a certificate of need application to health-care facilities in the health service area where the proposed project is to be developed, provided the health-care facilities make written requests to the commission for such information.

§509.31. *Form of Notice of Acceptance.* The notice of acceptance of a certificate of need application shall include the following:

- (1) the date on which the application was accepted and dated;
- (2) the date, time, and place of the scheduled hearing on the application;
- (3) a written notice of the hearing for publication in the newspaper;
- (4) the dates by which the notice of hearing must be published in the newspaper;
- (5) the location of the newspaper in which the notice of hearing is to be published; and
- (6) the date by which proof of publication of the notice of hearing must be submitted to the commission.

§509.33. *Public Notice of the Hearing.* The applicant shall cause the public notice of hearing to be published once in each designated place of publication and shall be responsible for the cost of publication.

§509.35. *Notice of Hearing—Project Description.*

(a) The commission shall compose the project description in a notice of hearing from information contained in the application. The applicant shall have the ultimate responsibility of insuring that the notice of hearing is published in the manner prescribed by the commission, and that the project description in the notice of hearing completely and accurately describes the project.

(b) When an application involves new construction, new services, change in bed capacity, change in bed license, or relocation of beds affecting a public or private hospital, ambulatory surgical facility, kidney disease (ESRD) treatment facility, RHI clinic, UHI clinic, or family planning clinic which performs ambulatory surgical procedures, the commission shall require publication of notice in both English and Spanish under the following circumstances:

- (1) when 20% or more of the public in the health service area in which the project is to be located are members of a Spanish-speaking minority group, or
- (2) where the project is located within the boundaries of a city having a population of greater than 50,000 persons.

§509.37. *Time of Publication of Notice of Hearing.* When an application is accepted and dated, the chairman shall forward the public notice of hearing to the applicant. The applicant shall cause the notice of hearing to be published on a date not less than 10 days nor more than 20 days after said application has been dated.

§509.39. *Place of Publication of Notice of Hearing.* The applicant shall publish the public notice of hearing as specified by the commission in at least one newspaper of general circulation in the locality within

which the proposed service or facility would be developed. The chairman shall determine which newspapers are newspapers of general circulation.

§509.41. *Submission of Proof of Published Notice.* The applicant must, by 5 p.m. on the 28th day after the certificate of need application is accepted and dated, furnish by certified or express mail to the commission two copies of the entire newspaper page(s) upon which the public notice of hearing is published or republished.

§509.43. *Failure to Publish Notice of Hearing.* The chairman may cancel a hearing on an accepted certificate of need application and withdraw acceptance thereof for failure of the applicant to publish the notice of hearing within the time and in the manner specified in the notice of acceptance.

§509.45. *Failure to Submit Evidence of Publication to the Commission.* The chairman may cancel a hearing on an accepted certificate of need application and withdraw acceptance thereof for failure of the applicant to submit two copies of the entire newspaper page(s) upon which the notice of hearing is published, by 5 p.m. on the 28th day after a certificate of need application is accepted and dated.

§509.47. *Effect of Withdrawal of Acceptance.* When acceptance of an application has been withdrawn pursuant to this subchapter, the chairman shall cause the application to be redated and reaccepted.

§509.49. *Republication—Postponed Hearing.* When a hearing is postponed, the chairman may require the applicant to publish notice of the postponement at the time and in the manner prescribed by the chairman.

§509.51. *Amendment of Application.* An applicant may amend an accepted and dated certificate of need application to alter or change the scope of the project as proposed in the original application. For purposes of this rule, an alteration or change in the scope of the project includes, but is not limited to, an increase, decrease, or change in one or more of the following:

- (1) bed capacity or licensed beds;
- (2) categories of beds;
- (3) number of beds in a category;
- (4) project cost;
- (5) moveable or fixed equipment;
- (6) services;
- (7) medical service area;
- (8) gross area to be constructed or renovated;
- (9) gross area to be purchased, leased, or donated;
- (10) the location of a project, except that minor location changes shall not be considered to be an alteration or change in the scope of the project; or
- (11) legal ownership

§509.53. *Motion to Amend Application.* An applicant may request amendment of an accepted and dated certificate of need application to alter or change the scope of the project proposed in the original application by filing a motion to amend the application. The motion to amend must be written or dictated into the record. Upon submitting a prehearing motion to amend the application to

the commission, the applicant must submit a copy of the motion to amend to the parties and interested persons.

§509.55. Contents of Motion to Amend Application. The motion to amend must include:

- (1) a request to amend the application;
- (2) a description of the changes to be made in the project;
- (3) a statement of the reasons for the changes in the project and, as applicable, reasons for requesting continued processing of the amended application with no postponement or redating;
- (4) a waiver of the application scheduling requirements of the Act and the rules;
- (5) an affirmation that a copy of the motion has been submitted to the parties and interested persons, reflecting the date of service;
- (6) revised THFC Form 21 and appropriate supplements which present information relevant to the proposed amendment; and
- (7) any additional filing fee resulting from an increase in the project cost.

§509.57. Action on Motion to Amend Application.

(a) Upon receipt of the motion to amend, the commission shall conduct a review of the motion and related documents. When the motion to amend is determined to be complete, the chairman, or hearing officer if the motion is presented during the course of the hearing, shall consider the motion to amend.

(b) In reviewing a motion to amend, the following shall be considered:

- (1) the nature and magnitude of the proposed amendments to the application;
- (2) the reasons for amendment of the application;
- (3) the status of the original application in the certificate of need review process;
- (4) responses of other parties to the proposed amendments to the application, if any; and
- (5) the effect, if any, on all other parties and the commission.

(c) On granting a motion to amend a certificate of need application,

- (1) the chairman may:
 - (A) redate and reaccept the application, reschedule the hearing on the application as amended, and, if applicable, sever the application from any other joined applications; or
 - (B) postpone the hearing on the application; or
 - (C) order the hearing to proceed as scheduled;
- or
- (D) schedule a reopened hearing on the application as amended; or
- (E) order the submission of additional information; or
- (F) schedule the application as amended for hearing or for consideration at a commission open meeting.

- (2) the hearing officer may:
 - (A) continue the hearing on the application; or
 - (B) recess the hearing on the application; or
 - (C) order the submission of additional information; or

(D) submit the motion to the chairman for action pursuant to paragraph (c)(1) of this section, with a recommendation whether the amended application should be redated, rescheduled, and, if applicable, severed.

§509.59. Notice of Hearing on Amended Application. When the chairman acts on a motion to amend an application and establishes a new hearing date, the applicant shall publish a public notice of hearing as prescribed by the chairman.

§509.61. Change or Alteration in Application Not Affecting Project Scope. An applicant may alter or change information or data contained in the application provided that the scope of the project is not altered. The chairman, or hearing officer during the course of the hearing, shall determine whether such change or alteration of information and data results in a change or alteration in the scope of the project.

§509.63. Withdrawal of Certificate of Need Application. An application may be withdrawn by filing a written request with the commission. Withdrawal of the application shall be acknowledged by the chairman.

§509.65. Suspension of Receipt of Certificate of Need Applications. The chairman may suspend the receipt of certificate of need applications for a specified period for the orderly processing of applications. Applications submitted during a suspension period will be held without action. After the suspension period ends, applications will be processed in order of receipt beginning with the next available 10-workday period.

§509.67. Reclassification of Application for Certificate of Need. When it is determined by the chairman or his designee that an application is eligible for either a declaratory ruling or some other appropriate action, the chairman or his designee may reclassify the certificate of need application as a request for a declaratory ruling or other appropriate action.

§509.69. Joinder of Certificate of Need Applications.

(a) The chairman shall order the joinder of an accepted and dated (or conditionally accepted and dated) certificate of need application (hereinafter referred to as the first application) with one or more subsequently dated and accepted (or conditionally dated and accepted) certificate of need applications (hereinafter referred to as subsequent applications) when:

(1) the first and subsequent applications involve similar project descriptions in the same medical service area or overlapping medical service areas; and

(2) the subsequent applications are accepted and dated within 30 days of the acceptance and dating of the first application.

(b) The 30-day joinder period begins with the dating and acceptance of the first application. Only during this period of 30 days may subsequent applications be joined with the first application. Following joinder of the first application and subsequent applications under this rule, the chairman shall not consider any of the subsequent applications as a first application for purposes of additional joinder.

(c) The chairman, in ordering the joinder, shall redate and reaccept the prior application(s) and reschedule

the hearing in order that one hearing may be scheduled on all joined applications. In joined applications, each applicant is admitted automatically as a party to all other joined applications.

(d) The chairman shall require the subsequent applicant(s) to publish a notice of hearing on the joined applications. The subsequent applicant(s) shall publish the notice of hearing in the manner and in the location specified by the chairman

(e) When the chairman determines that certificate of need applications will be joined, he shall provide written notice of the joinder to the applicants, parties, and interested persons

§509.71. HMO Certificate of Need Applications.

(a) When an application involving an HMO is dated and accepted by the commission, the commission shall immediately forward a copy of the application to the commissioner of insurance.

(b) The commissioner of insurance may review a certificate of need application involving an HMO and provide written comments on the application to the commission.

(c) The commission will give consideration to the comments prior to ruling on the application, provided that the written comments, if any, from the commissioner of insurance are received by the commission not later than the 30th day after the dating and acceptance of the application.

(d) The filing of timely written comments by the commissioner of insurance shall be considered to confer, automatically, formal party status on the commissioner of insurance.

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 27, 1984.

TRD-844731 W G Kirklın
 Chairman
 Texas Health Facilities
 Commission

Proposed date of adoption.

July 1, 1984

For further information, please call (512) 475-6940.

**Subchapter B. Petition Procedures for
Reissuance of Certificate of Need**

25 TAC §§509.81, 509.83, 509.85

(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 Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Health Facilities Commission proposes the repeal of §§509.81, 509.83, and 509.85, concerning petition procedures for reissuance of certificate of need.

This repeal is necessary to adopt new sections which will delete all references to health systems agencies (HSAs) in recognition of the state's previous election, pursuant to the Public Health Service Act, §1536, to terminate HSA operations; clarify existing operational practices, policies, and procedures; and provide procedural changes designed to promote increased efficiency, timeliness, and quality in the processing of the applications presented to the commission for de termination. The effect of the proposed repeal would be to allow the adoption of new sections which would advise potential applicants that HSA review is no longer required, shorten the time allowed for filing a contestation of a petition for reissuance, clarify the agency's regulatory requirements, and achieve greater efficiency in the agency's processing of applications

Carol S. Daniels, deputy administrator, 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.

John R. Neel, general counsel, has determined that for each year of the first five years the repeal as proposed is in effect the public benefit anticipated as a result of the repeal is the adoption of new sections which will provide greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements, and to achieve more efficient and timely processing of applications submitted for review. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, 1600 West 38th Street, Jefferson Building, Austin, to receive either written or verbal comments on the proposal.

The repeal is proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§509.81. Petition for Reissuance of Certificate of Need.

§509.83. Commission Review of Petition.

§509.85. Form of Petition.

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 27, 1984.

TRD-844732 W. G. Kirklın
 Chairman
 Texas Health Facilities
 Commission

Proposed date of adoption

July 1, 1984

For further information, please call (512) 475-6940.

The Texas Health Facilities Commission proposes new §§509.81, 509.83, and 509.85, concerning petition procedures for reissuance of certificate of need. These new rules are necessary to delete all references to health systems agencies (HSAs) in recognition of the state's previous election, pursuant to the Public Health Service Act, § 1536, to terminate HSA operations; to clarify existing operational practices, policies, and procedures; and to provide procedural changes designed to promote increased efficiency, timeliness, and quality in the processing of the applications presented to the commission for determination. The effect of the new rules, if adopted, would be to advise potential applicants that HSA review is no longer required, to shorten the time allowed for filing a contestation of a petition for reissuance, and to clarify the agency's regulatory requirements and achieve greater efficiency in the agency's processing of applications.

Carol S. Daniels, deputy administrator, has determined that there will not be fiscal implications for state or local governments or small businesses as a result of enforcing or administering the rules.

John R. Neel, general counsel, 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 greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements. The proposed rules will also provide for more efficient and timely processing of applications submitted for review, with a subsequent savings in time and cost to both applicants and the commission. 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 John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, 1600 West 38th Street, Jefferson Building, Austin, to receive either written or verbal comments on the proposal.

The new rules are proposed under Texas Civil Statutes, Article 4418h, § 2 06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§509.81. *Petition for Reissuance of Certificate of Need.* A former certificate holder may petition the commission for reissuance of a certificate of need which has been automatically forfeited, pursuant to rules of the commission and the Act, §3.13(b)(1), not later than 30 days after forfeiture. A petition for reissuance received prior to automatic forfeiture will not be accepted or acted on until after automatic forfeiture occurs. If the petition for reissuance of the certificate of need is received by the commission prior to the date of automatic forfei-

ture, the petition will be considered to be received on the date of automatic forfeiture.

§509.83. *Form of Petition.* A petition for reissuance of a certificate of need shall consist of THFC Form 26, the correct fee as set forth in commission Rule 511.7' (§511.7 of this title (relating to Other Application or Petition Fees)), and a petition addressing each of the criteria for reissuance of a certificate of need set forth in commission Rule 513.53 (§513.53 of this title (relating to Criteria for Reissuance)).

§509.85. *Commission Review of Petition.* Upon receipt and acceptance of a petition for reissuance of a certificate of need, the commission shall cause notice of the petition to be published in the *Texas Register*. Any person may become a party to the petition by filing a proper request no later than 10 days after publication of notice. The commission shall conduct a hearing on a petition for reissuance unless the hearing is waived pursuant to commission rules. The commission shall provide the applicant and any parties with written notice of the hearing at least 10 days prior to the hearing. A petition for reissuance will be reviewed by a hearing officer of the commission. The hearing officer shall make a recommendation to the commission concerning approval or disapproval of the petition. The commission shall approve or disapprove the petition in writing not later than 60 days after the date of receipt of the petition, unless a later date is agreed upon by the applicant, parties, and the commission.

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

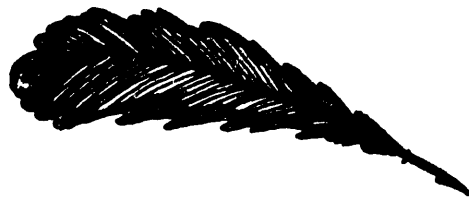
Issued in Austin, Texas, on April 27, 1984.

TRD-844733

W G Kirklin
Chairman
Texas Health Facilities
Commission

Proposed date of adoption
July 1, 1984

For further information, please call (512) 475-6940.



Subchapter C. Declaratory Ruling Application Procedures

**25 TAC §§509.91, 509.93, 509.95, 509.97,
509.99, 509.101, 509.103, 509.105,
509.107**

(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 Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Health Facilities Commission proposes the repeal of §§509.91, 509.93, 509.95, 509.97, 509.99, 509.101, 509.103, 509.105, and 509.107, concerning declaratory ruling application procedures. This repeal is necessary to adopt new rules which will delete all references to health systems agencies (HSAs) in recognition of the state's previous election, pursuant to the Public Health Service Act, § 1536, to terminate HSA operations; clarify existing operational practices, policies, and procedures; and provide procedural changes designed to promote increased efficiency, timeliness, and quality in the processing of the applications presented to the commission for determination

The effect of the proposed repeal would be to allow the adoption of new sections which would advise potential applicants that HSA review is no longer required, shorten the time allowed for filing a contestation of a declaratory ruling application, clarify the agency's regulatory requirements, and achieve greater efficiency in the agency's processing of applications.

Carol S. Daniels, deputy administrator, 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

John R. Neel, general counsel, 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 adoption of new sections which will provide greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements, and to achieve more efficient and timely processing of applications submitted for review. There is no anticipated economic cost to individuals as a result of the repeal

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, 1600 West 38th Street, Jefferson Building, Suite 305, Austin, to receive either written or verbal comments on the proposal.

The repeal is proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

- §509.91. *Requirement for Certificate of Need.*
- §509.93. *Request for Declaratory Ruling.*
- §509.95. *Review of Declaratory Ruling Applications.*
- §509.97. *Administrative Withdrawal of Declaratory Ruling Applications.*
- §509.99. *Notice of Accepted Application.*
- §509.101. *Amendment of Declaratory Ruling Application.*

§509.103. *Withdrawal of Declaratory Ruling Application*

§509.105. *Suspension of Receipt of Declaratory Ruling Applications.*

§509.107. *Declaratory Ruling Hearing.*

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 27, 1984.

RD-844734 W G Kirklin
Chairman
Texas Health Facilities
Commission

Proposed date of adoption
July 1, 1984

For further information, please call (512) 475-6940.

The Texas Health Facilities Commission proposes new §§509.91, 509.93, 509.95, 509.97, 509.99, 509.101, 509.103, 509.105, and 509.107, concerning declaratory ruling application procedures. These new rules are necessary to delete all references to health systems agencies (HSAs) in recognition of the state's previous election, pursuant to the Public Health Service Act, § 1536, to terminate HSA operations, to clarify existing operational practices, policies, and procedures, and to provide procedural changes designed to promote increased efficiency, timeliness, and quality in the processing of the applications presented to the commission for determination. The effect of the new rules, if adopted, would be to advise potential applicants that HSA review is no longer required, to shorten the time allowed for filing a contestation of a declaratory ruling application, and to clarify the agency's regulatory requirements and achieve greater efficiency in the agency's processing of applications.

Carol S. Daniels, deputy administrator, has determined that there will not be fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

John R. Neel, general counsel, 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 greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements. The proposed rules will also provide for more efficient and timely processing of applications submitted for review, with a subsequent savings in time and cost to both applicants and the commission. 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 John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning

at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, 1600 West 38th Street, Jefferson Building, Austin, to receive either written or verbal comments on the proposal.

The new sections are proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§509.91. Requirement for Certificate of Need. The commission may, on the application of a person sufficiently describing a proposed project, issue a declaratory ruling stating whether the Act requires a person to obtain a certificate of need to develop the project described. A declaratory ruling issued under the provisions of this subchapter is limited in scope and purpose to the persons and project described in the declaratory ruling.

§509.93. Request for Declaratory Ruling. A person requesting a declaratory ruling must submit a written application to the commission which shall be treated as a pleading. The application must be prepared in the correct form and contain the information required by the commission. A person requesting a declaratory ruling must submit executed THFC Form 23, appropriate supporting documentation, and the correct application fee to the commission as set forth in commission Rule 511.7. (§511.7 of this title (relating to Other Application or Petition Fees)).

§509.95. Review of Declaratory Ruling Applications. Upon receipt of an application for a declaratory ruling, the chairman shall determine whether said application is complete and in compliance with the commission rules. When the chairman determines that the declaratory ruling application is complete and in compliance with commission rules, the chairman shall accept the application. The acceptance shall be considered to be the date of publication of notice in the *Texas Register* (see §509.99 of this title (relating to Notice of Accepted Application)). When the chairman determines that an application for declaratory ruling is incomplete or not in compliance with the commission rules, the chairman shall find the application deficient. The commission shall notify the applicant in writing of the acceptance or deficient status of the application.

§509.97. Administrative Withdrawal of Declaratory Ruling Applications. The applicant must submit corrections of deficiencies within 60 days from the date of written notice of deficiency. The chairman may administratively withdraw an application for declaratory ruling for failure of an applicant to submit corrections of deficiencies within 60 days of the date of written notice of deficiency.

§509.99. Notice of Accepted Application. The commission shall publish in the *Texas Register* a notice of accepted declaratory ruling applications. The notice shall state the name of the facility, city or county in which the project is to be located, the relief sought by the applicant, a general description of the proposed project, and a statement that any person may become a party to the ap-

plication by filing a proper request no later than 10 days after the publication of notice.

§509.101. Amendment of Declaratory Ruling Application. An applicant may amend a declaratory ruling application before a final decision has been rendered by the commission. The chairman shall require publication of notice in the *Texas Register* of amended applications for a declaratory ruling.

§509.103. Withdrawal of Declaratory Ruling Application. An application for a declaratory ruling may be withdrawn by the filing of a written request with the chairman. Withdrawal of the application shall be acknowledged by the chairman.

§509.105. Suspension of Receipt of Declaratory Ruling Applications. The chairman may suspend receipt of declaratory ruling applications for a specified period for the orderly processing of applications. Applications submitted during a period when application processing is suspended will be held without action. After the suspension period ends, applications will be processed in order of receipt.

§509.107. Declaratory Ruling Hearing. The commission shall conduct a hearing on a declaratory ruling application unless the hearing is waived pursuant to commission rules. The commission shall provide the applicant and parties with written notice of the hearing at least 10 days prior to the hearing.

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 27, 1984.

TRD-844735 W G Kirklín
 Chairman
 Texas Health Facilities
 Commission

Proposed date of adoption
July 1, 1984

For further information, please call (512) 475-6940.

Subchapter D. Application Procedures for Amendment of Previously Issued Commission Order

25 TAC §§509.121, 509.123, 509.125

(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 Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Health Facilities Commission proposes the repeal of §§509.121, 509.123, and 509.125, concerning application procedures for amendment of a previously issued commission order. This repeal is necessary to adopt new rules which will delete all references to health systems agencies (HSAs) in rec-

ognition of the state's previous election, pursuant to the Public Health Service Act, §1536, to terminate HSA operations; clarify existing operational practices, policies, and procedures; and provide procedural changes designed to promote increased efficiency, timeliness, and quality in the processing of the applications presented to the commission for determination. The effect of the proposed repeal, if adopted, would be to allow the adoption of new rules which would advise potential applicants that HSA review is no longer required, shorten the time for contestation of an amendment application, clarify the agency's regulatory requirements, and achieve greater efficiency in the agency's processing of applications.

Carol S. Daniels, deputy administrator, 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.

John R. Neel, general counsel, has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal is the adoption of new rules which will provide greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements, and to achieve more efficient and timely processing of applications submitted for review. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, Jefferson Building, 1600 West 38th Street, Austin, to receive either written or verbal comments on the proposal.

The repeal is proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§509.121 *Amendment of Previously Issued Commission Order.*

§509.123. *Application Forms for Amendment of a Previously Issued Commission Order.*

§509.125. *Review Procedures*

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 27, 1984.

TRD-844736 W. G. Kirklin
 Chairman
 Texas Health Facilities
 Commission

Proposed date of adoption
July 1, 1984

For further information, please call (512) 475-6940.

The Texas Health Facilities Commission proposes new §§509.121, 509.123, and 509.125, concerning application procedures for amendment of a previously issued commission order. These new rules are necessary to delete all references to health systems agencies (HSAs) in recognition of the state's previous election, pursuant to the Public Health Service Act, §1536, to terminate HSA operations; to clarify existing operational practices, policies, and procedures; and to provide procedural changes designed to promote increased efficiency, timeliness, and quality in the processing of the applications presented to the commission for determination. The effect of the new rules, if adopted, would be to advise potential applicants that HSA review is no longer required, to shorten the time allowed for a contestation of an amendment application, and to clarify the agency's regulatory requirements and achieve greater efficiency in the agency's processing of applications.

Carol S. Daniels, deputy 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 or small businesses as a result of enforcing or administering the rules.

John R. Neel, general counsel, 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 greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements. The proposed rules will also provide for more efficient and timely processing of applications submitted for review, with a subsequent savings in time and cost to both applicants and the commission. 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 John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, Jefferson Building, 1600 West 38th Street, Austin, to receive either written or verbal comments on the proposal.

The new sections are proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§509.121. *Amendment of Previously Issued Commission Order.* A certificate holder may request the commission to amend a finding of fact or condition contained in a previously issued commission order that is administratively final. The commission may grant such a request upon a showing of good cause by the certificate holder, provided the requested amendment does not include:

(1) an increase in bed capacity or licensed beds;

- (2) an addition of a category or categories of beds;
- (3) an increase in the number of beds in a category;
- (4) an increase in the quantity of fixed or moveable equipment that is not necessitated by licensing, certification, accreditation, or safety requirements imposed by law;
- (5) the addition of a service;
- (6) a change in the location of the approved project which would substantially alter the previously established medical service area;
- (7) an increase in the gross area of the approved project in excess of 20,000 square feet or 20% of the gross area originally authorized, whichever is less, or
- (8) an increase in the total project cost which exceeds \$5 million or 20% of the total project cost originally authorized, whichever is less.

§509.123. Application Forms for Amendment of a Previously Issued Commission Order. The certificate holder may request an amendment of a previously issued commission order by filing THFC Form 25 and the correct application fee(s) as set forth in commission Rule 511.5 (§511.5 of this title (relating to Fee for Amendment of Certificate of Need Order)). The application should include appropriate documentation explaining the amendment and reasons for amendment of the order.

§509.125. Review Procedures. The commission, in reviewing an application for an amendment of a previously issued commission order, shall follow the procedures set forth in commission rules for public notice, hearings, and review prescribed for applications for declaratory rulings in Subchapter C of Chapter 509 of this title (relating to Declaratory Ruling Application Procedures). In reviewing the application, the commission shall determine whether or not good cause exists to amend the order in question.

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 27, 1984

TRD-844737 W G Kirklín
 Chairman
 Texas Health Facilities
 Commission

Proposed date of adoption
July 1, 1984

For further information, please call (512) 475-6940

**Subchapter E. Application Procedures—
Notice of Intent to Acquire Major
Medical Equipment**

25 TAC §§509.131, 509.133, 509.135

(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be ex-

amined in the offices of the Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Health Facilities Commission proposes the repeal of §§509.131, 509.133, and 509.135, concerning application procedures— notices of intent to acquire major medical equipment. This repeal is necessary to adopt new sections which will delete all references to health systems agencies (HSAs) in recognition of the state's previous election, pursuant to the Public Health Service Act, §1536, to terminate HSA operations. The effect of the proposed repeal would be to allow the adoption of new sections which would advise potential applicants that HSA review is no longer required.

Carol S. Daniels, deputy administrator, 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.

John R. Neel, general counsel, 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 adoption of new sections which will provide greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p m on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a m. on June 22, 1984, in the offices of the commission, Suite 305, 1600 West 38th Street, Jefferson Building, Austin, Texas, to receive either written or verbal comments on the proposal.

The repeal is proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§509.131. Notices of Intent to Acquire Major Medical Equipment

§509.133. Forms for Notice of Intent to Acquire Major Medical Equipment

§509.135. Commission Review Procedures.

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 27, 1984

TRD-844738 W G Kirklín
 Chairman
 Texas Health Facilities
 Commission

Proposed date of adoption
July 1, 1984

For further information, please call (512) 475-6940.

The Texas Health Facilities Commission proposes new §§509.131, 509.133, and 509.135, concerning application procedures and notices of intent to acquire major medical equipment. These new rules are necessary to delete all references to health systems agencies (HSAs) in recognition of the state's previous election, pursuant to the Public Health Service Act, §1536, to terminate HSA operations. The effect of the new rules, if adopted, would be to advise potential applicants that HSA review is no longer required.

Carol S. Daniels, deputy administrator, has determined that there will be no fiscal implications to state or local government or small businesses as a result of enforcing or administering the rules.

John R. Neel, general counsel, 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 greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements. 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 John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, Jefferson Building, 1600 West 38th Street, Austin, to receive either written or verbal comments on the proposal.

The new sections are proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§509.131. Notices of Intent to Acquire Major Medical Equipment. A person must file with the commission, at least 60 days prior to acquiring major medical equipment that will not be owned by or located in a health-care facility, a notice of intent to acquire major medical equipment. The notice of intent to acquire major medical equipment shall be treated as an application. The commission shall, within 30 days after the acceptance of a notice of intent to acquire major medical equipment, issue an order stating whether the proposed acquisition requires certificate of need review or is exempt from certificate of need review. Certificate of need review is required only in those instances where:

- (1) the person fails to comply with the notice of intent procedures prescribed in this subchapter; or
- (2) the commission finds that the equipment would be used to provide services for inpatients of a health-care facility on other than a temporary basis. For purposes of this rule, temporary basis means the short-term provision of services in order to address natural disasters, major accidents, and facility equipment failure.

§509.133. Forms for Notice of Intent to Acquire Major Medical Equipment. A person, in order to secure a rul-

ing from the commission as to whether the acquisition of major medical equipment not to be owned by or located in a health-care facility requires certificate of need review, must file THFC Form 28 and the correct application fee as set forth in commission Rule 511.7 (§511.7 of this title (relating to Other Application or Petition Fees)).

§509.135. Commission Review Procedures. The commission, in reviewing a notice of intent to acquire major medical equipment, shall follow the procedures set forth in commission rules for public notice, hearings, and review prescribed for applications for declaratory rulings.

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 27, 1984.

TRD-844739 W. G. Kirklin
Chairman
Texas Health Facilities
Commission

Proposed date of adoption
July 1, 1984

For further information, please call (512) 475-6940.

Subchapter F. Application Procedures— Notices of Intent to Acquire an Existing Health-Care Facility

25 TAC §§509.141, 509.143, 509.145

(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 Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Health Facilities Commission proposes the repeal of §§509.141, 509.143, and 509.145, concerning application procedures and notices of intent to acquire an existing health-care facility.

This repeal is necessary to adopt new rules which will delete all references to health systems agencies (HSAs) in recognition of the state's previous election, pursuant to the Public Health Service Act, §1536, to terminate HSA operations and clarify existing operational practices, policies, and procedures. The effect of the proposed repeal would be to allow the adoption of new sections which would achieve conformity and consistency between federal/state law and state certificate of need requirements and advise potential applicants that HSA review is no longer required.

Carol S. Daniels, deputy administrator, 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.

John R. Neel, general counsel, has determined that for each year of the first five years the repeal as

proposed is in effect the public benefit anticipated as a result of the repeal is the adoption of new sections which will provide greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, 1600 West 38th Street, Jefferson Building, Austin, to receive either written or verbal comments on the proposal.

The repeal is proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§509.141. *Notices of Intent to Acquire an Existing Health-Care Facility.*

§509.143. *Forms for Notice of Intent to Acquire an Existing Health-Care Facility.*

§509.145. *Commission Review Procedures.*

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 27, 1984

TRD-844740 W. G. Kirklin
 Chairman
 Texas Health Facilities
 Commission

Proposed date of adoption:
July 1, 1984

For further information, please call (512) 475-6940.

The Texas Health Facilities Commission proposes new §§509.141, 509.143, and 509.145, concerning application procedures and notices of intent to acquire an existing health-care facility. These new rules are necessary to delete all references to health systems agencies (HSAs) in recognition of the state's previous election, pursuant to the Public Health Service Act, §1536, to terminate HSA operations, and to clarify existing operational practices, policies, and procedures. The effect of the new rules, if adopted, would be to achieve conformity and consistency between federal/state law and state certificate of need requirements and to advise potential applicants that HSA review is no longer required.

Carol S. Daniels, deputy 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 or small businesses as a result of enforcing or administering the rules.

John R. Neel, general counsel, 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 greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements. 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 John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, Jefferson Building, 1600 West 38th Street, Austin, to receive either written or verbal comments on the proposal.

The new sections are proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§509.141. *Notices of Intent to Acquire an Existing Health-Care Facility.*

(a) A person must file with the commission, at least 60 days prior to obligating a capital expenditure (in any amount) to acquire an existing health-care facility, a notice of intent to acquire an existing health-care facility. The notice of intent to acquire an existing health-care facility shall be treated as an application. The commission shall, within 30 days after the acceptance of a notice of intent to acquire an existing health-care facility, issue an order stating whether the proposed acquisition requires certificate of need review or is exempt from certificate of need review. Certificate of need review is required only in those instances where:

- (1) the person fails to comply with the notice of intent procedures prescribed in this subchapter; or
- (2) the commission finds that the bed capacity, bed license, or services (as those terms are defined in commission Rules 507.11, 507.9, and 507.3 (§§507.11, 507.9, and 507.3 of this title (relating to Bed Capacity; Bed License; and Services))) of the existing facility would be changed in being acquired.

(b) For purposes of this rule, the phrase "acquire an existing health-care facility" means the acquisition of a 50% or more ownership or leasehold interest.

§509.143. *Forms for Notice of Intent to Acquire an Existing Health-Care Facility.* A person, in order to secure a ruling from the commission as to whether the acquisition of an existing health-care facility requires certificate of need review, must file THFC Form 29 and the correct application fee as set forth in commission Rule 511.7 (§511.7 of this title (relating to Other Application or Petition Fees)).

§509.145. *Commission Review Procedures* The commission, in reviewing a notice of intent to acquire an existing health-care facility, shall follow the procedures set

forth in commission rules for public notice, hearings, and review prescribed for applications for declaratory rulings.

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 27, 1984.

TRD-844741 W. G. Kirklin
 Chairman
 Texas Health Facilities
 Commission

Proposed date of adoption:
July 1, 1984

For further information, please call (512) 475-6940.

Subchapter G. Application Procedures— Notices of Intent Regarding Research Projects

25 TAC §§509.151, 509.153, 509.155

(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 Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Health Facilities Commission proposes the repeal of §§509.151, 509.153, and 509.155, concerning application procedures and notices of intent regarding research projects.

This repeal is necessary to adopt new rules which will delete all references to health systems agencies (HSAs) in recognition of the state's previous election, pursuant to the Public Health Service Act, § 1536, to terminate HSA operations. The effect of the proposed repeal would be to allow the adoption of new sections which would advise potential applicants that HSA review is no longer required.

Carol S. Daniels, deputy administrator, 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.

John R. Neel, general counsel, has determined that for each year of the first five years the repeal as proposed is in effect the public benefit anticipated as a result of the repeal is the adoption of new sections which will provide greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the com-

mission, Suite 305, 1600 West 38th Street, Jefferson Building, Austin, to receive either written or verbal comments on the proposal.

The repeal is proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt sections determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§509.151. *Notice of Intent Regarding a Research Project*

§509.153. *Forms for Notices of Intent Regarding Research Projects.*

§509.155. *Commission Review Procedures.*

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 27, 1984

TRD-844742 W. G. Kirklin
 Chairman
 Texas Health Facilities
 Commission

Proposed date of adoption:
July 1, 1984

For further information, please call (512) 475-6940.

The Texas Health Facilities Commission proposes new §§509.151, 509.153, and 509.155, concerning application procedures and notices of intent regarding research projects. These new rules are necessary to delete all references to health systems agencies (HSAs) in recognition of the state's previous election, pursuant to the Public Health Service Act, § 1536, to terminate HSA operations. The effect of the new rules, if adopted, would be to advise potential applicants that HSA review is no longer required.

Carol S. Daniels, deputy administrator, has determined that there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rules.

John R. Neel, general counsel, 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 greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements. 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 John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, Jefferson Building, 1600 West 38th Street, Austin, to receive either written or verbal comments on the proposal.

The new sections are proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Tex-

as Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§509.151. Notice of Intent Regarding a Research Project. A person must file with the commission a notice of intent regarding a research project at least 60 days prior to obligating (solely for research purposes) a capital expenditure which exceeds the expenditure minimum, acquiring major medical equipment which is to be utilized solely for research, or offering a new service which is provided solely for research. The notice of intent regarding a research project shall be treated as an application. The commission shall, within 30 days after the acceptance of a notice of intent regarding a research project, issue an order stating whether the proposed obligation, acquisition, or offering requires certificate of need review or is exempt from certificate of need review. Certificate of need review is required only in those instances where:

(1) the person fails to comply with the notice of intent procedures prescribed in this subchapter; or

(2) the commission finds that the obligation, acquisition, or offering will:

(A) affect the charges of the facility for the provision of medical or other patient care services, other than the services which are included in the research project;

(B) change the bed capacity or bed license of the facility (as defined in commission Rules 507.11 and 507.9 (§507.11 and §507.9 of this title (relating to Bed Capacity; and Bed License))); or

(C) change the services, other than the service to be offered for research purposes, offered at the facility (as defined in commission Rule 507.3 (§507.3 of this title (relating to Services))).

§509.153. Forms for Notices of Intent Regarding Research Projects. A person, in order to secure a ruling from the commission as to whether an obligation, acquisition, or offering for research purposes requires certificate of need review, must file THFC Form 30 and the correct application fee as set forth in commission Rule 511.7 (§511.7 of this title (relating to Other Application or Petition Fees)).

§509.155 Commission Review Procedures. The commission, in reviewing a notice of intent regarding a research project, shall follow the procedures set forth in commission rules for public notice, hearings, and review prescribed for applications for declaratory rulings.

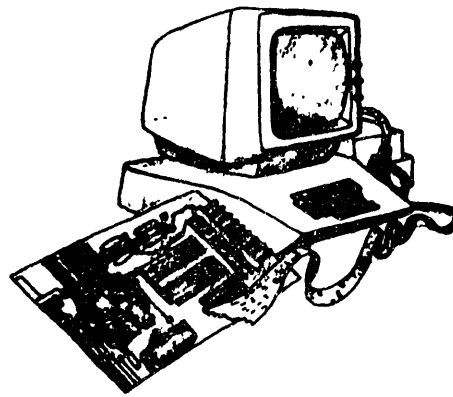
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 27, 1984

TRD-844743 W G Kirklin
 Chairman
 Texas Health Facilities
 Commission

Proposed date of adoption.
July 1, 1984

For further information, please call (512) 475-6940.



Subchapter H. Application Procedures— Exemptions for HMO-Related Projects

25 TAC §§509.161, 509.163, 509.165

(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 Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Health Facilities Commission proposes the repeal of §§509.161, 509.163, and 509.165, concerning application procedures and exemptions for HMO-related projects. This repeal is necessary to adopt new rules which will delete all references to health systems agencies (HSAs) in recognition of the state's previous election, pursuant to the Public Health Service Act, §1536, to terminate HSA operations and clarify existing operational practices, policies, and procedures. The effect of the proposed repeal, if adopted, would be to allow the adoption of new rules which would achieve conformity and consistency between federal/state law and state certificate of need requirements, advise potential applicants that HSA review is no longer required, and exempt more health maintenance organizations from certificate of need review requirements.

Carol S. Daniels, deputy administrator, has determined that there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

John R. Neel, general counsel, has determined that for each of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is to permit the adoption of new rules which will provide greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the com-

mission, Suite 305, 1600 West 38th Street, Jefferson Building, Austin, to receive either written or verbal comments on the proposal.

The repeal is proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§509.161. *Application for Exemption—HMO Related Project*

§509.163. *Application Forms for an Exemption for an HMO-Related Project*

§509.165. *Commission Review Procedures.*

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 27, 1984

TRD-844744 W G Kirklín
 Chairman
 Texas Health Facilities
 Commission

Proposed date of adoption
July 1, 1984

For further information, please call (512) 475-6940.

The Texas Health Facilities Commission proposes new §§509.161, 509.163, and 509.165, concerning application procedures and exemptions for HMO-related projects. These new rules are necessary to delete all references to health systems agencies (HSAs) in recognition of the state's previous election, pursuant to the Public Health Service Act, §1536, to terminate HSA operations and to clarify existing operational practices, policies, and procedures. The effect of the new rules, if adopted, would be to achieve conformity and consistency between federal/state law and state certificate of need requirements, to advise potential applicants that HSA review is no longer required, and to exempt more health maintenance organizations from certificate of need review requirements.

Carol S. Daniels, deputy administrator, has determined that there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rules.

John R. Neel, general counsel, 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 greater clarity to the public concerning the commission's operational practices, policies, procedures, and regulatory requirements. 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 John R. Neel, General Counsel, Texas Health Facilities Commission, Suite 305, 1600 West 38th Street, Austin, Texas 78731, through 5 p.m. on June 22, 1984. In

addition, a public hearing will be conducted beginning at 9 a.m. on June 22, 1984, in the offices of the commission, Suite 305, Jefferson Building, 1600 West 38th Street, Austin, to receive either written or verbal comments on the proposal.

The new sections are proposed under Texas Civil Statutes, Article 4418h, §2.06(2), which provide the Texas Health Facilities Commission with the authority to promulgate and adopt rules determined to be necessary for the administration and enforcement of the Texas Health Planning and Development Act.

§509.161. *Application for Exemption—HMO Related Project.* A person must file with the commission, at least 60 days prior to commencing development of an HMO-related project which would require a certificate of need pursuant to the provisions of commission Rule 507.13(a) and (b) (§507.13 of this title (relating to Health Maintenance Organizations (HMO's))) (but for the possibility of obtaining an exemption), file with the commission an application for exemption for an HMO-related project. The commission shall, within 30 days after the acceptance of an application for exemption for an HMO-related project, issue an order stating whether the proposed project requires certificate of need review or is exempt from certificate of need review. Certificate of need review is not required if:

(1) the person complies with the application for exemption procedures prescribed in this subchapter, and
(2) the commission finds that the activity is proposed to be undertaken by:

(A) an HMO or combination of HMOs where:

(i) the facility in which the service will be provided is or will be geographically located so that the service will be reasonably accessible to the enrolled individuals; and

(ii) at least 75% of the patients who can reasonably be expected to receive the service will be individuals enrolled with the HMO or combination of HMOs; or

(B) a health-care facility where:

(i) the facility primarily provides or will provide inpatient health-care services;

(ii) the facility is or will be controlled, directly or indirectly, by an HMO or combination of HMOs;

(iii) the facility is or will be geographically located so that the service will be reasonably accessible to the enrolled individuals; and

(iv) at least 75% of the patients who can reasonably be expected to receive the service will be individuals enrolled with the HMO or combination of HMOs; or

(C) a health-care facility (or portion thereof) where:

(i) the facility is or will be leased by an HMO or combination of HMOs;

(ii) there are at least 15 years remaining in the term of the lease at the time the application for exemption is submitted to the commission;

(iii) the facility is or will be geographically located so that the service will be reasonably accessible to the enrolled individuals; and

(iv) at least 75% of the patients who can reasonably be expected to receive the service will be individuals enrolled with the HMO or combination of HMOs.

§509.163. Application Forms for an Exemption for an HMO-Related Project. A person, in order to secure a ruling from the commission as to whether an HMO-related project requires certificate of need review, must file THFC Form 31 and the correct application fee as set forth in commission Rule 511.7 (§511.7 of this title (relating to Other Application and Petition Fees)).

§509.165. Commission Review Procedures. The commission, in reviewing an application for exemption for an HMO-related project, shall follow the procedures set forth in commission rules for public notice, hearings, and review prescribed for applications for declaratory rulings.

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 27, 1984.

TRD-844745 W. G. Kirklín
 Chairman
 Texas Health Facilities
 Commission

Proposed date of adoption:
July 1, 1984

For further information, please call (512) 475-6940.

The following proposals by the Texas Health Facilities Commission will be serialized in the May 11, 1984, issue of the *Texas Register*. The proposed date of adoption for the documents is July 1, 1984.

Chapter 513. Criteria

Subchapter A. General Criteria for Use in Certificate of Need Reviews

§§513.1, 513.3, 513.5, 513.7, 513.9, 513.11, 513.13, 513.15, 513.17, 513.19, 513.21
(proposed for repeal)

§§513.1, 513.3, 513.5, 513.7, 513.9, 513.11, 513.13, 513.15, 513.17, 513.19, 513.21
(proposed new)

Subchapter D. Criteria for Use in Reissuance of Certificate of Need Reviews

§513.51, §513.53
(proposed for repeal)

§513.51, §513.53
(proposed new)

Chapter 515. Commission Review of Applications
Subchapter A. Parties to Commission Review of Applications

§§515.1, 515.3, 515.5, 515.7, 515.9, 515.11, 515.13, 515.15, 515.17, 515.19, 515.21, 515.23
(proposed for repeal)

§§515.1, 515.3, 515.5, 515.7, 515.9, 515.11, 515.13, 515.15, 515.17, 515.19, 515.21
(proposed new)

Subchapter B. Hearing Requirements

§§515.31, 515.33, 515.35, 515.37, 515.39, 515.41, 515.43, 515.45, 515.47, 515.49
(proposed for repeal)

§§515.31, 515.33, 515.35, 515.37, 515.39, 515.41
(proposed new)

Subchapter C. Hearing Procedures

§§515.61, 515.63, 515.65, 515.67, 515.69, 515.71, 515.73, 515.75, 515.77, 515.79, 515.81, 515.83, 515.85, 515.87
(proposed for repeal)

§§515.61, 515.63, 515.65, 515.67, 515.69, 515.71, 515.73, 515.75, 515.77, 515.79, 515.81, 515.83, 515.85, 515.87
(proposed new)

Subchapter D. Evidence

§§515.101, 515.103, 515.105, 515.107, 515.109, 515.111, 515.113, 515.115, 515.117, 515.119
(proposed for repeal)

§§515.101, 515.103, 515.105, 515.107, 515.109, 515.111, 515.113, 515.115, 515.117, 515.119, 515.121, 515.123, 515.125, 515.127, 515.129, 515.131
(proposed new)

Chapter 517. Commission Action on Applications and Other Matters

§§517.1, 517.3, 517.5, 517.7, 517.9, 517.11, 517.13, 517.15, 517.17, 517.19, 517.21, 517.23, 517.25, 517.27, 517.29, 517.31, 517.33, 517.35, 517.37, 517.39, 517.41, 517.43, 517.45, 517.47, 517.49
(proposed for repeal)

§§517.1, 517.3, 517.5, 517.7, 517.9, 517.11, 517.13, 517.15, 517.17, 517.19, 517.21, 517.23, 517.25, 517.27, 517.29, 517.31, 517.33, 517.35, 517.37, 517.39, 517.41, 517.43, 517.45, 517.47
(proposed new)

Chapter 519. Health Systems Agency Rules of Review
Subchapter A. Purpose and Definitions

§519.1, §519.3
(proposed for repeal)

Subchapter B. Application Review by Health Systems Agency

§519.11, 519.13, 519.15
(proposed for repeal)

Subchapter C. Written Recommendation of Health Systems Agency

§§519.21, 519.23, 519.25
(proposed for repeal)

Subchapter D. Criteria

§519.31, §519.33
(proposed for repeal)

Chapter 523. Forfeiture

§§523.1, 523.3, 523.5, 523.7
(proposed for repeal)

§§523.1, 523.3, 523.5, 523.7, 523.9
(proposed new)

Chapter 525. Enforcement

Subchapter A. Violation of the Act

§§525.1, 525.3, 525.5, 525.7, 525.9, 525.11, 525.13, 525.15
(proposed for repeal)

§§525.1, 525.3, 525.5, 525.7, 525.9, 525.11, 525.13, 525.15
(proposed new)

Chapter 527. Miscellaneous Provisions

Subchapter A. Computing Time Periods

§527.1
(proposed for repeal)

§527.1
(proposed new)

Subchapter B. Records of the Commission

§527.11, §527.13
(proposed for repeal)

§527.11, §527.13
(proposed new)

rules as proposed is clarity and detail on the agency's policies on parole release of its students. 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 Martha K. McCann, Manuals System Coordinator, P.O. Box 9999, Austin, Texas 78766.

The amendments are proposed under the Human Resources Code, §61.075, which provides the Texas Youth Commission with the authority to permit the child liberty under supervision and on conditions it believes conducive to acceptable behavior.

§81.119. Parole Release.

(a) Policy. Evaluations of individual students for release on parole are to be conducted in a manner consistent with the child care [program requirements] standards (§81.23 of this title (relating to Individualized Program Plans)) which mandate that each student shall have a completed individualized program plan (IPP) within 30 days following admission to the Texas Youth Commission (TYC), and that the IPP shall be formally reviewed with the student at three-month intervals following admission. The three criteria defined in **GOPP 90.43.020** (§81.114 of this title (relating to Program Assignment)) are to be incorporated into the formal IPP reviews and are to be used in evaluating the student's current placement at the time of each formal review. When it is determined that a student will be paroled out-of-state upon completion of the program, required information regarding the anticipated out-of-state placement shall be forwarded to the interstate compact administrator so that arrangements may be made for supervision of the student (arrangements for out-of-state supervision require a minimum of six to eight weeks to complete).

(b) Guidelines.

(1) Violent offenders.

(A) Length of stay.

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

(iii) Violent offenders are evaluated for **parole release** at the 12- or 24-month IPP review corresponding to their minimum length of stay.

(iv) [Note:] Release of a violent offender whose offense is murder, capital murder, or voluntary manslaughter must be approved by the executive director. The superintendent sends the **director of institutions a release packet including the parole officer's home evaluation. The director of institutions forwards the information to the executive director who** [him a release packet including the parole officer's family and community evaluation. The executive director] will notify the superintendent in writing of the decision. If release is denied, the executive director will indicate the date for resubmitting the release packet.

(B) (No change.)

(C) Responsibilities of other residential programs. Should the student be transferred to a **TYC halfway house as a condition of release from the training school, the staff of the receiving program shall evaluate the student for release on parole after three months and monthly thereafter** [another residential program, the staff of the receiving program shall retain identical responsibilities]. If the residential program to which the student

is transferred is a residential contract program [or a TYC D&N home], parole staff shall work with the staff of the residential program to ensure a formal IPP review, and an evaluation for release on parole, at three-month intervals.

(D) Parole responsibilities. Should the student be released on parole, staff shall assume responsibility for **completing a new IPP within 30 days and for continuing the formal IPP reviews at six-month intervals.**

(2) (No change.)

(3) Nonviolent offenders.

(A) Length of stay. **There is no minimum length of stay for nonviolent offenders. They may be placed at any time in a more appropriate, less restrictive environment. In any case, nonviolent offenders must be evaluated for release on parole no later than the six-month IPP review.** [Each nonviolent offender must be evaluated for release on parole no later than the six-month IPP review.]

(B) Responsibilities of residential programs. Should program staff, in evaluating the student's placement at the six-month IPP review, decide not to release the student on parole, but rather to continue residential care in that program, the staff of that program shall retain the continuing responsibility to formally review the student's IPP, and to evaluate the student for release on parole, at one-month intervals. Should the student be transferred to a **TYC halfway house** [another residential program], the staff of the receiving program shall assume identical responsibilities. If the residential program in which the student is initially placed, or to which the student is transferred, is a residential contract program [or a TYC D&N home], parole staff shall work with the staff of the residential program to ensure formal IPP review, and an evaluation for release on parole, at three-month intervals.

(C) Parole responsibilities. Should the student be released on parole, parole staff shall assume responsibility for **completing a new IPP within 30 days and for continuing the formal IPP reviews at six-month intervals.**

(4) Violators of CINS probation.

(A) Length of stay. Each violator of CINS probation must be evaluated **for release on parole** no later than the six-month IPP review.

(B) Responsibilities of residential programs. Should program staff, in evaluating the student's placement at the six-month IPP review, decide not to release the student on parole, but rather to continue residential care in that program, the staff of that program shall retain the continuing responsibility to formally review the student's IPP, and to evaluate the student for release on parole, at one-month intervals. Should the student be transferred to a **TYC halfway house** [another residential program], the staff of the receiving program shall assume identical responsibilities. If the residential program in which the student is initially placed, or to which the student is transferred, is a residential contract program [or a TYC D & N home] parole staff shall work with the staff of the residential program to ensure formal IPP review and an evaluation for release on parole at three-month intervals.

(C) Parole responsibilities. Should the student be released on parole, [parole] staff shall assume respon-

sibility for completing a new IPP within 30 days and for continuing the formal IPP reviews at six-month intervals.

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

Issued in Austin, Texas, on May 2, 1984

TRD-844860 Ron Jackson
Executive Director
Texas Youth Commission

Earliest possible date of adoption.
June 8, 1984

For further information, please call (512) 452-8111.

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Resources

Chapter 83. 24-Hour Care Licensing Subchapter M. Standards for Emergency Shelters

40 TAC §§83.901-83.922

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

The Texas Department of Human Resources (DHR) proposes the repeal of and new § 85 901-83.922, concerning emergency shelter care in its 24-hour care licensing rule chapter. The new sections are a restatement of the sections the department is proposing to repeal, with editorial changes throughout.

The revised standards include clarification of the circumstances in which a child's stay in an emergency shelter can be extended beyond the basic time limit; provision that the emergency shelter is not required to contact a child's parents if their identity is unknown; requirement that the emergency shelter must report a runaway child to the appropriate law enforcement agency, limitations on accepting for care a child who presents a high risk of suicide or danger to others, and provision for emergency medical and dental care and routine care of known chronic health problems.

Cris Ros-Dukler, assistant commissioner for licensing, Licensing Branch, has determined that for the first five-year period the repeal and new rules will be in effect there will be no fiscal implications as a result of the repeal or enforcing or administering the new rules

Ms. Ros-Dukler also has determined that for each year of the first five years the repeal and new rules are in effect the public benefit anticipated as a result of the repeal and new rules is that children in emergency shelters will not be discharged prematurely when circumstances warrant an extension. The clarification of circumstances in which a stay can be extended will

allow shelters to continue providing care for children while alternative placement is sought. Limitations on admission of a child who presents a high risk of suicide or danger to others will benefit the public by ensuring that the child will not be admitted to an emergency shelter unless staff are available to protect the child and other children. The provisions for emergency medical and dental care and routine care of known chronic health problems correct an oversight in previously published standards. There is no anticipated economic cost to individuals who are required to comply with the new rules or as a result of the repeal.

The department will hold a hearing to accept comments on the proposed rules at 1 p.m. on June 20, 1984, in the DHR board room, 706 Banister Lane, Austin.

Written comments are also invited and may be sent to Cathy Rossberg, Acting Administrator, Policy Development Support Division-822, Texas Department of Human Resources 153-B, P.O. Box 2960, Austin, Texas 78769, within 60 days of publication in this Register.

The repeal is proposed under the Human Resources Code, Title 2, Chapter 22 and Chapter 42, which authorizes the department to administer public assistance and 24-hour care licensing programs.

- §83.901 *Legal Basis for Operation.*
- §83.902. *Governing Body Responsibilities.*
- §83.903. *Fiscal Accountability.*
- §83.904. *Placement in Foster or Adoptive Homes.*
- §83.905. *Reports and Records.*
- §83.906. *Personnel Policies.*
- §83.907. *Administrator Qualifications and Responsibilities.*
- §83.908. *Staffing.*
- §83.909. *Qualifications and Responsibilities.*
- §83.910. *Training.*
- §83.911. *Staff Records.*
- §83.912. *Admission Policies.*
- §83.913. *Intake Information.*
- §83.914. *Children's Records.*
- §83.915. *Daily Care.*
- §83.916. *Children's Rights.*
- §83.917. *Medical and Dental Care.*
- §83.918. *Nutrition.*
- §83.919. *Discharge*
- §83.920. *Health and Safety.*
- §83.921. *Environment.*
- §83.922. *Food Preparation, Storage, and Equipment.*

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

Issued in Austin, Texas, on May 1, 1984

TRD-844822 Marlin W Johnston
Commissioner
Texas Department of Human
Resources

Proposed date of adoption.
July 8, 1984

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

The new sections are proposed under the Human Resources Code, Title 2, Chapter 22 and Chapter 42, which authorizes the department to administer public assistance and 24-hour care licensing programs.

§83.901. Legal Basis for Operation.

(a) Emergency shelters (other than those owned by a sole proprietor) must make available to the Licensing Branch of the Texas Department of Human Resources documentation of their legal basis for operation. The emergency shelter must notify the Licensing Branch of any changes in the legal basis for operation. The emergency shelter must document the legal basis for operation in one of the following ways.

(1) An incorporated emergency shelter must state its purposes in the articles of incorporation. A corporation must make available to the department a copy of the articles of incorporation and certificate of incorporation.

(2) Emergency shelters operated by state agencies or other governmental entities must make available to the department documentation of enabling legislation and a copy of a constitution or bylaws, if they exist.

(3) Emergency shelters operated by a partnership or association must make available to the department partnership agreements or documents reflecting the existence or creation of an association.

(b) Churches and corporations must make available to the department a copy of the resolution authorizing the operation of the facility.

§83.902. Governing Body Responsibilities.

(a) All emergency shelters must have a governing body that is responsible for and has authority over the policies and activities of the emergency shelter. If an emergency shelter is owned by a partnership, the department considers the partners as the governing body for fulfilling the responsibilities specified in this section. If an emergency shelter is owned by a sole proprietor, the sole proprietor must fulfill the responsibilities of a governing body as specified in this section. Corporately owned emergency shelters must provide the department with a list of names, addresses, and titles of the governing body, the officers, and/or executive committee. Emergency shelters that are owned jointly or individually must provide the department with a list of names and addresses of the partners or owners. The governing body of the emergency shelter must notify the Licensing Branch of any changes.

(b) The governing body is responsible for policies and programs, for ensuring adequate financing, and for ensuring compliance with minimum standards.

(c) The emergency shelter must operate according to its written policies. The governing body is responsible for ensuring that copies of policies required by the minimum standards are available to facility staff.

(d) The governing body must reassign or remove from direct child care activity any licensed administrator against whom is returned:

(1) an indictment alleging commission of any felony classified as an offense against the person or family, or of public indecency, or violation of the Texas Controlled Substances Act;

(2) an indictment alleging commission of any misdemeanor classified as an offense against the person or family or of public indecency;

(3) an official complaint accepted by a district or county attorney alleging commission of a misdemeanor classified as an offense against the person or family or of public indecency.

(e) The governing body must continue the reassignment or removal until resolution of the charges. The governing body must notify the Licensing Branch of the action within 24 hours or the next workday.

§83.903. Fiscal Accountability.

(a) The emergency shelter must maintain complete financial records. A certified public accountant must audit these records annually. A licensed emergency shelter must submit a copy of the accountant's statement of income and disbursements and the opinion letter from the audit report with the license application.

(b) New emergency shelters must submit a letter from a certified public accountant stating that the book-keeping system will be set up so that an audit may be made at the end of each fiscal year.

(c) When the signed application is submitted, new emergency shelters must submit a 12-month budget to the Licensing Branch.

(d) New emergency shelters must have funds sufficient for the first year of operation. They must have reserve funds or documentation of available credit equal to the operating costs for the first three months.

§83.904. Placement in Foster or Adoptive Homes. An emergency shelter must be licensed for child-placing activity before it places children in care into foster or adoptive homes or another institution.

§83.905. Reports and Records.

(a) The emergency shelter must report immediately any serious occurrence involving a child to the managing conservator or parents, if the emergency shelter knows the managing conservator's or parents' identity and how to contact them. The emergency shelter must document in the child's record notification of the parents or managing conservator. If the managing conservator or parents cannot be contacted, the emergency shelter must document this in the child's record.

(b) The emergency shelter must complete written reports concerning serious occurrences involving staff or children. The emergency shelter must ensure that each report includes the date and time of occurrence, the staff or children involved, the nature of the incident, and the circumstances. The emergency shelter must file a copy of the report at the shelter and make it available for review by staff of the Licensing Branch.

(c) The emergency shelter must report the following types of serious occurrences to the Licensing Branch within 24 hours or the next workday:

- (1) suicide attempts;
- (2) incidents of cruel or abusive treatment;
- (3) incidents which critically injure or permanently disable a child; and
- (4) death of a child.

(d) If a child is a runaway, the emergency shelter must report his absence to the appropriate law enforcement agency and managing conservator or parents, if the emergency shelter knows their identity and how to contact them. The emergency shelter must document in the child's record notification of the child's parents or manag-

ing conservator and the appropriate law enforcement agency. If the parents or managing conservator cannot be contacted, the emergency shelter must document this in the child's record.

(e) The emergency shelter must report to the appropriate law enforcement agency and managing conservator or parents the removal of a child by an unauthorized person, if the emergency shelter knows the managing conservator's or the parents' identity and how to contact them. The emergency shelter must document in the child's record notification of the child's parents or managing conservator and the appropriate law enforcement agency. If the parents or managing conservator cannot be contacted, the emergency shelter must document this in the child's record.

(f) The emergency shelter must report to the Licensing Branch within 24 hours or the next workday disasters or emergency situations, such as fires or severe weather, requiring closure of a living unit in the emergency shelter.

(g) The administrator of the emergency shelter must submit reports to the Licensing Branch concerning any:

- (1) change in administrator;
- (2) impending change that would necessitate a change in the conditions of the license (capacity, age range, sex, location, or name).

(h) The emergency shelter must allow department staff to visit and inspect the emergency shelter at reasonable times.

(i) The emergency shelter must make records available for review at the facility by staff of the Licensing Branch.

(j) The emergency shelter must display the license at the facility.

§83.906. Personnel Policies.

(a) Emergency shelters must have written job descriptions that specify the duties staff are expected to perform. The emergency shelter must make a copy of the job descriptions available to staff and to the Licensing Branch.

(b) If volunteers or sponsoring families are used, emergency shelters must have written policies stating the qualifications for volunteers or sponsoring families and the procedures for selecting them. The emergency shelter must maintain a copy of these policies and procedures for review by staff of the Licensing Branch.

§83.907. Administrator Qualifications and Responsibilities.

(a) The administrator must be licensed as provided by the Human Resources Code, Chapter 43.

(b) The administrator is responsible for implementing the policies adopted by the governing body, the ongoing operation of the emergency shelter, and compliance with the minimum standards for emergency shelters.

(c) If the administrator is involved in activities that cause frequent or extended absences from the emergency shelter, an assistant administrator must be retained. The assistant administrator must take responsibility for the program and administer the general affairs of the emergency shelter. This requirement must be included in the job descriptions and written plans for staffing. If responsibility for the administration of the shelter is

delegated to an assistant administrator, he must also be licensed.

(d) The administrator must make available to staff organizational charts and written plans for staffing.

(e) The administrator must reassign or remove from direct child-care activity any staff against whom is returned:

(1) an indictment alleging commission of any felony classified as an offense against the person or family, or of public indecency, or a violation of the Texas Controlled Substances Act;

(2) an indictment alleging commission of any misdemeanor classified as an offense against the person or family or of public indecency;

(3) an official criminal complaint accepted by a district or county attorney alleging commission of a misdemeanor classified as an offense against the person or family or of public indecency.

(f) The administrator must continue the reassignment or removal until resolution of the charges. The administrator must notify the Licensing Branch of the action within 24 hours or the next workday.

§83.908. Staffing.

(a) The administrator must designate a person or persons to be responsible for the emergency shelter in his absence.

(b) The emergency shelter must employ and supervise staff necessary to ensure the health and safety of the children in care.

(c) The emergency shelter must have staff coverage throughout the 24-hour period.

(1) At least one child-care staff must be on duty during waking hours for every four children under five years old. The emergency shelter must have at least one child-care staff for every eight children five years old or older.

(2) The staff-child ratio applies to the total emergency shelter and includes children of staff who live in child care units. Staff must be readily available to children. The emergency shelter must count only child-care staff or volunteers meeting the same qualifications in the staff-child ratio.

(3) During sleeping hours, one child-care worker must be in the living unit for every 16 children. If night staff is awake, the department requires one child care worker in the living unit for every 24 children. Besides required staff, at least one staff member must be on call in case of an emergency.

(d) The emergency shelter must ensure that tasks that conflict or interfere with child-care responsibilities are not assigned to child-care staff. The emergency shelter must ensure that job descriptions and staff assignments show no conflicts in assignments.

§83.909. Qualifications and Responsibilities.

(a) No one may serve as a member of the staff working with children who has been convicted within the preceding 10 years of any of the following offenses unless the director of licensing has ruled that the person has established that he is rehabilitated:

(1) a felony classified as an offense against the person or family, or of public indecency, or a violation of the Texas Controlled Substances Act; or

(2) a misdemeanor classified as an offense against the person or family or of public indecency.

(b) The emergency shelter must verify the personal qualifications of employees.

(1) The emergency shelter must obtain at least three references for each potential employee. The emergency shelter must document and file information from these references whether the interview is conducted in person or by telephone.

(2) Each staff must submit a statement to the facility concerning any felony and/or misdemeanor convictions within the preceding 10 years and of any pending criminal charges.

(c) The emergency shelter must not allow in the shelter persons whose behavior or health status endangers the children.

(d) Staff must have an examination for tuberculosis within 12 months before employment. The emergency shelter must ensure that reexamination is according to recommendations of local public health authorities or the regional office of the Texas Department of Health. Children of staff who have contact with other children at the shelter must meet the same requirements as those for children in care.

(e) Child-care staff must be at least 18 years old and be able to read and write.

§83.910. Training.

(a) The emergency shelter must provide orientation for all new staff.

(b) All staff working with children must receive annually 15 hours of in-service training related to children's services

(1) The emergency shelter must document in-service training for staff working with children. The emergency shelter must include in the documentation the date, the subject, and the name of the person who conducted the training

(2) Child care and supervisory staff must be trained in admission and referral procedures and in helping children to cope with separation from parents and family.

(c) Child-care staff who are not licensed/certified health professionals must have first-aid training

(1) The emergency shelter must document first-aid training received or scheduled for child-care staff.

(2) A Red Cross instructor or a licensed/certified health professional must conduct the training.

(3) The emergency shelter must update first-aid training for child-care staff at least every three years. The emergency shelter must maintain certificates or statements of training to document that training has been updated

§83.911 Staff Records The emergency shelter must maintain personnel records for each staff member. The emergency shelter must include in these records information on:

- (1) qualifications for the position;
- (2) tuberculosis test reports for all staff;
- (3) date, name of contact, and information received from preemployment references;
- (4) conviction record statement;
- (5) date of employment,
- (6) date and reason for separation; and

(7) forwarding address of staff no longer employed.

§83.912. Admission Policies.

(a) An emergency shelter may admit only those children for whom it has an operational program and who meet the admission policies.

(1) The emergency shelter must have written admission policies that specify the age, sex, and type of children served. The emergency shelter must submit a copy of the admission policies to the Licensing Branch when the signed application is submitted

(2) If the emergency shelter adopts a change in the admission policies which requires changes in the conditions of the license, the shelter must apply to the department for a new license.

(b) An emergency shelter must not accept for or retain in care a child who presents a high risk of suicide or danger to others unless:

(1) the physical plant or setting is such that staff can provide direct, continuous observation, if necessary;

(2) the emergency shelter has ensured that medical treatment and psychiatric consultation are available 24 hours a day from a licensed physician. The shelter must obtain written documentation to substantiate that medical treatment and psychiatric care are available.

(c) An emergency shelter must not accept more children than the maximum number specified on the license or children whose age or sex violate the conditions of the license

(d) A child under five years old may not remain in care in an emergency shelter for more than five workdays unless he has a sibling at least five years old or a parent under 18 years old in the emergency shelter or unless the need for extension of placement is documented. An infant under 12 months old may not remain in an emergency shelter longer than 96 hours unless he has a parent under 18 years old in the emergency shelter or unless the need for extension of placement is documented.

(1) The shelter may extend placement of an infant beyond 96 hours or a child under five years old beyond five workdays up to a total of 30 days under the following circumstances:

(A) a specifically identified, planned placement could not be implemented because of circumstances beyond the control of the emergency shelter or placing party,

(B) lack of an appropriate alternative placement. The shelter must document the circumstances requiring an extension of placement in the emergency shelter, including the names and addresses of the agencies and individuals involved. For an extension because of lack of an appropriate alternative placement, the shelter must document the specifics of placement sought and a specific description of all alternative placements explored, including date of contact and reason why each alternative placement was not available and/or appropriate.

(2) The shelter may not extend the placement of a child under five years old beyond a total of 30 days unless he has a parent under 18 years old in the emergency shelter.

(e) A child five years old or older may not remain in care in an emergency shelter for more than 30 days unless the need for extension of placement is documented.

(1) The shelter may extend placement of a child five years old or older up to a total of 90 days in the following circumstances:

(A) a specifically identified, planned placement could not be implemented because of circumstances beyond the control of the emergency shelter or placing party.

(B) lack of an appropriate alternative placement. The shelter must document the circumstances requiring an extension of placement in the emergency shelter, including the names and addresses of the agencies and individuals involved. For an extension because of lack of an appropriate alternative placement, the shelter must document the specifics of placement sought and a specific description of all alternative placements explored, including date of contact and reason why each alternative placement was not available and/or appropriate.

(2) The shelter may not extend the placement of a child five years old or older beyond a total of 90 days.

(f) If a child is in an emergency shelter for seven days, the emergency shelter must discuss, within the next seven days, plans for discharge of the child with the person or agency responsible for the child. After the initial discussion of the discharge plan, the emergency shelter and the person or agency responsible for the child must review and update the discharge plan at least weekly.

(1) The emergency shelter must document the initial discussion in the child's record.

(2) The emergency shelter must document the parents', managing conservator's, or responsible agency's tentative plan for discharging the child from the shelter.

(3) The emergency shelter must document in the child's record that the discharge plan was reviewed and updated weekly.

(g) The emergency shelter may not deny a child admission to the shelter because of race.

(h) An emergency shelter must not offer, at the same time and in the same facility, two types of care that conflict with the best interests of the children, the use of staff, or the use of the facility. The shelter must document that there is no conflict

(i) Each child must receive a health screening examination within 48 hours or on the first workday after admission.

(1) The screening examination must be given by a licensed physician, physician's assistant, registered nurse, licensed vocation nurse, or paramedic.

(2) The results of the screening examination, signed and dated by the person doing the examination, must be documented in the child's record

(3) If the child is coming from a medical setting, the emergency shelter may accept a statement from a licensed physician in place of the examination

(j) If a child shows symptoms of illness or abuse, he must be examined immediately by a licensed physician.

(k) If a child shows symptoms of abuse or neglect, the emergency shelter must immediately report this to child protective services staff.

§83.913. Intake Information.

(a) At admission, shelter staff must complete a record that identifies the child and his immediate needs.

During admission, shelter staff must obtain, if possible, the following information:

- (1) child's immediate needs;
- (2) name of the referral source: placing agency or individual;
- (3) date and time of placement;
- (4) reason for emergency placement;
- (5) description of the child's condition as observed by the intake worker;
- (6) child's understanding of emergency shelter care; and
- (7) child's feelings about the crisis situation and shelter care.

(b) At admission or as soon as possible after admission, the emergency shelter must obtain the following information:

- (1) child's identity;
- (2) name and address of the child's parents or managing conservator, if available;
- (3) medication the child is taking; and
- (4) allergy to medication or food.

(c) If the information is not available at admission, the emergency shelter must document in the child's record efforts made to obtain the information.

(d) The emergency shelter must identify in its policies and procedures which staff reviews admission information and makes admissions

(e) When a child is admitted, the emergency shelter must try to contact the child's managing conservator or parents within 24 hours, if the emergency shelter knows their identity and how to contact them. If the parents or managing conservator cannot be contacted, shelter staff must notify a public agency (children's protective services, juvenile probation, or police department) of the child's presence. The emergency shelter must document in the child's record efforts to contact the parents or managing conservator and contacts with public agencies.

(f) The emergency shelter must provide orientation for newly admitted children.

§83.914. Children's Records.

(a) The emergency shelter must maintain accurate and current records for each child in care. Besides other required documentation, the emergency shelter must include in each child's record the following information, if available:

- (1) name;
- (2) date of birth;
- (3) place of birth;
- (4) sex;
- (5) religion;
- (6) race;
- (7) names and addresses of parents, brothers, and sisters;
- (8) names and addresses of other persons who have a significant relationship with the child;
- (9) date of admission; and
- (10) date of discharge.

(b) The emergency shelter must ensure that a child's records are kept confidential and inaccessible to unauthorized persons.

(1) The emergency shelter may disclose information from a child's records only to individuals involved

in direct and authorized services to the child or in the administration of the emergency shelter.

(2) The emergency shelter must keep these records at the shelter and make them available for review by staff of the Licensing Branch.

§83.915. Daily Care.

(a) The emergency shelter must develop the daily schedule to meet the children's needs.

(b) Child-care staff must keep a record of significant occurrences for each child. Child-care staff must make this record available for review by staff of the Licensing Branch.

(c) The emergency shelter must provide for the immediate needs of the children.

(d) The emergency shelter must obtain professional consultation and treatment for children with urgent special needs. When the services are obtained, the emergency shelter must document in the child's record that he received them.

(e) The emergency shelter must ensure that each child is supplied with personal clothing suitable to the child's age and size. The emergency shelter must ensure that the clothing is comparable to the clothing of others in the community. Children must have some choice in selecting their clothing.

(f) The emergency shelter must give children training in personal care, hygiene, and grooming. The emergency shelter must supply each child with personal care, hygiene, and grooming equipment.

(g) The emergency shelter must provide supervised indoor and outdoor recreation and equipment so that every child may participate.

(h) The emergency shelter must account for a child's personal money separately from the emergency shelter's funds.

(i) The emergency shelter must distinguish between tasks which children are expected to perform as a part of living together and jobs to earn spending money.

§83.916. Children's Rights.

(a) The staff of the emergency shelter must allow privacy for each child.

(b) Each child must have access to a quiet, private area where he can withdraw from the group when appropriate.

(c) The emergency shelter must allow contacts between the child and his family while the child is in care unless the rights of the parents have been terminated by court order or family contact is not in the child's best interest. The emergency shelter must base the frequency of contact on the needs of the child. The frequency of contact is determined with the participation of the child's family or managing or possessory conservator and shelter staff. The emergency shelter must file in the child's record any limitations on contacts.

(1) The emergency shelter must allow children to send and receive mail and conduct telephone conversations with family members or their managing conservator. The best interests of the child or a court order may necessitate restrictions on this communication.

(2) If the child or his family requests contact but the emergency shelter determines it is not appropriate, a psychiatrist, licensed psychologist, social worker, or

licensed administrator must determine the restrictions from communication. The emergency shelter must document in the child's record the reasons for the restrictions.

(3) If limits on communications or visits are necessary for practical reasons, the emergency shelter must determine the limits with the child and his family. The emergency shelter must document these limits in the child's record.

(d) The emergency shelter must have written policies regarding visits, gifts, mail, and telephone calls between the child and his family or managing conservator. The emergency shelter must make these policies available for review by staff of the Licensing Branch.

(e) The emergency shelter must allow a child to bring personal possessions to the emergency shelter and to acquire personal possessions. If limits are necessary on the kinds of possessions a child may or may not receive, the shelter staff must discuss these with the child and his parents or managing conservator.

(f) The emergency shelter must not require a child to acknowledge his dependence, destitution, or neglect. The emergency shelter must not require the child to make statements regarding his background or dependence on the shelter for care.

(g) The emergency shelter must not require a child to make public statements to acknowledge gratitude to the emergency shelter.

(h) The emergency shelter must not require children in care to perform at public gatherings.

(i) The emergency shelter must not make public pictures, reports, or identification that humiliate, exploit, or invade the privacy of a child or his family or managing conservator. The emergency shelter must not use reports or pictures from which children may be identified without the written consent of the child and the parents or managing conservator.

(j) The emergency shelter must not discriminate on the basis of race.

(k) The emergency shelter must consider children's opinions and recommendations in the development and evaluation of the emergency shelter's program and activities. The emergency shelter must document this procedure. The emergency shelter must make a copy of the procedure available for review by staff of the Licensing Branch.

(l) The emergency shelter must have written policies for the discipline of children in care. The emergency shelter must provide copies of the policies to shelter staff. The emergency shelter must submit copies of the discipline policy with each application for a license.

(1) Only adult staff may discipline children.

(2) The emergency shelter must not subject children to cruel, harsh, unusual, or unnecessary punishment.

(3) The emergency shelter must keep a record of each time children are restricted to the emergency shelter for longer than 24 hours.

(4) The emergency shelter must not belittle or ridicule children or their families.

(5) The emergency shelter must not deny children food, mail, or visits with their families as punishment.

(6) The emergency shelter must ensure that discipline fits the needs of the individual child.

(7) The emergency shelter must not punish children by shaking, striking, or spanking.

(m) The emergency shelter must use physical holding as a form of restraint only to protect the child from injury to himself or others. The emergency shelter must document in the child's record the use of physical holding and the length of time used. The emergency shelter must not use mechanical restraint.

(n) The emergency shelter may place children in a locked room only until they can be taken for immediate medical treatment. The emergency shelter must document in the child's record any seclusion of a child.

(o) The emergency shelter must not allow children in care to act as or be employed as staff.

§83.917. Medical and Dental Care.

(a) The emergency shelter must have written policies and procedures for obtaining diagnosis and treatment of medical and dental problems demanding immediate attention.

(1) The emergency shelter must make copies of the policies and procedures available for review by staff of the Licensing Branch.

(2) The emergency shelter must inform all staff of the policies and procedures to be followed in an emergency.

(b) At admission or as soon as possible after admission, the emergency shelter must obtain medical information about each child. The emergency shelter must include in the child's medical record the following information:

- (1) any medications the child is taking; and
- (2) any chronic health problems, such as severe allergies, seizures, diabetes, hearing or sight loss, or a heart condition.

(c) The emergency shelter must make provisions for emergency medical and dental care and for routine treatment of known chronic health problems.

(d) The emergency shelter must ensure that an ill child can be separated from the other children.

(e) The emergency shelter must comply with laws, rules, and regulations regarding immunizations of children. The emergency shelter must follow requirements of the Texas Department of Health regarding immunizations of children in shelters. Based on an interpretation by the Texas Department of Health, children in emergency shelters less than 30 days may start immunizations when placed in a more permanent care facility.

(f) The emergency shelter must comply with laws, rules, and regulations regarding acquisition, storage, and administration of medications.

(g) The emergency shelter must ensure that medication records include the medication given, the time, the dosage, and the name of the person administering the medication. Unless a child is participating in a medically approved self-medication program, adult staff must give all medications. Adult staff must give medication according to the instructions on the label.

(h) The emergency shelter must maintain medical records for each child. The emergency shelter must include in the record:

- (1) a medical consent form signed by a person authorized by the Texas Family Code to give consent. If the shelter is unable to obtain written consent, the shelter

must make a notation in the record. The emergency shelter must obtain written consent as soon as possible after verbal consent. If the emergency shelter is unable to get consent, the shelter must document in the medical record the attempts made and the reasons why it was not obtained; and

- (2) a record of the screening exam.

§83.918. Nutrition. The emergency shelter must provide children food of adequate quality and in sufficient quantity to supply the nutrients needed for growth and development.

(1) The emergency shelter must use *Food for Fitness—A Daily Food Guide*, developed by the United States Department of Agriculture, as a basis for meeting these standards.

(2) The emergency shelter must provide children a minimum of three meals daily and snacks.

(3) The emergency shelter must keep menus on file for one month after use.

(4) The emergency shelter must ensure that all milk and milk products are Grade A pasteurized or from sources approved by the Texas Department of Health.

(5) The emergency shelter must ensure that there are no more than 14 hours between the last meal or snack of one day and the serving of the first meal of the following day.

§83.919. Discharge.

(a) The emergency shelter must ensure that the following persons are involved in planning the discharge of a child from the emergency shelter:

- (1) the child;
- (2) the child's managing conservator or parents, if the emergency shelter knows their identity and how to contact them; and
- (3) shelter staff.

(b) The emergency shelter must document in the child's record the date and circumstances of the child's discharge. The emergency shelter must record the name, address, and relationship of the person to whom the child is discharged.

(c) The emergency shelter must not discharge a child, except on written authorization from the parent or managing conservator, to anyone other than:

- (1) the parent(s),
- (2) the managing conservator;
- (3) DHR child protective services staff; or
- (4) law enforcement agency staff.

(d) If the emergency shelter is unable to plan the discharge with the persons listed in subsection (a) of this section, the shelter must document the circumstances in the child's record if:

- (1) an emergency discharge is necessary; or
- (2) a child leaves without consent.

§83.920. Health and Safety.

(a) The emergency shelter must file documentation of current and approved fire, health, and safety inspections at the shelter. When the signed application for a license is submitted, the emergency shelter must submit copies of the inspection reports to the Licensing Branch. The required annual inspections are:

- (1) fire inspections which meet requirements set by the local fire marshal. In areas where there is no cer-

tified fire inspector, the state fire marshal must make the inspection;

(2) health inspections that meet or exceed regulations set by local health ordinances and the Texas Department of Health;

(3) gas pipe inspections. The local gas company or a licensed plumber must pressure test gas pipes and document that there are no leaks;

(4) LPG inspection. Liquefied petroleum gas systems must be inspected by the Liquefied Petroleum Gas Division of the Texas Railroad Commission.

(b) The emergency shelter must maintain written plans and procedures for disasters and emergencies. Shelter staff must know the procedures to follow.

(c) The emergency shelter must ensure that outdoor swimming pools are fenced. When pools are not in use, the emergency shelter must close and lock all entrances and exits to outdoor and indoor pools. The emergency shelter must lock machinery rooms to prevent children from entering them.

(d) A certified lifeguard must be on duty when the emergency shelter's swimming area is in use. The emergency shelter must document certification in the personnel records.

§83.921. Environment

(a) The emergency shelter must maintain, repair, and clean buildings and grounds so that they are not hazardous to health and safety. The emergency shelter must:

(1) ensure that outdoor areas are well drained;

(2) ensure that windows and doors used for ventilation are screened;

(3) ensure that equipment and furniture are safe and sturdy;

(4) ensure that children in care are provided adequate protection from flammable and poisonous substances, and

(5) store explosive materials, firearms, and projectiles out of children's reach

(b) The emergency shelter must ensure that animals on the premises are vaccinated and treated as recommended by a licensed veterinarian. The emergency shelter must file at the shelter documentation of vaccinations and treatment.

(c) The emergency shelter must take measures to keep the shelter free of rodents, insects, and stray animals.

(d) The emergency shelter must have indoor areas where children can gather. There must be a minimum of 40 square feet per child. Bedrooms, halls, kitchens, and any rooms not available to children are not included in the minimum space requirement.

(e) The emergency shelter must ensure that each sleeping room contains at least 50 square feet per occupant. The emergency shelter must ensure that bedrooms for single occupants have at least 80 square feet.

(f) When the signed application is submitted, the emergency shelter must submit to the Licensing Branch sketches of floor plans showing dimensions and purposes of all rooms.

(g) The emergency shelter must ensure that furniture does not block exitways.

(h) Children must have their own bedsteads and mattresses. The emergency shelter must ensure that beds are kept clean and comfortable. The emergency shelter must ensure that mattresses have covers or protectors.

(i) The emergency shelter must ensure that there is accessible storage space available for each child's clothing and personal possessions.

(j) A child six years old or older must not share the same bedroom with a person of the opposite sex.

(k) The emergency shelter must ensure that there is one lavatory, one tub or shower with hot and cold running water, and one toilet for every eight children.

(1) The emergency shelter must ensure that separate toilet and bath facilities are provided for boys and girls six years old and older.

(2) The emergency shelter must ensure that bathrooms are near the sleeping area.

(3) The emergency shelter must ensure that bathrooms are thoroughly cleaned daily.

§83.922. Food Preparation, Storage, and Equipment. The emergency shelter must ensure that all food and drink are of safe quality and prepared and served in a sanitary manner. The emergency shelter must:

(1) ensure that food preparation, dining and storage areas, equipment, and furniture are clean and in good repair;

(2) store all food items off the floor. The emergency shelter must store all food items, except those which are to be washed or peeled, in covered containers that are insect and rodent proof unless the food items are refrigerated;

(3) not permit animals in food storage, preparation, and dining areas; and

(4) not reuse one-time-use paper and plastic dishes, utensils, and containers.

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

Issued in Austin, Texas, on May 1, 1984

TRD-844823

Marlin W. Johnston
Commissioner
Texas Department of Human
Resources

Proposed date of adoption

July 8, 1984

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

Adopted Rules

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.



No comments were received regarding adoption of the amendment.

The amendment is adopted under authority of the Texas Agriculture Code, §61 002, which provides the Texas Department of Agriculture with the authority to make any rules necessary to carry out provisions of the Code

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 April 30, 1984

TRD-344837

Patrick D Redman
Agency Liaison

Texas Department of Agriculture

Effective date May 22, 1984

Proposal publication date March 23, 1984

For further information, please call (512) 475-6686

TITLE 4. AGRICULTURE Part I. Texas Department of Agriculture Chapter 19. Seed Division Texas Seed Law

4 TAC §19.11

The Texas Department of Agriculture adopts an amendment to §19 11, without changes to the proposed text published in the March 23, 1984, issue of the *Texas Register* (9 TexReg 1670).

The amendment brings section references into conformity with sections of the Texas Agriculture Code, Chapter 61, language changes needed to clarify existing regulations

The amendment provides assurance that the rules and regulations of the Texas Department of Agriculture are in agreement with the provisions of the Texas Agriculture Code.

TITLE 7. BANKING AND SECURITIES Part II. Banking Department of Texas

Chapter 11. Miscellaneous General

7 TAC §11.30

The Banking Department of Texas adopts new §11.30, with changes to the proposed text published in the March 23, 1984, issue of the *Texas Register* (9 TexReg 1671).

Senate Bill 596, 68th Legislature, 1983, amended the definition in Texas Civil Statutes, Article 342-903, of "drive-in/walk-up" facility by adding "secured teller lobby." The new rule is necessary to describe how the additional "secured teller lobby" may be established. The new rule describes how state, national, and private banks can establish drive-in/walk-up facilities within 10,500 feet of their central building.

Bruce Heitz, general counsel, Texas American Bancshares, Fort Worth, pointed out that the proposed rule did not clearly state that the facility could be owned or leased by a bank. The agency agrees and changed the rule to clarify this. No other comments regarding adoption of the new section were received.

The new rule is adopted under Texas Civil Statutes, Article 342-207, which provide the banking commissioner with the authority to enforce the provisions of the Texas Banking Code.

§11.30. Drive-In/Walk-Up Facilities.

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

(1) Facility—A single, continuous parcel of land, owned or leased by the bank, over which the bank has sole and exclusive control.

(2) Secured teller lobby—An area used by the bank to offer banking services in which the teller work area is secure from the public.

(3) Boundary—The outer limit of the facility.

(4) Bank—State, national, or private bank.

(b) Establishment of a drive-in/walk-up facility. A bank may establish a drive-in/walk-up facility pursuant to the Texas Banking Code, Article 3(c), Chapter IX, no more than 10,500 feet from its central building without notice or approval of the Banking Department of Texas. A bank may use more than one building or structure located on the facility if the buildings or structures are incidental to each other in the provision of banking services. In the department's view, they must be no more than 500 feet apart at their nearest walls to be considered incidental. Any banking services may be offered at the drive-in/walk-up or secured teller lobby located on the facility. Offices which directly access into the lobby are considered part of the lobby. All three manners of service do not have to be offered at the facility.

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 April 30, 1984

TRD-844841 Archie P Clayton III
General Counsel
Banking Department of Texas

Effective date: June 1, 1984
Proposal publication date: March 23, 1984
For further information, please call (512) 475-4451.

The Banking Department of Texas adopts new §11.33, without changes to the proposed text pub-

lished in the March 23, 1984, issue of the *Texas Register* (9 TexReg 1671).

Out-of-state banks have been permitted to establish loan production offices in Texas for over a decade, but the authority of Texas banks to establish loan production offices has not been established. The new section allows state, national, and private banks domiciled in Texas to establish loan production offices.

George L. Stockwell, general counsel, Republic Bank, Dallas, commented that the new section could be construed to prevent a bank customer from using unmanned teller machines to access a credit card line of credit or prearranged overdraft. The department feels the language is not intended to effect such transactions and, read in the context of the new section, it does not. No other comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 342-207, which provide the banking commission with the authority to enforce the provisions of the Texas Banking Code.

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 April 30, 1984

TRD-844842 Archie P Clayton III
General Counsel
Banking Department of Texas

Effective date: June 1, 1984
Proposal publication date: March 23, 1984
For further information, please call (512) 475-4451.

**TITLE 10. COMMUNITY
DEVELOPMENT
Part I. Texas Department of
Community Affairs
Chapter 9. Texas Community
Development Program
Subchapter B. Contract Administration
10 TAC §9.2**

The Texas Department of Community Affairs adopts amendments to §9.2, without changes to the proposed text published in the March 30, 1984, issue of the *Texas Register* (9 TexReg 1787).

Section 9.2 concerns a variation from the Uniform Grant and Contract Management Standards (UGCMS) adopted by the Office of the Governor in 1 TAC §§5.141-5.167. The justification for the section is that the variation will ensure compliance with UGCMS and federal law.

The variance pertains to contracts awarded to units of general local government under the Texas Commu-

nity Development Program (TCDP). The amendments renumber the rule, clarify the source of federal authority, and establish additional assurances required by statute with which TCDP applicants and recipients must comply.

No comments were received regarding adoption of the amendments.

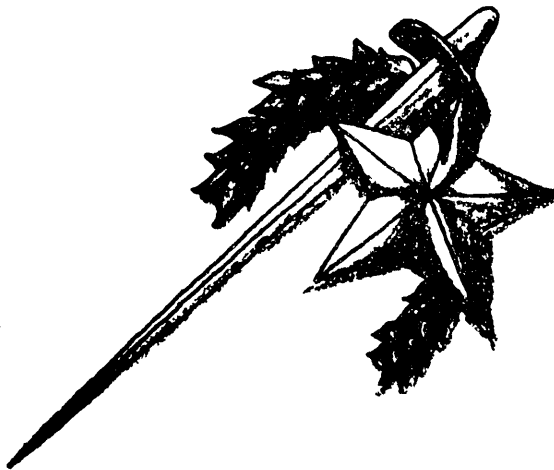
The amendments are adopted under Texas Civil Statutes, Article 4413(32g), §6, which provide the Texas Department of Community Affairs with the authority to establish variations from the UGCMS through rule making, if such variations are required or specifically authorized by federal statute or regulation or state statute.

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

Issued in Austin, Texas, on May 1, 1984

TRD-844848 Douglas C. Brown
General Counsel
Texas Department of Community
Affairs

Effective date: May 22, 1984
Proposal publication date: March 30, 1984
For further information, please call (512) 443-4100,
ext.210.



**TITLE 16. ECONOMIC
REGULATION
Part I. Railroad Commission of
Texas
Chapter 9. Liquefied Petroleum Gas
Division
Subchapter E. Division III
16 TAC §§9.121, 9.123, 9.125**

The Railroad Commission of Texas adopts amendments to §9 123 and §9 125, with changes to the proposed text published in the November 4, 1983, issue of the *Texas Register* (8 TexReg 4538). Section

9 121 is adopted without changes and will not be republished in this issue.

As amended, §9.121 requires material handling equipment to be located a minimum of 50 feet from any highway or railroad right-of-way. This buffer zone of 50 feet between liquefied petroleum gas that might escape during fuel transfers and potential sources of ignition traveling on contiguous highways or railroad tracks should increase safety by providing time and distance for the gas to dissipate before reaching a source of ignition.

As an alternative to fencing a bulk storage facility to protect it from mechanical damage, §9.123 is amended to allow guard rails and posts to be used. Where a bulk storage area is protected by guard rails, valve locks must be used to prevent unauthorized tampering. Amendments to §9.123 are intended to reduce the risk of a person being trapped inside a fenced enclosure in the event of a fire, and to provide greater accessibility to emergency response personnel.

A public hearing was conducted on January 17, 1984, to receive comments on the proposed rule changes. Both oral and written comments were submitted.

One person recommended that material handling equipment be excluded from the distance requirements of §9 121. The commenter pointed out that modification of an existing bulk storage facility which complies with all distance requirements will require the installation of bulkheads and emergency shutoff valves (i.e., material handling equipment) under new §9.135. In some instances, it will be impossible to obtain the required 50 feet from highway and railroad rights-of-way. The commenter argued that reduced distances should be justified if bulkheads and emergency shutoff valves increase safety.

The commission disagrees that reduced distances are justified. The most likely place for gas to escape is at the point of transfer. Although bulkheads and emergency shutoff valves will stop the flow of gas in the event of a break in the transfer connection, some gas will escape. If the fuel transfer area is close to a possible source of ignition, a fire and explosion could occur. The commission declines to change §9.121; however, §9.135 is changed to eliminate requiring the installation of bulkheads and emergency shutoff valves whenever an existing bulk storage facility is modified.

The same commenter recommended that §9.123(b) be changed to specify "industrial type" instead of "chain link type" fence. The commenter indicated that chain link fence is more expensive. The commission disagrees. Section 9.123 previously specified the wire gauge required for such fencing. This specification is now deleted, allowing a choice among several wire gauges available in chain link fence. The commission further believes that "chain link" is more specific than "industrial type" and should prevent confusion. One change was made to clarify the intent of §9.123(b) by replacing a comma with the word "and."

Several comments on §9 123(b)(1) agreed with the concept of having two means of emergency egress and ingress at fenced bulk storage areas, but objected to requiring two gates at opposite ends of the enclosure. Commenters suggested that the rule be changed to allow alternate means of accomplishing the desired goal. One person expressed concern about requiring the gates to be locked when an installation is unattended.

The commission has reworded the rule for clarification and to permit "approved means" of emergency access without limiting the means to gates. To prevent tampering by unauthorized persons, the commission believes that entrances to the fenced enclosure must be locked unless some other means to prevent tampering is provided (e.g., valve locks).

One person objected to two gates being required for perimeter area fencing. The purpose of requiring two means of emergency ingress and egress is to reduce the possibility of a person being trapped inside the fenced enclosure in the event of a fire. A secondary consideration is accessibility to firemen and other emergency personnel. Escape and accessibility are not problems when greater distances separate the containers and fencing. By rewording §9.123(b)(1) as noted in the preceding paragraph, only one entrance is required regardless of whether the fence immediately surrounds the storage containers or encloses the perimeter of the entire tract where the storage facility is situated. Language is added to §9 123(c) to clarify what is meant by "perimeter area fencing."

Another commenter suggested that §9 123(c) be changed to delete the requirement that storage containers be protected from vehicular traffic by guard rails. The rule has been changed to incorporate this comment.

One person recommended that the words "encased and" be deleted in §9 123(d)(2), and the rule has been changed accordingly. Another person expressed the opinion that the overall length of guard posts should be specified in §9 123(d)(2). The commenter also said that specifications for guard rails and posts should be consistent throughout the Liquefied Petroleum Gas Division safety rules.

As to the length of guard posts, the commission believes that requiring the posts to be adequately anchored in concrete and to have a minimum height of 30 inches above ground level is sufficient. Even if the rule specified an overall length for guard posts, there would be no way of verifying this unless a commission inspector observed each post being set in the ground. The commission does agree that guard rail and post requirements should be uniform throughout the rules. Section 9 123(d)(2) is therefore changed to require guard posts to be spaced not more than four feet apart rather than five feet. Provisions regarding guard rails and posts applicable to other areas of the safety rules will subsequently be amended to achieve further uniformity.

The same person commented that §9 123(d)(4) be deleted in its entirety as superfluous since materials for guard rails and posts are specified in paragraphs (2) and (3) of §9.123(d). The commission agrees and paragraph (4) has been deleted and paragraphs (5)-(7) renumbered as paragraphs (4)-(6).

One person suggested that §9.123(d)(5) be withdrawn for further study. Another person stated that the width of bulkheads should be specified to insure that bulkheads are adequately protected by guard rails and posts. The commission believes that §9.123(d)(5) provides for adequate protection of a bulkhead while maintaining an open area directly in front of the bulkhead to allow it to function properly. In the unlikely event the bulkhead is struck by a vehicle, no major damage should occur. If a hose or pipe does break, the emergency shutoff valves will activate and stop the flow of gas. Piping is connected to the bulkhead by flexible wire braided hose and should not be displaced. The commission adopts §9.123(d)(5) as proposed.

A comment relating to §9 125(b) suggested relocating it to §9 123(d) so as to require warning signs only at installations protected by guard rails instead of fences. The warning sign requirement has been relocated and renumbered as §9 123(d)(7). The wording has been clarified to indicate that warning signs are required only at bulk storage areas protected by guard rails in lieu of fencing.

One commenter suggested that decals be used instead of signs. Since the commission has specified only the wording and size of lettering, the material used for the sign is optional.

Persons commenting on §9.121 and §9.125 commented only on specific portions of the rules. It is therefore impossible to determine whether the commenters were for or against the rules. As a result, all persons are listed as commenting on the rules. Comments were submitted by Kirksey Propane Service, Inc., Automatic Butane Gas Company; Texas LP-Gas Association; International Drilling and Energy Corporation, Northwest Butane Gas Company, and G. R. "Bob" Alderman.

The amendments are adopted under the Natural Resources Code, Texas Civil Statutes, §113.051, which authorizes the commission to promulgate and adopt rules for the LP-gas industry which protect or tend to protect the health, welfare, and safety of the general public.

§9.123. Protection of Bulk Storage Areas.

(a) To protect bulk storage containers, attachments, and transfer equipment from unauthorized tampering and mechanical damage, bulk storage areas shall be protected by fencing and/or guard rails and valve locks.

(b) Areas occupied by bulk storage containers, attachments, and transfer equipment (excluding transfer islands or transfer bulkheads, which may be outside the fenced area if protected by guard rails and valve locks).

in accordance with subsection (d) of this section) shall be enclosed by an all metal chain link type fence, at least six feet high, or at least five feet high and topped by three strands of barbed wire spaced four inches apart.

(1) At least two sides of the fenced enclosure shall be provided with approved means of emergency access to and from the enclosed area. The enclosure shall be equipped with a locking entrance which shall remain unlocked during fuel transfer operations. All entrances shall be locked when the installation is unattended; provided, however, that entrances need not be locked when valve locks and electrical control locks are used in accordance with subsection (d) of this section.

(2) Fencing shall not be installed closer than five feet to the tank at any point. All uprights and braces within 25 feet of storage containers shall be of noncombustible material.

(3) No unlocked manual operating valve shall be located within four feet of the fence.

(4) The fence shall be maintained in good condition at all times.

(c) Where perimeter area fencing (i.e., fencing erected more than 25 feet from the storage containers) complies with subsection (b) of this section, guard rails which comply with subsection (d) of this section shall be used to protect all piping, pumps, and transfer equipment subject to vehicular traffic.

(d) As an alternative to fencing a bulk storage area, guard rails and suitable valve locks may be used to protect the area from mechanical damage and unauthorized tampering. Electrical controls shall also be provided with cover locks.

(1) Valve locks and electrical control locks, when in place, shall effectively prevent unauthorized withdrawal of product from the hose or piping system.

(2) Vertical guard posts shall be a minimum of three-inch schedule 40 steel capped pipe or equivalent, adequately anchored in concrete, with an overall minimum height of 30 inches above ground level. Guard posts shall be spaced not more than four feet apart.

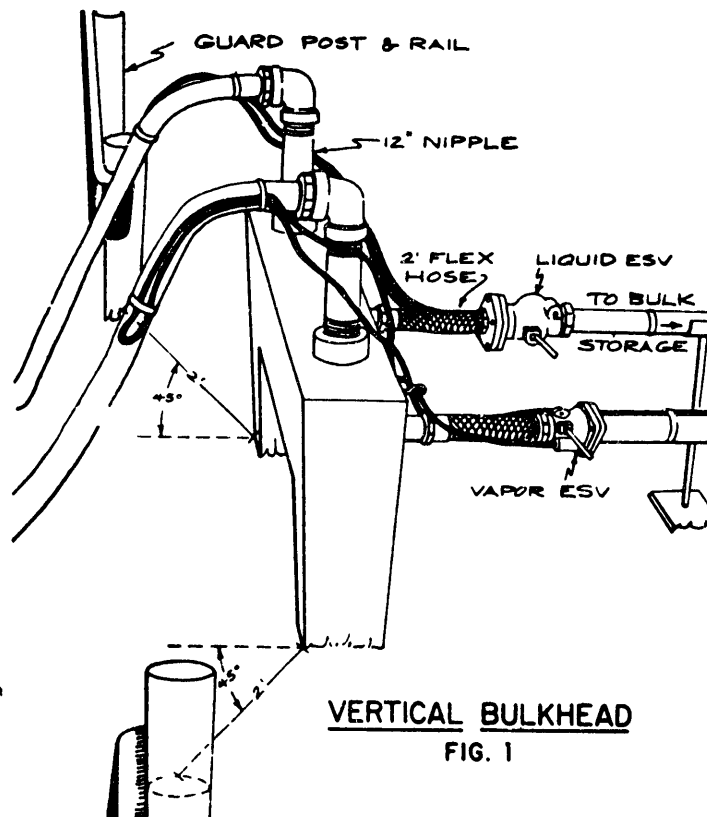
(3) Guard railing shall be a minimum of three-inch schedule 40 steel pipe or equivalent, substantially welded to the top of the guard post, or bolted to the guard post if highway type crash railing is used. Openings for ingress and egress shall be not more than 36 inches wide.

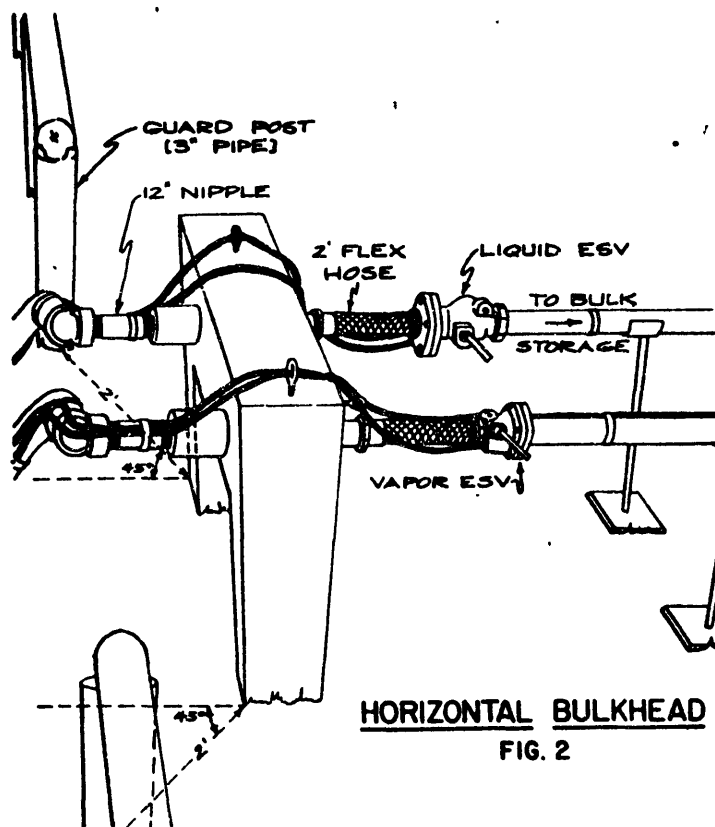
(4) A minimum clearance of 24 inches shall be maintained between guard railing and any container, pump, compressor, or piping manifold protected by the railing. The two end guard posts protecting a bulkhead shall be located at 45° angles to the corners of the bulkhead and a minimum of 24 inches outward from the bulkhead (See Figures 1 and 2).

(5) Guard rails shall encompass and protect all piping systems on any operating end or side of the storage container and shall extend 24 inches to each side of the container or piping, whichever extends farther.

(6) Guard rails shall be maintained in good condition at all times.

(7) Bulk storage installations protected by guard rails in lieu of fencing shall display a warning sign with the following words in four-inch black and red letters: "Warning-Flammable Gas" (red); "No Trespassing" (black); "No Smoking" (red). Warning signs shall be prominently displayed and readily visible to the public.





HORIZONTAL BULKHEAD
FIG. 2

(e) Areas occupied by bulk storages shall be kept clear of combustible materials such as weeds and trash within a radius of 25 feet around the containers and transfer equipment.

(f) Liquid and vapor main shutoff valves on all containers shall be in an "off" position when the installation is unattended.

§9.125. Lettering. All bulk storage installations shall be lettered in letters not less than eight inches high to indicate the name of the licensee operating the installation and the nature of contents. The previously stated lettering shall be so placed as to be readily visible to the public.

Issued in Austin, Texas, on April 23, 1984

TRD-844814 Mack Wallace, Chairman
Buddy Temple and Jim Nugent,
Commissioners
Railroad Commission of Texas

Effective date: May 21, 1984
Expiration date: November 4, 1983
For further information, please call (512) 445-1186.



16 TAC §9.135

The Railroad Commission of Texas adopts new §9.135, with changes to the proposed text published in the November 4, 1983, issue of the *Texas Register* (8 TexReg 4540).

Section 9.135 is intended to reduce the hazard which results when liquefied petroleum gas transport/delivery trucks drive away from a bulk storage area while fuel transfer hoses are still connected. Bulkheads will prevent the displacement of piping between the bulkhead and storage containers, and emergency shutoff valves (ESVs) will minimize the amount of gas escaping when the fuel transfer connection breaks

Section 9.135 will require all new bulk storage areas to include bulkheads and ESVs. The rule also establishes minimum standards which this equipment must meet or exceed.

A public hearing was conducted on January 17, 1984, to receive comments on proposed §9.135. The changes to the proposed text are made in response to comments received at the hearing.

The estimated economic cost of compliance with §9.135 created some controversy. One commenter quoted figures ranging from \$2,000 to \$3,000 for installation of a bulkhead with two ESVs. The examiner requested written documentation of these quotes, but the commenter failed to submit the requested material. Another commenter submitted in writing a quote of \$943 for a bulkhead of two ESVs (excluding labor).

The latter figure is very much in line with the commission's initial estimate, which also excluded labor.

Several persons expressed concern about the requirement in §9.135(a) that bulkheads and ESVs be installed at an existing bulk storage facility if the facility is modified by addition or relocation of storage containers. This provision has been deleted from the adopted rule.

Two commenters questioned the efficiency of ESVs and suggested this provision be withdrawn for further study. They indicated that some new technology is being developed and that the commission should await its completion. The commission declines to incorporate this comment in the final rule. If this technological breakthrough proves effective, the rule can be amended to include it. The ESVs have been required by national standards (National Fire Protection Association Pamphlet (NFPA) 58) since December 31, 1980. Although states adopting NFPA 58 have achieved less than 50% compliance, the commission does not intend to base its actions on the inactions of others.

Several comments were made that bulkheads and ESVs were a good idea for increased safety. These commenters said that they had already installed bulkheads and ESVs even though this equipment was not required at the time of installation.

Another person recommended that piping pass through a steel plate to hold the flexible connectors in place because the transfer hose might not withstand the torque of a pull-away at an angle instead of straight away from the bulkhead. The commission believes that the 12-inch pipe nipples between the bulkhead and hose coupling are adequate to prevent the hose from breaking.

One commenter indicated that bulkheads and ESVs should only be required at bulk storage facilities located in congested areas. The commission disagrees because most bulk storage facilities in remote areas are usually close to highways and vehicles traveling in the area provide potential sources of ignition. The comment is therefore not incorporated in the final rule.

One person objected to §9.135(b)(4), which prohibits branching off with two hoses from a single line at a bulkhead. The person indicated that his company has been using this configuration at its storage facilities with no problems. After further consideration, the commission has no objection and has deleted paragraph (4) from §9.135(b).

One person who is in favor of §9.135 suggested that §9.135(c) be changed to allow the use of liquefied petroleum gas (as well as inert gases) to activate the ESVs. The commission believes that this is permissible without changing the rule.

One commenter stated that §9.135 is not needed in the State of Texas. No evidence or reasoning was offered in support of this statement. The commission believes that research and tests conducted through the Engineering Extension Division of Texas A&M

University clearly demonstrate the benefit of the safety equipment required by §9.135.

The date of applicability has been changed from January 1, 1984, to June 1, 1984.

Only Roadrunner Energy, Inc., objected to §9.135 in its entirety. All others commented on specific provisions of the rule and suggested possible improvements. These commenters are not listed as for or against the rule, but as commenting on the rule. Comments were submitted by Star-Tex Propane; Ranch Butane Co., International Drilling and Energy Corp., Texas LP-Gas Association; Automatic Butane Gas Co.; Universal, Inc., G. R. "Bob" Alderman; Northwest Butane Gas Co., and Cal-Gas.

The new section is adopted under the Natural Resources Code, Texas Civil Statutes, §113.051, which authorizes the commission to promulgate and adopt rules for the liquefied petroleum gas industry which protect or tend to protect the health, welfare, and safety of the general public.

§9.135. Bulkheads and Emergency Shutoff Valves.

(a) Bulk storage facilities installed on or after June 1, 1984, shall include bulkheads and emergency shutoff valves (ESVs) for liquid and vapor transfer areas.

(b) Bulkheads shall be of concrete or steel and anchored sufficiently to prevent displacement of piping and fittings in the event of a truck pull-away while the transfer hose is connected.

(1) Piping through a bulkhead shall be secured to the bulkhead to prevent shifting. Piping shall terminate through the bulkhead with a Schedule 80 pipe collar and a 12-inch length of Schedule 80 pipe and forged steel elbow between the bulkhead and hose coupling.

(2) Bulkheads shall be not less than 10 feet from a container.

(3) Bulkheads, piping, and hoses shall be protected in accordance with §9.123(b) or (d) of this title (relating to Protection of Bulk Storage Areas).

(c) Emergency shutoff valves (ESVs) shall be installed in fixed piping of the transfer system upstream of the bulkhead with a flexible wire braided hose not more than 24 inches long installed between the ESVs and the bulkhead.

(1) ESVs shall be installed according to the manufacturer's instructions.

(2) ESVs shall incorporate all of the following means of closing:

(A) automatic shutoff through thermal (fire) actuation using fusible elements with a melting point not to exceed 250°F;

(B) manual shutoff at the installed location; and

(C) manual shutoff from a remote location. Remote controls shall be connected to each ESV. Emergency remote controls shall be conspicuously marked and shall be located and maintained to be readily accessible in emergencies.

(3) Where the flow of LP gas is in one direction only, a back-flow check valve may be used in lieu of an ESV in the fixed piping, provided that the back-flow check valve has a metal-to-metal seat or a primary resilient

seat with a secondary metal seat not hinged with combustible material

(4) ESVs or back-flow check valves shall be installed in the piping system in such manner that any break resulting from a pull-away will occur on the transfer hose side of the bulkhead and the valves and piping on the container side of the bulkhead will remain intact.

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 April 23, 1984

TRD-844815 Mack Wallace, Chairman
Buddy Temple and Jim Nugent,
Commissioners
Railroad Commission of Texas

Effective date May 21, 1984
Proposed publication date November 4, 1983
For further information, please call (512) 445-1186.

TITLE 25. HEALTH SERVICES Part IX. Texas Diabetes Council Chapter 651. Conduct of Council Meetings

25 TAC §§651.1-651.5

The Texas Diabetes Council adopts new §§651.1-651.5, concerning the conduct of council meetings, without changes to the proposed text published in the December 30, 1984, issue of the *Texas Register* (8 TexReg 5518)

The rules enable the public to know the procedures the council follows in conducting its official business. The rules cover the Texas Open Meetings Law, notice of meetings, transaction of business, and public participation.

No comments were received regarding adoption of the new rules.

The new rules are adopted under Texas Civil Statutes, Article 4477-60, §2(g), which authorize the Texas Diabetes Council to adopt rules for the conduct of its meetings.

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

Issued in Austin, Texas, on May 1, 1984

TRD-844820 Robert A. MacLean, M D
Deputy Commissioner
Professional Services
Texas Department of Health

Effective date May 22, 1984
Proposal publication date December 30, 1983
For further information, please call (512) 458-7534.

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part III. Texas Youth Commission Chapter 93. Volunteer Services

The Texas Youth Commission adopts new §§93.1-93.4, 93.10-93.12, 93.21, 93.23, 93.25, 93.35, 93.45, 93.49, 93.61, 93.65, 93.69, 93.71, 93.75, 93.79, 93.85, 93.89, 93.91, 93.97, 93.101, and 93.110, without changes to the proposed text published in the February 7, 1984, issue of the *Texas Register* (9 TexReg 665).

These rules clarify the administrative role of the Volunteer Services Program; establish policy for volunteer services; and set standards for volunteer services in the agency facilities and programs.

Volunteer coordinators in each of TYC's institutions, halfway houses, and area parole offices will implement the rules under the direction of the central office volunteer services staff and their local program administrators.

No comments were received regarding adoption of the new rules.

Administration

37 TAC §§93.1-93.4, 93.10-93.12

The new rules are adopted under the Human Resources Code, §61.034, which provides the Texas Youth Commission with the authority to adopt all policies and make rules appropriate to the proper accomplishment of its functions.

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

Issued in Austin, Texas, on May 2, 1984

TRD-844861 Ron Jackson
Executive Director
Texas Youth Commission

Effective date: May 23, 1984
Proposal publication date: February 7, 1984
For further information, please call (512) 452-8111.



Volunteer Management

37 TAC §§93.21, 93.23, 93.25, 93.35, 93.45, 93.49

The new rules are adopted under the Human Resources Code, §61.034, which provides the Texas Youth Commission with the authority to adopt all policies and make rules appropriate to the proper accomplishment of its functions.

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

Issued in Austin, Texas, on May 2, 1984

TRD-844862 Ron Jackson
Executive Director
Texas Youth Commission

Effective date: May 23, 1984
Proposal publication date: February 7, 1984
For further information, please call (512) 452-8111.

Constraints

37 TAC §§93.61, 93.65, 93.69

The new rules are adopted under the Human Resources Code, §61.034, which provides the Texas Youth Commission with the authority to adopt all policies and make rules appropriate to the proper accomplishment of its functions.

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

Issued in Austin, Texas, on May 2, 1984

TRD-844863 Ron Jackson
Executive Director
Texas Youth Commission

Effective date: May 23, 1984
Proposal publication date: February 7, 1984
For further information, please call (512) 452-8111.

Donations

37 TAC §§93.71, 93.75, 93.79, 93.85, 98.89, 93.91, 93.97

The new rules are adopted under the Human Resources Code, §61.034, which provides the Texas Youth Commission with the authority to adopt all policies and make rules appropriate to the proper accomplishment of its functions.

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

Issued in Austin, Texas, on May 2, 1984

TRD-844864 Ron Jackson
Executive Director
Texas Youth Commission

Effective date: May 23, 1984
Proposal publication date: February 7, 1984
For further information, please call (512) 452-8111.

Volunteer Reports

37 TAC §§93.101, §93.110

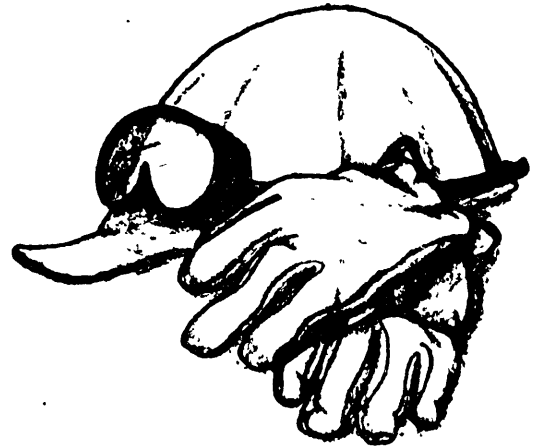
The new rules are adopted under the Human Resources Code, §61.034, which provides the Texas Youth Commission with the authority to adopt all policies and make rules appropriate to the proper accomplishment of its functions.

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

Issued in Austin, Texas, on May 2, 1984.

TRD-844885 Ron Jackson
Executive Director
Texas Youth Commission

Effective date: May 23, 1984
Proposal publication date: February 7, 1984
For further information, please call (512) 452-8111.



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Resources Chapter 7. Refugee Assistance Program

The Texas Department of Human Resources adopts amendments to §§7.1111, 7.1114, 7.1902, 7.2001, 7.2004-7.2006, 7.2008-7.2014, 7.2102 and 7.2103, without changes to the proposed text published in the March 9, 1984, issue of the *Texas Register* (9 TexReg 1428).

The rules concern financial and medical assistance in the department's Refugee Assistance Program. The rules are amended to clarify policy, delete references to obsolete programs, and comply with changes made by the Department of Health and Human Services (HHS) in its refugee programs.

No comments were received regarding adoption of the amendments.

Certification Process**40 TAC §7.1111, §7.1114**

The amendments are adopted under the Human Resources Code, Title 2, Chapter 22 and Chapter 31, which authorizes the department to administer public assistance programs.

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

Issued in Austin, Texas, on May 2, 1984.

TRD-844851 Marlin W Johnston
 Commissioner
 Texas Department of Human
 Resources

Effective date May 23, 1984
Proposal publication date March 9, 1984
For further information, please call (512) 441-3355,
ext 2037

**Refugee Resettlement and
Cuban/Haitain Program****40 TAC §7.1902**

The amendments are adopted under the Human Resources Code, Title 2, Chapter 22 and Chapter 31, which authorizes the department to administer public assistance programs.

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

Issued in Austin, Texas, on May 2, 1984

TRD-844852 Marlin W Johnston
 Commissioner
 Texas Department of Human
 Resources

Effective date: May 23, 1984
Proposal publication date March 9, 1984
For further information, please call (512) 441-3355,
ext. 2037.

**Refugee Resettlement and Cuban/
Haitain Entrant Financial and Medical
Assistance****40 TAC §§7.2001, 7.2004-7.2006,
7.2008-7.2014**

The amendments are adopted under the Human Resources Code, Title 2, Chapter 22 and Chapter 31, which authorizes the department to administer public assistance programs.

Issued in Austin, Texas, on May 2, 1984.

TRD-844853 Marlin W Johnston
 Commissioner
 Texas Department of Human
 Resources

Effective date. May 23, 1984
Proposal publication date March 9, 1984
For further information, please call (512) 441-3355,
ext. 2037

Refugee/Entrant Resettlement Services**40 TAC §7.2102, §7.2103**

The amendments are adopted under the Human Resources Code, Title 2, Chapter 22 and Chapter 31, which authorizes the department to administer public assistance programs.

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

Issued in Austin, Texas, on May 2, 1984

TRD-844850 Marlin W Johnston
 Commissioner
 Texas Department of Human
 Resources

Effective date: May 23, 1984
Proposal publication date March 9, 1984
For further information, please call (512) 441-3355,
ext. 2037.

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 Commission on Alcoholism

Friday, May 25, 1984, 10 a.m. The Texas Commission on Alcoholism rescheduled a meeting to be held in the conference room, 1705 Guadalupe Street, Austin. Items on the agenda include approval of the minutes, reports of the Advisory Council and the executive director, discussion of a Mortimer-Filkins screening instrument, a proposed rule for an approved DWI program, DWI certification and waivers, a proposed funding cycles policy, a computer system update, and a zero base budgeting submission update. The commission also will meet in executive session. The meeting was originally scheduled for May 5, 1984, as published at 9 TexReg 2389.

Contact: Becky Davis, 1705 Guadalupe Street, Austin, Texas 78701, (512) 475-2577.

Filed: May 3, 1984, 8:58 a.m.
TRD-844934

Texas Department of Corrections

The Board of the Texas Department of Corrections (TDC) will meet in Room 103, Administration Building, 815 11th Street, Huntsville. Days, times, and agendas follow.

Sunday, May 13, 1984, 5 p.m. The board will meet in executive session to discuss matters concerning Ruiz litigation, Wade v. Gunn litigation, an architectural fee contract, and a consultant contract.

Monday, May 14, 1984, 8 a.m. The board will consider inmate affairs, medical, personnel, business, legislative, agriculture, construction, industries, legal, and miscellaneous matters, managements services, and the Windham School System.

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

Filed: May 2, 1984, 1:25 p.m.
TRD-844887, 844888

Texas Commission for the Deaf

Friday, May 11, 1984, 9:30 a.m. The Texas Commission for the Deaf will meet at 510 South Congress Avenue, Austin. According to the agenda, the commission will approve the previous meeting minutes; hear a report from the commission concerning the evaluation of interpreters; consider the mid-year budget shifts and an update on Sunset Commission review activities; and hear public comments and the director's and chair-

man's reports. The commission will also meet in executive session to discuss personnel matters.

Contact: Fred R. Tammen, P.O. Box 12904, Austin, Texas 78711, (512) 475-2492.

Filed: May 1, 1984, 4:58 p.m.
TRD-844849

Texas State Board of Dental Examiners

Thursday-Saturday, May 3-5, 1984, 8 a.m., daily. The Texas State Board of Dental Examiners made an emergency addition to the agenda of a meeting held in the Rehearsal Room, San Antonio Convention Center, San Antonio. The addition concerned discussion of the Austin-Travis County Health Department's dental services. The emergency status was necessary because the request was just received from the City of Austin and they needed the approval of the board before they could begin this program.

Contact: William S. Nail, 411 West 13th Street, Suite 503, Austin, Texas 78701, (512) 475-2443.

Filed: April 1, 1984, 1:42 p.m.
TRD-844826

Texas Education Agency

Friday, May 11, 1984. Committees of the State Board of Education of the Texas Education Agency (TEA) will meet at the TEA North Building, 1200 East Anderson Lane, Austin. Times, rooms, committees, and agendas follow.

7:30 a.m. In Room 101-E, the Committee for Internal Rules will consider §5.8 of the board operating rules, concerning rules of order, §915 of the board operating rules, concerning the State Board of Education honors list, and §5.5 of the board operating rules, concerning agendas; travel for board members; and a revised sunset date for the State Commission on School Accreditation.

8:30 a.m. In Room 101-E, the Committee for Rules, Budget, and Finance and the Committee for Special Populations will consider fiscal audits, records, and reports; TEA contracts and agreements; a status report from the Gifted/Talented Advisory Committee; program budgets for fiscal year 1984-1985; and a petition for adoption or amendment of a rule

8:30 a.m. In Room 101, the Committee for Vocational Education and High Technology will consider a proposed repeal of existing rules and proposed new rules concerning occupational education and technology, evaluation topics addressing concerns in technical-vocational education, the governor's recommendations for appointment to the Advisory Council for Technical-Vocational Education in Texas, a division of postsecondary programs concerning the overview of structure and functions, a report on a two-day meeting of the Advisory Committee on Information Technology and Telecommunications Systems, and a report on industrial arts

10 a.m. In the Joe Kelly Butler board room, the Committee of the Whole will consider student absences for extracurricular or other activities, general content requirements and limitations for textbooks, proposed recommendations to a special session of the legislature concerning school finance, and proposed legislative recommendations to the 69th regular session of the legislature

2 p.m. In Room 101, the Committee for Instruction, Research, and Evaluation and the Committee for Teacher Preparation, Support Services, and Litigation/Appeals will consider the results of the March Preprofessional Skills Test, requirements for assignment of teachers, general education development, readability level designation, the

State Commission on School Accreditation, establishment and modification of a district's accreditation status; teaching certificates for persons with a criminal background; reprimand, suspension, cancellation, and reinstatement of certificates and permits; hearings and appeals; a status report concerning proprietary schools and veterans education; a report on a free enterprise project; and a report on the North Carolina School of Science and Mathematics.

2 p.m. In Room 101-E, the Committee for Investment of the Permanent School Fund will hear a presentation by InterFirst Investment Management, Inc., regarding economic forecasts, review of stocks, and the Investment Program; consider a recommended Investment Program for May; review securities transactions and the investment portfolio; consider estimated funds available for the May program; and hear a report of the investment officer.

Contact: Raymon L. Bynum, 201 East 11th Street, Austin, Texas 78701, (512) 475-3271.

Filed: May 2, 1984, 2:23 p.m.
TRD-844894-844899

Saturday, May 12, 1984, 8:30 a.m. The State Board of Education of the TEA will meet in the Joe Kelly Butler board room, TEA North Building, 1200 East Anderson Lane, Austin. According to the agenda summary, the board will consider the Texas teacher of the year for 1984, appeals from decisions of the commissioner of education; motions for rehearing of the board decision; agency administration, an appointment of a trustee for the Lackland Independent School District, fiscal audits, records, and reports; TEA contracts and agreements; student absences for extracurricular or other activities, program budgets for fiscal year 1984-1985, a petition for adoption or amendment of a rule, proposed recommendations to a special session of the legislature concerning school finance, proposed legislative recommendations to the 69th regular session of the legislature; a proposed repeal of existing rules and proposed new rules concerning occupational education and technology, evaluation topics addressing concerns in technical-vocational education; the governor's recommendations for appointment to the Advisory Council for Technical-Vocational Education in Texas; general content requirements and limitations of textbooks, requirements for assignment of teachers; general educational development; readability level designation; the State Commission on School Accreditation, establishment and modification of a dis-

trict's accreditation status; teaching certificates for persons with a criminal background; reprimand, suspension, cancellation, and reinstatement of certificates and permits; hearings and appeals; estimated funds available for the May program concerning the permanent school fund; travel for board members; and §5.8 of the board operating rules, concerning rules of order, and §9.5 of the board operating rules, concerning the board's honors list.

Contact: Raymon L. Bynum, 201 East 11th Street, Austin, Texas 78701, (512) 475-3271.

Filed: May 2, 1984, 2:24 p.m.
TRD-844900

Texas Employment Commission

Thursday, May 3, 1984, noon. The Texas Employment Commission (TEC) met in emergency session in the private dining room, TEC cafeteria, 15th Street and Congress Avenue, Austin. According to the agenda, the commission had lunch with Eagle Pass Elementary School sixth grade students, teachers, and others. The emergency status was necessary because the receipt of information regarding the time of the visit was too late for a regular meeting notice.

Contact: Kathy Morgan, TEC Building, Room 618, 15th Street and Congress Avenue, Austin, Texas 78778, (512) 397-4510.

Filed: May 1, 1984, 1:22 p.m.
TRD-844829

**Texas Statewide Health
Coordinating Council**

Friday, May 11, 1984, 1 p.m. The Texas Statewide Health Coordinating Council will meet in Room 2-102, Joe C. Thompson Conference Center, University of Texas campus, 26th and Red River Streets, Austin. According to the agenda summary, the council will approve the March 30, 1984, minutes; hear reports from the Resource Development and Implementation Committee, the State Health Plan Development Committee, the Application, Budget, and Project Review Committee, and the Monitoring and Assessment Committee; and select the next meeting date.

Contact: Mike Ezzell, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7261.

Filed: May 2, 1984, 2:43 p.m.
TRD-844910

**Texas Health Facilities
Commission**

Thursday, May 10, 1984, 1:30 p.m. The Texas Health Facilities Commission made additions to the agenda of a meeting to be held in Suite 305, Jefferson Building, 1600 West 38th Street, Austin. According to the agenda summary, the commission will consider the following additional applications

Amendments of Certificate of Need
Fort Worth Osteopathic Medical Center,
Fort Worth
AH82-0920-047A(032984)

Richardson Medical Center/B. B. Owen
Memorial Hospital, Richardson
AH80-0911-007A(032884)

St Elizabeth, Beaumont
AH78-1109-015A(032884)

Wilson N Jones Memorial Hospital,
Sherman
AH81-1230-021A(031584)

Notice of Intent Regarding a Research
Project
The Methodist Hospital, Houston
AN84-0328-188

Notices of Intent to Acquire Existing Health
Care Facilities
York Associates, Chicago, Illinois
AN84-0228-129

Med West Health Care Management
Corporation, Richardson
AN84-0228-130

Summit Care-Texas, Inc., a Texas
corporation, Burbank, California
AN84-0402-204

San Antonio Diagnostic Imaging Center,
a to-be-formed limited partnership,
San Antonio
AS84-0402-205

Motion for Rehearing/Reconsideration
Sierra Medical Center, The Family
Hospital of El Paso, Inc., Ysleta
General Hospital; and South El Paso
Hospital, Inc., El Paso
AH82-0730-034

Contact: John R. Neel, P O Box 50049,
Austin, Texas 78763

Filed: May 2, 1984, 9:09 a.m.
TRD-844857

**Texas Commission on Human
Rights**

**Friday and Saturday, May 11 and 12, 1984,
1:30 p.m. and 9 a.m. respectively.** The
Texas Commission on Human Rights will
meet in Sergeants' Committee Room 215,
State Capitol, Austin. According to the
agenda summary, the commission will con-

sider approval of the prior meeting minutes,
a biennium budget study session, guidelines
for filing civil actions, the attorney general's
comments on commissioner liability, a com-
mission poster, supplemental budget approp-
riations, the executive director's report, the
operations report, the finance report, an
IPA contract, a research project, and unfin-
ished business

Contact: William M. Hale, P O. Box
13493, Austin, Texas 78711, (512) 475-1178.

Filed: May 2, 1984, 12:04 p.m.
TRD-844886

State Board of Insurance

Tuesday, May 1, 1984, 2 p.m. The State
Board of Insurance made an emergency re-
vision to the agenda of a meeting held in
Room 414, State Insurance Building, 1110
San Jacinto Street, Austin. According to the
agenda, the emergency revision concerned
consideration of emergency rules to imple-
ment the Insurance Code, Article 21.53, the
Amusement Ride Safety Inspection and In-
surance Act. The emergency status was
necessary for the rules to be implemented
by July 1, 1984, when Article 21.53 must
go into effect.

Contact: Pat Wagner, 1110 San Jacinto
Street, Austin, Texas, (512) 475-2950

Filed: May 1, 1984, 10:28 a.m.
TRD-844827

Thursday, May 3, 1984, 1 p.m. The State
Board of Insurance met in emergency ses-
sion in Room 414, 1110 San Jacinto Street,
Austin. According to the agenda, the board
considered designation of a successor to the
Texas Crime Prevention Institute under the
Insurance Code, Article 5.33A, and person-
nel. The emergency status was necessary be-
cause the the Insurance Code, Article
5.33A, the Home Inspection Program, had
been without a method of certifying inspec-
tors since February 1, 1984, and there also
was a need to take action on personnel mat-
ters at the earliest possible time

Contact: Pat Wagner, 1110 San Jacinto
Street, Austin, Texas, (512) 475-2950.

Filed: May 3, 1984, 8:48 a.m.
TRD-844931

Thursday, May 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 con-
sider a request by the Insurance Services Of-
fice for rescission of Board Order 26266, a
petition by the Texas Automobile Insurance
Plan for an amendment to the Automobile

Manual; a proposed emergency rule to im-
plement the Insurance Code, Article 21.53;
and a petition to amend Rule 059.21
.49.006, concerning plan of operation of the
Texas Catastrophe Property Insurance As-
sociation, by amending subsection (c)(2)
(B)(i), regarding the respecting assessment
of members for operating expenses and
catastrophe losses, adding clause (iii) to
subsection (c)(2)(B) to establish a procedure
whereby the association establishes the
amount of net direct premium of member
companies and percentage of participation
by member companies, and amending sub-
section (c)(2)(C), respecting a procedure for
assessments of member companies

Contact: Pat Wagner, 1110 San Jacinto
Street, Austin, Texas, (512) 475-2950.

Filed: May 2, 1984, 2:19 p.m.
TRD-844890

Monday, May 14, 1984, 9 a.m. The Com-
missioner's Hearing Section of the State
Board of Insurance will meet in Room 342,
1110 San Jacinto Street, Austin. According
to the agenda, the section will conduct a
public hearing on Docket 7718—application
of American Savings and Loan Association
to acquire 100% of Southern Savings Life
Insurance Company, Brownwood

Contact: Tom I. McFarling, 1110 San
Jacinto Street, Austin, Texas 78786, (512)
475-1076

Filed: May 3, 1984, 8:43 p.m.
TRD-844930

**Texas Advisory Commission on
Intergovernmental Relations**

Friday, May 11, 1984. Committees of the
Texas Advisory Commission on Intergov-
ernmental Relations and the full commis-
sion will meet at the Texas Law Center, 15th
and Colorado Streets, Austin. Times,
rooms, committees, and agendas follow.

8:30 a.m. In Room 201, the Special Com-
mittee on Operations and Funding will re-
view the status of the agency's fiscal year
1984 finances, consider the Texas Data
Management Program and other potential
new projects; and discuss the 1986-1987
budget request

9:30 a.m. In Room 201, the New Federalism
Committee will review the low-level radio-
active waste project report, discuss the
scope of committee activities, review activi-

ties concerning a proposed federal high-level radioactive waste site, and consider other potential new projects

9:30 a.m. In Room 204, the State-Local Issues Committee will consider a progress report on the appraisal district survey, review a report for the Joint Select Committee on Fiscal Policy, and hear an update on the Task Force on Indigent Health Care

10:30 a.m. In Rooms 202-203, the commission will consider the executive director's report and reports of the Operations and Funding Committee, the New Federalism Committee, and the State-Local Issues Committee, conduct a discussion by Gerald Hill concerning current state issues; new business; and consider presentations and discussions concerning 1984 finances, potential projects, the 1986-1987 budget request, and the low-level radioactive waste project report

Contact: Jay G. Stanford, P O Box 13206, Austin, Texas 78711, (512) 475-3728.

Filed: May 1, 1984, 3:26 p.m.
TRD-844843-844846

Texas Department of Labor and Standards

Wednesday, May 9, 1984, 9 a.m. The Labor/Licensing and Enforcement Division of the Texas Department of Labor and Standards will meet in emergency session in Suite 209, 4615 North Freeway, Houston. According to the agenda, the division will conduct a hearing under Texas Department of Labor and Standards rule codified as 16 TAC §61.5(e)(5)(G), to discuss the medical disqualifications to show proof of fitness of a boxer. The emergency status is necessary to consider the possible violations of the boxing rules which jeopardize individual safety and the public's welfare

Contact: Larry Kosta, P O Box 12157, Austin, Texas 78711, (512) 475-7001.

Filed: May 2, 1984, 4:18 p.m.
TRD-844916

Board of Nurse Examiners

Tuesday-Thursday, May 15-17, 1984, 8 a.m. daily. The Board of Nurse Examiners will meet at the Sunrise Motor Hotel, 7622 IH 35 North, Austin. According to the

agenda summary, the board will conduct disciplinary and reinstatement hearings and consider consent orders, warnings, an education report concerning survey visits, annual and progress reports, a requested hearing on May 16, 1984, at 10 a.m. regarding Schreiner College in Kerrville, examination, new business, other action, miscellaneous, and a public hearing on May 16, 1984, at 2 p.m. regarding a request for extended campuses by Texas Tech University.

Contact: Margaret Rowland, 1300 East Anderson Lane, C-225, Austin, Texas 78752, (512) 835-4880.

Filed: May 2, 1984, 9:54 a.m.
TRD-844868

Texas Parks and Wildlife Department

Wednesday, May 9, 1984, 7 p.m. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at 1205 North Lamar Boulevard, Austin. According to the agenda summary, the commission will have dinner. Although this function is primarily a social event and no formal action is planned, the commission may discuss items on the public hearing agenda scheduled for 9 a.m. on May 10, 1984

Contact: Charles D. Travis, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4802.

Filed: May 1, 1984, 2:16 p.m.
TRD-844832

Thursday, May 10, 1984. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet in Building B, Texas Parks and Wildlife Headquarters Complex, 4200 Smith School Road, Austin. Times and agendas follow

9 a.m. The commission will approve the March 30, 1984, minutes; present retirement certificates and service plaques; reconsider a fall turkey season in Gonzales County; hear a presentation by Ralph Rayburn, Texas Shrimp Association executive director; consider requests for funding local parks from the land and water conservation fund or the Texas local parks, recreation, and open space fund, alligator reclassification and revision of statewide alligator regulations, a sanitary sewer pipeline easement for McKenzie State Park in Lubbock County, nomination of lands for oil and gas leasing regarding Galveston Island State Park in Galveston County, the Texas Conservation Corps Program; and white-winged dove habitat acquisition.

Addition to the previous agenda:

Consideration of the proposed 1984-1985 early season migratory game bird proclamation, wildlife programs, and fisheries programs

Noon. The commission will meet in executive session to discuss potential acquisitions, the settlement of pending litigation matters, and personnel matters.

Contact: Charles D. Travis, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4802.

Filed: May 1, 1984, 2:16 p.m.
TRD-844833-844835

Texas State Board of Public Accountancy

Friday and Saturday, May 11 and 12, 1984, 9 a.m. and 10 a.m. respectively. The Texas State Board of Public Accountancy will meet in Suite 340, 1033 La Posada Drive, Austin, on Friday and at the Erwin Special Events Center, Red River Street, Austin, on Saturday. According to the agenda summary, the board will conduct committee meetings; hear committee reports; review the conduct of the CPA examination and plans for future examinations, the swearing-in ceremony for new CPAs, and litigation and communications; and ratify consent orders/proposals for decision and board/staff actions

Contact: Bob E. Bradley, 1033 La Posada Drive, Suite 340, Austin, Texas 78752, (512) 451-0241

Filed: May 2, 1984, 9:55 a.m.
TRD-844869

Texas Department of Public Safety

Friday, May 11, 1984, 1 p.m. The Public Safety Commission of the Texas Department of Public Safety (DPS) will meet in the commission room, DPS Headquarters, 5805 North Lamar Boulevard, Austin. Items on the agenda include approval of the minutes, budget matters, personnel matters, consideration of public comment and final action on rules pertaining to the Harris County Vehicle Emission Program, and other unfinished business

Contact: James B. Adams, 5805 North Lamar Boulevard, Austin, Texas, (512) 465-2000, ext 3700

Filed: May 2, 1984, 3 p.m.
TRD-844909

Texas Register

Public Utility Commission of Texas

Thursday, May 3, 1984, 1:30 p.m. The Hearings Division of the Public Utility Commission of Texas met in emergency session in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the divisions met in executive session to consider pending litigation matters. The emergency status was necessary because the hearing was scheduled to begin the following week.

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

Filed: May 3, 1984, 9:27 a.m.
TRD-844935

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.

Tuesday, May 15, 1984, 10 a.m. A prehearing conference in Docket 5631—application of Canyon Oaks Mobile Home Park for a certificate of convenience and necessity to provide electric utility service in Bexar County

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

Filed: May 3, 1984, 9 a.m.
TRD-844936

Thursday, May 24, 1984, 1:30 p.m. A prehearing conference in Docket 5706—complaint of Willow Glen Estates, Inc., and Spring Valley Water Company, doing business as Spring Valley Utility Company, against Western Water Works, Inc

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

Filed: May 1, 1984, 2:21 p.m.
TRD-844838

Friday, June 15, 1984, 9 a.m. A hearing on the merits in Docket 5684—application of Cade Lake Water System for a rate increase within Burleson County.

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

Filed: May 2, 1984, 9:56 a.m.
TRD-844871

State Commission on Standards for the Teaching Profession

Thursday, May 17, 1984. Committees of the State Commission on Standards for the Teaching Profession will meet at the Texas

Education Agency North Building, 1200 East Anderson Lane, Austin. Times, rooms, committees, and agendas follow.

9:30 a.m. In Room 101-E, the Interim Reports Committee will consider interim reports from Dallas Baptist College and the University of Texas at Dallas.

11:30 a.m. In Room 101-E, the Committee on Standards and Procedures for Institutional Approval will consider visiting team reports for Sul Ross State University at Alpine and the Uvalde Study Center and discuss procedures for processing visiting team reports

12:45 p.m. In Room 105, the Committee on Membership will discuss plans for recommending individuals to fill a commission vacancy.

1:15 p.m. In Room 214, the Committee on Recruiting and Training Members of Visiting Teams will discuss plans to implement new standards for teacher education adopted by the State Board of Education in April 1984.

2 p.m. In Room 101-E, the Committee on Certification Programs and Requirements will discuss plans for certification tests and plans to implement new standards for teacher education approved by the State Board of Education in April 1984 and consider individual programs, a progress report on the study of professional certificates, and a study of requirements for professional certificates

5 p.m. In Room 105, the Teacher Education Conference Planning Committee will discuss facilities for the October 23-25, 1986, conference in Dallas and continue planning for the 37th annual conference on October 25-27, 1984, at the Americana Hotel in Fort Worth.

Contact: Dr. Edward M Vodicka, 201 East 11th Street, Austin, Texas 78701, (512) 834-4042.

Filed: May 2, 1984, 2:25 p.m.
TRD-844901-844906

Friday, May 18, 1984, 8:15 a.m. The Executive Committee 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 discuss agenda items with committee chairmen.

Friday, May 18, 1984, 9 a.m. The State Commission on Standards for the Teaching

Profession will meet in Room 101, Texas Education Agency North Building, 1200 East Anderson Lane, Austin. According to the agenda summary, the commission will consider State Board of Education action relative to institutional standards for undergraduate and graduate approval and program standards for provisional certificates and endorsements; individual programs and visiting team reports from seven institutions; and reports from the Interim Reports Committee, the Committee on Standards and Procedures for Institutional Approval, the Committee on Membership, the Committee on Recruiting and Training Members of Visiting Teams, the Committee on Certification Programs and Requirements, the Teacher Education Conference Planning Committee, and the Executive Committee.

Contact: Dr. Edward M Vodicka, 201 East 11th Street, Austin, Texas 78701, (512) 834-4042.

Filed: May 2, 1984, 2:25 p.m.
TRD-844907, 844908

Texas Tourist Development Agency

Friday, May 25, 1984, 9 a.m. The Board of the Texas Tourist Development Agency will meet at the Indian Lodge, Fort Davis. Items on the agenda include the status of the fiscal year 1984 budget; a rev al of the Break for the Border campaign; 1984 public service ads; consideration/adoption of the fiscal year 1985 budget; appraisal of a new advertising/media schedule for fiscal year 1985; the March meeting with cities concerning the creation of the Liaison Committee; consideration/adoption of the budget request for the 1986-1987 biennium, a potential grants program to cities/regions; legislative strategy for the 1985 session; the status of the Texas travel legislative caucus, the House Oversight Committee assignment, the Governor's Interagency Council on Economic Development, the Administrator's Coordinating Council, and the Working Group on State Marketing Activities; the March Texas Travel mission to Britain; a format for future travel missions, a tentative program for TourCon XIX, selection of 1984 awards recipients; a potential merger of TourCon with other travel industry meetings; and comments by the public/private sector.

Contact: Margaret Younger, P O Box 12008, Austin, Texas 78711, (512) 475-4326.

Filed: May 3, 1984, 8:59 a.m.
TRD-844937

**Board for Vocational Nurse
Examiners**

Monday and Tuesday, May 21 and 22, 1984, 8 a.m. daily. The Board for Vocational Nurse Examiners will meet at the Sunrise Motor Hotel, 7622 IH 35 North, Austin. According to the agenda summary, the board will approve the minutes; hear reports of the executive director and the director of education, consider program contracts, seminars, a request for a rule change in 22 TAC §235.17, program concerns, unfinished business concerning the change of board meeting dates and the GVN status statement, and new business concerning the budget review, rule changes in 22 TAC §231.81 and 22 TAC §231.90, rehearing procedures, administrative hearings, and results of informal conferences, and administrative hearings and adjustments. The board also may meet in executive session.

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

Filed: May 3, 1984, 9 a.m.
TRD-844938

Texas Water Commission

The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Days, times, rooms, and agendas follow.

Wednesday, May 23, 1984, 10 a.m. In Room 118, applications by the City of Odessa for renewal and amendment to Permit 10238-01 and Permit 10238-02. The applicant requests an increase in the volume of discharge per day on both permits.

Thursday, May 24, 1984, 10 a.m. In Room 124A, application 4391 of Springs Ranch Company for a §11.121 permit, Red River Basin, Motley County; and Application 4414 of Julia Holub, Evelyn Holub Hill, Laverne Holub Sonnenburg, Elaine Holum Cook, Kathering Everling, and Barbara Ann Davidson for a §11.121 permit, Brazos-Colorado Coastal Basin, Matagorda County.

Thursday, May 31, 1984, 10 a.m. In Room 118, application by the City of Harlingen for proposed water quality Permit 10490-01 to authorize an average discharge of 3.25 million gallons per day of treated municipal wastewater effluent from a proposed sewer

treatment plant, Nueces-Rio Grande Coastal Basin, Cameron County.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514

Filed: May 2, 1984, 2:42 p.m.
TRD-844911-844913

**Regional Agencies
Meetings Filed May 1**

The Bexar-Medina-Atascosa Counties Water Control and Improvement District 1, Board of Directors, met at the district office, Highway 81, Natalia, on May 7, 1984, at 10 a.m. Information may be obtained from C. A. Mueller, P.O. Box 170, Natalia, Texas 78059, (512) 663-2132.

The Dallas Area Rapid Transit Authority, Legal Committee, met in emergency session at 601 Pacific Avenue, Dallas on May 2, 1984, at 8 a.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 748-3278.

The Region VIII Education Service Center, Board of Directors, met in emergency session in Room 107, 100 North Riddle Street, Mount Pleasant, on May 3, 1984, at 6:30 p.m. Information may be obtained from Scott Ferguson, 100 North Riddle Street, Mount Pleasant, Texas 75455, (214) 572-8551.

TRD-844830

Meetings Filed May 2

The Austin-Travis County Mental Health and Mental Retardation Center, Board of Trustees, met in emergency session in the Robertson Room, La Mansion Hotel, 6505 IH 35 North, Austin, on Friday and Saturday, May 4 and 5, 1984, at 4 p.m. and 9 a.m. respectively. Information may be obtained from Libby Worsham, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141.

The Brazos Valley Development Council, Executive Committee, will meet at 3006 East 29th Street, Bryan, on May 10, 1984, at 1:30 p.m. Information may be obtained from Glenn J. Cook, P.O. Drawer 4128, Bryan, Texas 77805-4128, (713) 822-7421.

The Callahan County Appraisal District, Board, will meet on the first floor, Callahan County Courthouse, Baird, on May 8, 1984, at 8 p.m. Information may be obtained from Jane Ringhoffer, P.O. Box 1055, Baird, Texas 79504, (915) 854-1165.

The Central Appraisal District of Erath County, Board of Directors, will meet at 1191 South Loop, Stephenville, on May 9, 1984, at 10 a.m. Information may be obtained from James P. Bachus, P.O. Box 94, Stephenville, Texas 76401, (817) 965-5434.

The Garza County Appraisal District, Board of Directors, will meet at the courthouse, Post, on May 10, 1984, at 9 a.m. Information may be obtained from Jean M. Westfall, P.O. Drawer F, Post, Texas 79356, (806) 495-3518.

The Gray County Appraisal District, Board of Directors, will meet in Suite 196-A, Hughes Building, 400 West Kingsmill, Pampa, on May 10, 1984, at 5:30 p.m. Information may be obtained from Charles Buzzard, P.O. Box 836, Pampa, Texas 79065, (806) 665-0791.

The High Plains Underground Water Conservation District 1, Board of Directors, met in the conference room, 2930 Avenue Q, Lubbock, on May 7, 1984, at 10 a.m. Information may be obtained from A. Wayne Wyatt, 2930 Avenue Q, Lubbock, Texas 79405, (806) 762-0181.

The Palo Pinto Appraisal District, Board of Review, met in the Palo Pinto County Courtroom, Palo Pinto, on May 8, 1984, at 1:30 p.m. The Board of Directors will meet at the same location on May 10, 1984, at 3 p.m. Information may be obtained from John R. Davis, 100 Southeast Fifth Street, Mineral Wells, Texas 76067, (817) 659-3651.

The Swisher County Appraisal District, Board of Directors, will meet at 130 North Armstrong, Tulia, on May 10, 1984, at 8 p.m. Information may be obtained from Rose Lee Powell, 130 North Armstrong, Tulia, Texas 79088, (806) 995-4118.

The Upshur County Appraisal District, Board of Directors, will meet in the district office, Trinity and Warren Streets, Gilmer, on May 14, 1984, at 7:30 p.m. Information may be obtained from Louise Stracener, P.O. Box 31, Gilmer, Texas 75644, (214) 843-3041.

TRD-844872

Meeting Filed May 3

The Tyler County Tax Appraisal District, Board of Directors, met at 1004 West Bluff, Woodville, on May 7, 1984, at 7 p.m. Information may be obtained from Mary F. Mann, 1004 West Bluff, Woodville, Texas 75979, (409) 283-3736.

TRD-844939

In Addition

The *Register* is required by statute to publish applications to purchase control of state banks (filed by the banking commissioner), notices of rate ceilings (filed by the consumer credit commissioner), changes in interest rate and applications to install remote service units (filed by Texas Savings and Loan commissioner); and consultant proposal requests and awards (filed by state agencies, regional councils of government, and the Texas State Library and Archives Commission).

In order to aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows. This often includes applications for construction permits (filed by the Texas Air Control Board); applications for amendment, declaratory ruling, and notices of intent (filed by the Texas Health Facilities Commission), applications for waste disposal permits (filed by the Texas Water Commission); and notices of public hearing.

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 April 23-27, 1984.

Information relative to the applications listed as follows, 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.

Lattimore Material Company, Commerce, concrete batch plant; Highway 24; 4556A; modification

Lattimore Materials Company, Greenville; concrete batch plant; 3033 Spencer Street; 3066D; modification

SDS Biotech Corporation, Houston; Daconil I facility; 2239 Haden Road; 234B; modification

SDS Biotech Corporation, Houston; Daconil II production unit; 2239 Haden Road; 3945A; modification

Issued in Austin, Texas, on April 30, 1984

TRD-844839 Ramon Dasch
Director of Hearings
Texas Air Control Board

Filed: May 1, 1984
For further information, please call (512) 451-5711,
ext 354

Consultant Proposal Request

Pursuant to Texas Civil Statutes, Article 6252-11c, the Texas Air Control Board (TACB) is soliciting proposals from interested parties to conduct an assessment of urban and rural atmospheric visibility impairment in Texas. The TACB will receive proposals until 5 p.m. on May 25, 1984. Proposals need not be a formal commitment on the part of the proposer's organization to perform the work, they should contain a statement of suggested approach and a statement of qualifications of the principal persons who would be performing the work if it is undertaken.

It is anticipated that there may be two and possibly more projects funded for this study. Each project is anticipated to be funded in the range of \$5,000 to \$10,000, most likely near the middle of this range. At this time, preference would be given to those parties who could complete a substantial portion of the work by early-to-mid August 1984.

Description of Services. The purpose of this contract or contracts is to assemble and analyze available data concerning urban and rural atmospheric visibility impairment in Texas to determine if trends and patterns are present and to compile and review available literature and data to improve our understanding of visibility impairment in Texas and to improve our ability to predict the effect of changes in air contaminant emissions on visibility.

Part A of the study should include an analysis of the reported noon-time visibility ranges from at least 20 weather stations selected by the TACB for the time periods 1971 and 1972, 1976 and 1977, and 1981 and 1982. Isoleth maps should be prepared to illustrate the spatial distribution of visual range throughout Texas for the four seasons and for the entire year. The cumulative frequency distribution of reported visual range at each weather station should be plotted such that median visual range and a selected higher (lower visual range) percentile value can be determined.

The purpose of Part B of this study is to locate, compile, and review available literature and data to identify additional approaches to study atmospheric visibility im-

pairment in Texas. The emphasis of Part B of the study should be on improving our ability to predict the effect of emission changes on visibility.

Procedure for Awarding Contract. The TACB will select and award such contract(s) and engage such services on the basis of demonstrated competence, qualifications, and availability of resources to perform the required work. The TACB agrees to receive proposals only under the conditions that they shall become public after May 25, 1984, and that they are submitted free of charge to the TACB and free from any obligation on the part of the TACB. Moreover, the proposer must provide adequate assurances that release of the proposal will not violate any rights of confidentiality or other property rights. The TACB may choose to enter into one, more than one, or no contract(s) as a result of this consultant proposal request.

Contact Person. Proposals or requests for additional information should be directed to Lynn Wright or Keith Zimmermann, Research Division, Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723, (512) 451-5711, ext. 399, or STS 824-7399.

Issued in Austin, Texas, on May 2, 1984.

TRD-844865 Bill Stewart, P E
Executive Director
Texas Air Control Board

Filed May 2, 1984
For further information, please call (512) 451-5711,
ext. 354.



East Texas Council of Governments Consultant Proposal Request

Pursuant to Texas Civil Statutes, Article 6252-11c, the East Texas Council of Governments (ETCOG) is in the process of selecting a certified public accountant firm to

perform a fiscal year audit of federal, state, and local grants and contracts administered by the ETCOG for the period October 1, 1983-September 30, 1984.

The certified public accountant firm selected will be expected to meet the requirements set forth in Office of Management and Budget (OMB) Circular A-102, *Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments*, Attachment P, audit requirements (*Federal Register*/Volume 44, #205, October 22, 1979).

Those firms interested in receiving a request for proposal (RFP) package should contact Hulene Ingram, Director of Finance, East Texas Council of Governments, 3800 Stone Road, Kilgore, Texas 75662, (214) 984-8641. The deadline for requesting an RFP package is May 15, 1984.

The contract will be awarded based on the applicant's abilities, experience, and qualifications. Selection will be made by the ETCOG Executive Committee

Issued in Kilgore, Texas, on April 30, 1984

TRD-844873 Glynn J Knight
Executive Director
East Texas Council of
Governments

Filed: May 2, 1984
For further information, please call (214) 984-8641

Texas Department of Health Public Hearings

The Texas Department of Health will conduct the following three hearings on applications for solid waste disposal sites.

(1) Rusk County has applied to the department for two permits, as follows: Application 1576 for a proposed 3.24-acre Type III municipal solid waste disposal site to be located 1.0 mile south of Turnertown, 0.5 mile south-east of the intersection of State Highway 42 and an unnamed county road, and adjacent to the south side of an unnamed county road, in Rusk County, and Application 1577 for a proposed 3.0-acre Type III municipal solid waste disposal site to be located 1.2 miles west of Goodspring, 0.6 mile southwest of the intersection of U. S. Highway 79 and State Highway 42, 0.5 mile west of the intersection of U. S. Highway 79 and Big Springs Road, and 200 feet north of Big Springs Road, in Rusk County.

A public hearing will be held for both applications at 9 a.m. on Tuesday, June 12, 1984, in the county courtroom, Rusk County Courthouse, Henderson

(2) The City of Jacksonville has filed Application 1614 to operate a proposed Type I municipal solid waste disposal site to be located north of Jacksonville, approximately 2.7 miles north of the intersection of U. S. Highways 69 and 79 in Jacksonville, approximately 0.5 mile east of U.S. Highway 69, and 300 feet south of Heath Lane adjacent to the existing disposal site, in Cherokee County.

The public hearing will be held at 9 a m on Wednesday, June 13, 1984, in the city council chambers, City Hall, Jacksonville.

(3) Western Contractors Services, Inc , has filed Application 1578 to operate a proposed Type IV (brush, construction-demolition wastes, and rubbish only) disposal site to be located at 18784 Hardy Road, approximately 1 0 mile west of the Houston city limits, approximately 1 0 mile southwest of the intersection of Aldine-Westfield Road and Farrell Road, approximately 1.0 mile northeast of the junction of Hardy Road and Farrell Road, 500 feet north of Farrell Road, and 2000 feet east of Hardy Road, in Harris County.

The public hearing will be held at 10 a m on Tuesday, June 26, 1984, at the Holiday Inn, 16510 North I-45, Houston.

Issued in Austin, Texas, on May 1, 1984

TRD-844821 Robert A MacLean, M D
Deputy Commissioner
Professional Services
Texas Department of Health

Filed: May 1, 1984

For further information, please call (512) 458-7271.

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 previously 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.

Los Ebanos Surgi-Center, Inc., Brownsville
A081-1216-030A(042384)

CN/AMD—Request for an extension of the completion deadline from August 15, 1983, to October 25, 1983, and an increase in the total project cost from \$1,065,500 to \$1,315,246.98 in Certificate of Need A081-1216-030 and Certificate of Need A081-1216-030A(012083), which authorized the certificate holder to construct, equip, and operate a 10,500-square foot, freestanding outpatient surgical center on the south side of Los Ebanos Boulevard between Coria Street and Barnard Street in Brownsville.

St. Elizabeth Hospital, Beaumont
AH83-0121-050A(042484)

CN/AMD—Request for an amendment of Certificate of Need AH83-0121-050, which authorized the certificate holder to construct a 9,570-square foot outpatient treatment center connected to the hospital. The certificate holder requests an increase in the total square footage of the cancer treatment center from 9,570 to 12,982 square feet, and increase in the total project cost from \$3,469,300 to \$3.997 million; and an extension of the completion deadline from May 3, 1985, to September 1, 1985

St. Mary Hospital, a subsidiary of Sisters of
Charity of the Incarnate Word, Port Arthur
AH80-0303-040A(042584)

CN/AMD—Request for an amendment of Certificate of Need AH80-0303-040, which authorized the certificate holder to renovate and expand the existing facility. The certificate holder requests an amendment to extend the completion deadline from April 30, 1984, to December 31, 1984, and to add certain items of equipment

Issued in Austin, Texas, on May 2, 1984

TRD-844858 John R Neel
General Counsel
Texas Health Facilities
Commission

Filed, May 2, 1984

For further information, please call (512) 475-6940

Petition for Reissuance of Certificate of Need

Notice is hereby given by the Texas Health Facilities Commission of application (including a general project description) for petition of reissuance of certificate of need which has been filed with the commission

The commission may require a hearing on a petition for reissuance of certificate of need when it is determined that good cause exists for such a hearing. A request for a hear-

ing on a petition for reissuance of certificate of need must be submitted to the commission within 15 days after publication of notice and show reason why a hearing should be held. Requests for a hearing are to be mailed to the chairperson of the commission, P.O. Box 50049, Austin, Texas 78763, and must be postmarked no later than the day prior to the last day allowed for filing requests for hearing.

The petition will be approved only if the commission determines that it qualifies under the criteria of Texas Civil Statutes, Article 4418h, §3 13, and 25 TAC §§509.81-509 85 and §§513.51-513.53.

In the following list, the applicant is listed first, the file number second, and the relief sought and description of the project third

Edinburg General Hospital Authority for Edinburg
General Hospital, Edinburg
AH82-1112-177R(042084)
PFR—Petition for reissuance of Certificate of Need AH82-1112-177, which authorized the certificate holder to conduct a construction and renovation program involving 34,054 square feet of new construction and 23,350 square feet of renovation.

Issued in Austin, Texas, on May 2, 1984

TRD-844859 John R. Neel
General Counsel
Texas Health Facilities
Commission

Filed: May 2, 1984

For further information, please call (512) 475-6940.

Texas Department of Human Resources Public Meeting

The Texas Department of Human Resources (DHR) will conduct a public meeting to receive comments on a vendor payment system the department plans to test during the summer phase of the Home Energy Assistance Program (HEAP). The meeting will begin at 10 a.m. on Wednesday, May 16, 1984, in the DHR board room, 706 Banister Lane, Austin

The proposed vendor payment system does not change the eligibility criteria for HEAP. In most instances, HEAP benefits will continue to be paid directly to eligible households. Some households, however, will receive a warrant which is payable to their electric utility supplier rather than to a member of the household. For example:

Lighting & Power Company
for John Doe
Street Address
City, State, Zip Code

Recipients of these warrants should apply their HEAP check to their current electric utility bill. The department will consider the results of this test to determine if a vendor payment system should be implemented statewide during the fiscal year 1985 program.

The department is interested in receiving comments about the proposed procedure. Written comments may be submitted to Charles L. Smith, Director of Energy Programs, Mail Code 517-A, Income Assistance Services, Texas Department of Human Resources, P.O. Box 2960, Austin, Texas 78769.

Issued in Austin, Texas, on May 2, 1984

TRD-844856 Marlin W. Johnston
Commissioner
Texas Department of Human
Resources

Filed: May 2, 1984

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

Texas Advisory Board of Occupational Therapy Examination Notice

Pursuant to 40 TAC §373.1(c)(1), adopted on an emergency basis at 9 TexReg 1846 by the Texas Advisory Board of Occupational Therapy, public notice is given of the next scheduled examination for occupational therapy assistants to be administered by the American Occupational Association on July 21, 1984. The passing score for the examination will be 165 out of 250.

The examination and standards of performance are those used by the American Occupational Therapy Association.

The examination will be held in various locations across the state. Any eligible person interested in taking the examination should contact the American Occupational Therapy Association, 1383 Piccard Drive, Suite 300, Rockville, Maryland 20850, (301) 948-9626.

Issued in Austin, Texas, on April 27, 1984

TRD-844804 Vernon H. Newman
General Counsel
Texas Rehabilitation Commission

Filed April 30, 1984

For further information, please call (512) 445 8126

Texas Savings and Loan Department Application for Change of Control of an Association

Texas Civil Statutes, Article 852a, §11 20, require any person who intends to acquire control of a state-chartered savings and loan association to file an application with the savings and loan commissioner for approval of the transaction. A hearing may be held if the application is denied by the commissioner.

On April 30, 1984, the savings and loan commissioner received an application for approval of the acquisition of control of Interwest Savings Association, Fort Worth, by Michael A. Blubaugh, William Y. Harvey, Terry W. Mayo, James N. Summers, all of Fort Worth.

Any inquiries may be directed to the Texas Savings and Loan Department, 1004 Lavaca Street, Austin, Texas 78701, (512) 475-7991.

Issued in Austin, Texas, on May 1, 1984.

TRD-844874 Russell R. Oliver
 General Counsel
 Texas Savings and Loan
 Department

Filed: May 2, 1984
For further information, please call (512) 475-7991.

Texas Tourist Development Agency Consultant Proposal Request

In accordance with the provisions of Texas Civil Statutes, Article 6252-11c, the Texas Tourist Development Agency (TTDA) serves notice of invitation for offers of services on the following project.

Contact Person. A video tape producer who wants to make an offer on this project should contact Richard McCune, Chief of Media Relations, TTDA, Box 12008, Austin, Texas 78711.

Closing Date. No offers will be considered unless they are received by 5 p.m. on June 1, 1984.

Background. The producer chosen will render all services in producing, editing, and distributing for the TTDA 50 90-second video taped or filmed segments concerning Texas tourism. The producer will distribute any such segments to a maximum of 12 Texas television stations designated by the TTDA. However, it is understood between the producer and the TTDA that all 50 segments are the property of the producer and cannot be distributed to television stations other than the 12 designated Texas stations or to any other party without the prior consent of producer and without the payment of additional compensation to the producer at a rate to be set by the producer.

Method of Selection. To be considered as an interested bidder, the bidder must shoot a minimum of two 1½-minute sample television features and provide these to the TTDA on video tape. The video tapes will be reviewed by the TTDA and the television stations who will be using the travel features. Subjects for the two tapes will be mutually agreed upon by the bidder and the TTDA. The TTDA will be responsible for submitting the tapes to the television stations involved for their approval. Following the reviewing process, the tapes will remain the property of the bidder. After all tapes from all bidders have been submitted to the TTDA and reviewed by the TTDA and the television stations involved, a decision will be made by the TTDA as to which bidder will be awarded the video tape producer contract

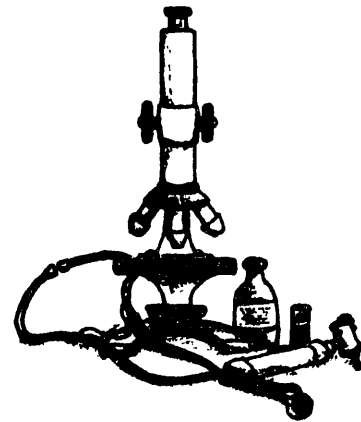
Compensation. The TTDA will pay the producer the sum of \$34,125, payable in 12 equal payments of \$2,843.75.

Time Frame. All 50 segments will be delivered by August 31, 1985, with services commencing September 1, 1984. The TTDA reserves the right to reject, in total or part, any and/or all proposals.

• Issued in Austin, Texas, on April 27, 1984.

TRD-844805 Frank Hildebrand
 Executive Director
 Texas Tourist Development
 Agency

Filed: April 30, 1984
For further information, please call (512) 475-4326.



Texas Water Commission Applications for Waste Disposal Permits

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of April 23-27, 1984.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 475-2678.

Listed is the name of the applicant and the city in which each facility is located; type of facility; location of the facility; permit number; and type of application—new permit, amendment, or renewal.

Period of April 23-27, 1984

Neil Davis, McKinney; mobile home park; immediately east of Clemons Creek and approximately 800 feet south of FM Road 545 in Collin County; 12899-01; new permit

U.S. Army Corps of Engineers, Wylie; wastewater treatment plant, in Collin Park, on the southwest side of Lake Lavon, at a point approximately 2.7 miles southeast of the intersection of FM Road 2514 and FM Road 1378 in Collin County; 12051-01; renewal

U.S. Army Corps of Engineers, Wylie, wastewater treatment plant, in Brockdale Park, on the west side of Lake Lavon, at a point approximately 2.3 miles northeast of the intersection of FM Road 1378 and FM Road 2514 in Collin County, 12050-01; renewal

U.S. Army Corps of Engineers, Wylie; wastewater treatment plant, in Pebble Beach Park, on the east side of Lake Lavon, at a point approximately 1.9 miles west of the intersection of State Highway 78 and FM Road 1778 in Collin County, 12058-01; renewal

U.S. Army Corps of Engineers, Wylie, wastewater treatment plant, on the north side of Lake Lavon in Clear Lake Park, at a point approximately 3.3 miles south of the intersection of FM Road 546 and FM Road 982 in Collin County; 12049-01; renewal

U.S. Army Corps of Engineers, Wylie; wastewater treatment plant, in East Fork Park, on the south side of Lake Lavon, at a point approximately 2 miles northeast of the intersection of State Highway 78 and FM Road 544 in Collin County; 12052-01; renewal

James Brough Enterprises, Inc., Lufkin, mobile home park, approximately 0.7 mile east-southeast of the intersection of FM Road 2021 and U.S. Highway 59, approximately 1.1 miles north-northwest of the intersection of State Highway 103 and FM Road 842 in Angelina County; 12896-01, new permit

City of Pasadena, wastewater treatment plant, on the north bank of Armand (Middle) Bayou in the 6300 Block of Spencer Road in southeast Pasadena in Harris County, 10053-03, amendment

The Ancient Mariner, Houston, restaurant, at 6705 FM Road 1960, approximately ¼ mile northeast of the Cutten Road/FM Road 1960 intersection in Harris County, 02703; new permit

Bob Wright, doing business as La Casa Mobile Home Park, Tyler, mobile home park, southeast of the City of Tyler approximately 2300 feet east of FM Road 2964 and approximately one mile south of the intersection of State Highway 110 and FM Road 2964 in Smith County; 12813-01, new permit

City of Kaufman, Kaufman, wastewater treatment plant; at the Southern Pacific Railroad crossing of Prairie Branch, southeast of Kaufman in Kaufman County; 12114-01; renewal

City of Woodsboro; wastewater treatment plant; approximately 1,500 feet south of the intersection of FM Road 1360 and Churchhill Road near the southeast corner of Woodsboro in Refugio County; 10156-01; renewal

City of Houston; wastewater treatment plant; at 14302 Buxley Street in the City of Houston, Harris County; 10495-53; renewal

City of Cuero, wastewater treatment plant; approximately ½ mile south of U.S. Highway 87 and 2 miles east of U.S. Highway 183 in DeWitt County; 10403-02; renewal

Royalwood Municipal Utility District, Houston; wastewater treatment plant; immediately west of Uvalde Road, approximately 6500 feet south of the intersection of Uvalde Road and U.S. Highway 90 in Harris County, 10608-02; renewal

City of Saint Jo; wastewater treatment plant, approximately one mile southeast of Saint Jo and approximately 1,000 feet south of U.S. Highway 82 on the north bank of the Elm Fork Trinity River in Montague County; 10368-01; renewal

City of Arp; wastewater treatment plant; approximately one mile south of mid-town Arp and ½ mile east of State Highway 135 in Smith County; 10511-01; renewal

Sabine River Authority of Texas, Orange; sewage treatment plant; at the southwest corner of the intersection of State Highway 62 and the Southern Pacific Railroad, approximately 2.7 miles northeast of Orangefield in Orange County, 12134-01; renewal

Halliburton Services, Division of Halliburton Company, Corpus Christi, storage and blending site for oil field cements; west of State Highway 361 on the south side of Harbor Island in the City of Port Aransas in Nueces County; 02695, new permit

Issued in Austin, Texas, on April 27, 1984

TRD-844796 Mary Ann Hefner
 Chief Clerk
 Texas Water Commission

Filed April 30, 1984
 For further information, please call (512) 475-4514.

**Texas Department of Water
 Resources
 Consultant Proposal Request**

Pursuant to Texas Civil Statutes, Article 6252-11c, and 40 Code of Federal Regulations Part 33, the Texas Department of Water Resources announces a consultant proposal request to provide professional services. The purpose of the requested professional services is to conduct a study which will quantify pollutant loadings from

urban runoff/nonpoint sources and determine the impact of these loadings on the water quality of the Houston Ship Channel.

Study goals include the determination of the three major components of stormwater loadings: urban runoff/nonpoint sources; uncontrolled point sources from bypassing and overflows of domestic sewage at lift stations, manholes, etc; and high flow discharges from sewage treatment plants. Annual loads for each component of stormwater flows will be extrapolated and determined for each of the six major tributaries of the Houston Ship Channel. The data will be statistically analyzed and correlated with relevant variables of the rainfall-runoff-pollutant load relationship, and the impacts of nonpoint sources of pollution on the Houston Ship Channel will be determined.

The study will consist of three tasks: inventory and review of all existing pertinent and applicable site specific data; sampling, quality assurance, and data evaluation design; and data collection and evaluation.

Requested Services. Task 1—Inventory and review of all existing pertinent and applicable site specific data. The specific objectives of this task will be to obtain, review, assess, and summarize all applicable site specific data in the Houston area related to both high and low flows pertaining to: rainfall/runoff quantity and quality; land use composition by subwatershed, daily flow and quality records for domestic treatment plants with an existing monthly average flow greater than one million gallons per day in the Houston Ship Channel drainage, and records of bypassing and overflows of domestic sewage at lift stations, manholes, etc. in the Houston Ship Channel drainage.

Source agencies for existing information include the Texas Department of Water Resources, the U S Environmental Protection Agency, the U S Geological Survey, the City of Houston, the Gulf Coast Waste Disposal Authority, the Houston-Galveston Area Council, and other federal, state, regional, and local entities. The results of this task will be included in a report, with appropriate appendices, which contains a summary of rainfall/runoff data, land use composition by subwatershed, sewage effluent quantity and quality at various flow regimes, sewage treatment plants affected by rainfall events, and bypassing and overflows at lift stations, manholes, etc. for the Houston Ship Channel drainage area. The report will be instrumental in the development of Task 2, design of the sampling program.

Task 2—Sampling, quality assurance, and data evaluation design. The specific objectives of this task will include.

(1) Design of a water quality sampling program to provide information necessary to meet the project objectives. Information provided by the preceding task will be useful in the selection of appropriate sampling locations and water quality parameters. At a minimum, the following information will be included.

(a) Sampling sites (including appropriate maps and selection criteria) to include major tributary sites and selected subwatershed sites.

- (1) Major tributary sites:
 - (A) Buffalo Bayou at Shepherd Drive;
 - (B) White Oak Bayou at IH-45;
 - (C) Sims Bayou at Telephone Road (State Highway 35);
 - (D) Brays Bayou at Scott Street;
 - (E) Greens Bayou at Ley Road; and
 - (F) Hunting Bayou at IH-10.

(2) Subwatershed sites.

(b) Field and laboratory water quality parameters to include flow temperature, conductivity, dissolved oxygen, total suspended solids, volatile suspended solids, unfiltered CBOD₅ (N-supp with TCMP), unfiltered CBOD₂₀ (N-supp with TCMP), Kjeldahl nitrogen, ammonia nitrogen, nitrite nitrogen, nitrate nitrogen, and total phosphorus.

(c) Methods to collect samples and measure parameters in the field including requirements for field notes.

(d) Methods to collect, preserve, and store samples for laboratory analysis.

(e) Numbers and frequency of samples to be collected at each site.

(f) Laboratory analysis procedures for each parameter.

(g) Estimated budget and manpower requirements to execute sampling program.

(11) Design of a quality plan to insure that all environmentally related measurements are scientifically valid, defensible, and of known precision and accuracy. The quality assurance project plan should contain the following as applicable:

(A) Title page with provision for approval signatures;

(B) Project description,

(C) Project organization and responsibilities;

(D) Quality assurance objective for measurement data in terms of precision, accuracy, completeness, comparability, and representativeness,

(E) Sampling procedures,

(F) Sample custody,

(G) Analytical procedures;

(H) Calibration procedures and references;

(I) Internal quality control checks;

(J) Preventative maintenance procedures;

(K) Specific procedures to be used,

(L) Corrective action, and

(M) Quality assurance reports to management.

(III) The data evaluation design should consist of a discussion of the methods and procedures to be used to analyze the data generated by the sampling program in order to accomplish the overall study objectives. This includes the description of statistical methods, water quality simulation models, etc. that are to be used.

(IV) The results of this task will be included in a document consisting of the three major components: water quality sampling design, quality assurance project plan, and data evaluation design.

Task 3—Data collection and evaluation—The objectives of this task will be to conduct the sampling program and evaluate the resultant data as described in Task 2. Other applicable data, as identified in Task 1, will also be included in the evaluation. Specific objectives are as follows:

(1) Determine the pollutant loads during rainfall/runoff events at the six major tributaries to the Houston Ship Channel.

(2) Determine the pollutant loads from discrete land use types at the selected subwatershed sites.

(3) Separate out and determine the percentages of the three major components of runoff pollutant loadings:

(a) nonpoint sources, i.e. stormwater runoff,

(b) uncontrolled point sources, i.e. bypassing and overflows of domestic sewage at lift stations, manholes, etc.,

(c) point sources, i.e. treatment plant effluent.

(4) Extrapolate and determine annual loads for each component of runoff pollutant loads at major tributary sites.

(5) Determine immediate impacts of rainfall/runoff events in the Houston Ship Channel.

(6) Analyze correlate data with relevant variables of the rainfall-runoff-pollutant load relationships. These variables include antecedent climatic conditions, topography, location, existing land use activities and practices, time of the year, duration/intensity of the measured rainfall events, etc.

(7) Determine the overall impacts of nonpoint source pollutant loads on the Houston Ship Channel

Conditions for proposals. All proposals submitted in response to this request for proposal must address the requested services as previously outlined. Any alterations or additions to the requested services by the prospective contractor must be clearly presented in the proposal.

(1) Submittal information—Ten copies of the proposal must be delivered no later than 5 p.m., C.D.T., on June 8, 1984, to Dr. Clyde E. Bohmfalk, Texas Department of Water Resources, P.O. Box 13087, 1700 North Congress Avenue, Room 1136, Austin, Texas 78711, (512) 475-3454.

(2) Special conditions/restrictions on proposing contractor

(a) Consultation—The contractor must be readily available for consultation with the department.

(b) Proposal content—The proposals should be concise and brief. Efficient use should be made of charts, graphs, maps, or other illustrations, as appropriate.

(3) The proposal should contain the following items:

(a) Abstract—This should focus on the essential components of the proposal

(b) Proposed methodology—This section should present the general methodology for completing and presenting the output for each of the tasks. Emphasis should be placed on areas of special interest and specific capabilities.

(c) Management plan—This section should present a description of the personnel and schedule anticipated for project execution. The project engineer or manager who will be assigned to this project must be identified as well as other key personnel to be assigned to this project. A schedule should be developed depicting the contractor's capacity to perform work within the required time limits and under his present and projected work load.

(d) Related work—This section should include a brief description of all work closely related to the requested services which has been conducted by the contractor

or by the personnel identified in the previous management plan.

Consultant Selection Procedure.

(1) Compliance with federal regulation—The procedure for consultant selection used by the department shall conform to the federal regulations contained in 40 Code of Federal Regulations Part 33. Proposing consultants must be willing to submit to the EPA and department cost analysis, as appropriate, prior to contract award, as stated in the previous guidelines. Personal and organizational conflicts of interest are prohibited. All prospective contractors must also be willing to adhere to all applicable state and federal laws. The federal regulations cited were printed in the March 28, 1983, *Federal Register*, Volume 48, Number 60. If unobtainable from other sources, copies are available from the department.

(2) Evaluation criteria for consultants listed in order of relative importance.

(a) Evaluation of the proposed methodology including an assessment of the consultant's comprehension of task requirements; the consultant's comprehension of the state-of-the-art of the work elements; the techniques, tools, and innovative approaches utilized to develop the task outputs; and the proposed method of presenting the project output.

(b) Availability, competence, and related experience of key personnel who would be responsible for contract performance

(c) Technical competence of the contractor based on previous endeavors and the scope and intent of the stated requirements.

(d) Assessment of the consultant's proposed management plan which identifies utilization of time, resources, and key personnel in completing the study. Time allotted to execution of each task will be evaluated to determine if appropriate priorities and phasing are proposed.

(3) Final consultant selection—The department will evaluate proposing consultants based on the criteria outlined previously under evaluation criteria for consultants. Based on the results of this evaluation a ranking of preferred consultants will be determined and contract negotiations will be initiated with the top ranked consultant. Any unsuccessful offerer shall be notified at the earliest practicable time that its offer has not been selected for award. Upon written request of an unsuccessful offerer, the department shall disclose the reason(s) for nonselection.

Description of funding considerations. The Texas Water Development Board has authorized total project costs in the amount of \$300,000. A portion of the total funds will be from an Environmental Protection Agency Clean Water Act, §205(j), grant to the Texas Department of Water Resources. The Texas Department of Water Resources will provide laboratory analytical services for the project through a contract with the Gulf Coast Waste Disposal Authority. The funds for the laboratory analytical services will be provided from the \$300,000 total project costs. Actual allowances for consultant professional services and laboratory analytical services will be negotiated in the development of a contract for this study. The Gulf Coast Waste Disposal Authority will be responsi-

ble for the development and execution of the laboratory analytical services portion of the quality assurance project plan as described in Task 2, item 2, of the requested services

Statement of contract terms and required completion date. A professional services contract between the contractor and the department will be drawn. Contracts entered into shall contain terms and conditions considered appropriate to protect the interests of the state and those of the contractor and required federal conditions pursuant to 40 Code of Federal Regulations Part 33, particularly Subpart F thereof. The proposed contract shall be of the cost reimbursement type plus fixed fee not to exceed the authorized limit. Reimbursable work may begin upon contract execution by both parties and EPA approval.

All capital equipment purchased with contract funds becomes property of the department or the EPA, as appropriate.

All data, computer programs and/or models that are obtained and/or developed are to be installed on the department computer for use by department staff and others, as appropriate.

A contract technical monitor will be designated from among department staff for the contract. This person will be responsible for monitoring the progress of the contract to assure that the department is receiving satisfactory performance of contract terms. Contract progress reports will be submitted by the contractor at scheduled intervals during the contract period. The requirements and dates for each progress report will be identified. Task completion dates and number of draft reports will be identified during contract negotiations. Contract completion is scheduled for June 1, 1986.

Dissemination of results. Results of this project will be submitted in the form of written reports or other printed material (including data, charts, computer programs, maps, or drawings) which will then become public information. Contractors will be available for brief presentations of results as required by the department. The results of this study will be used in an overall assessment of the Houston Ship Channel System being conducted by the department. Specifically, the results will be used as input to a concurrent study of the feasibility of instream aeration. The magnitude and impacts of nonpoint source loads will be a factor in establishing design criteria and the economic feasibility of a full-scale instream aeration system for the ship channel. Additionally, the study results can be used in determining the need for high flow corrective action for sewage treatment plants and collection systems and will provide useful information for any revised waste load evaluation that may be prepared by the department.

Issued in Austin, Texas, on May 2, 1984

TRD-844870 Susan Plettman
General Counsel
Texas Department of Water
Resources

Filed May 2, 1984

For further information, please call (512) 475-7845.

Public Meeting

The U.S. Environmental Protection Agency (EPA) and the Texas Department of Water Resources (TDWR) are seeking public comment on several possible strategies for the closure of an abandoned hazardous waste dump near Highlands, Texas. The EPA will hold a public meeting at 6:30 p.m. on Thursday, May 8, 1984, to discuss the various strategies and to receive comments from interested parties. The meeting will be held in the Highlands Junior High School Auditorium, 1212 East Wallisville Drive, Highlands.

A description and analysis of the alternatives and the reasons for the selection of the recommended alternative are in the document "Summary of Remedial Alternative Selection." This and other supporting documents are available for review at the following locations.

Houston Central Library Highlands Community Center
500 McKinney 604 Highlandwoods Drive
Houston, Texas 77002 Highlands, Texas 77562

University of Houston Sterling Municipal Library
Library, Documents Center Public Library Avenue
4800 Calhoun Baytown, Texas 77520
Houston, Texas 77023

Rice University U.S. Environmental
Fondren Library, Documents Protection Agency
Department Region 6
6100 Main 1201 Elm Street
Houston, Texas 77005 Dallas, Texas 75270

Houston-Galveston Area Texas Department of Water
Council Resources
3701 West Alabama Stephen F. Austin State
Houston, Texas 77227 Office Building

Texas Department of Water Fifth Floor
Resources 1700 North Congress Avenue
District 7 Field Office Austin, Texas 78711
4301 Center Street
Deer Park, Texas 77536

Written comments will be accepted from May 8-18, 1984, and should be mailed to Charles R. Faulds, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711.

Issued in Austin, Texas, on May 1, 1984

TRD-844866 Susan Plettman
General Counsel
Texas Department of Water
Resources

Filed May 2, 1984

For further information, please call (512) 475-7845

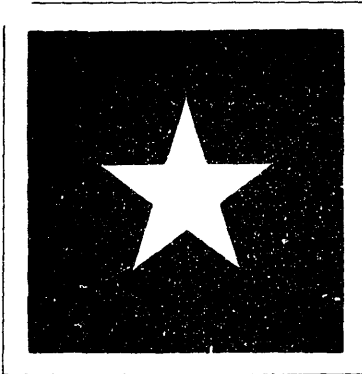


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