

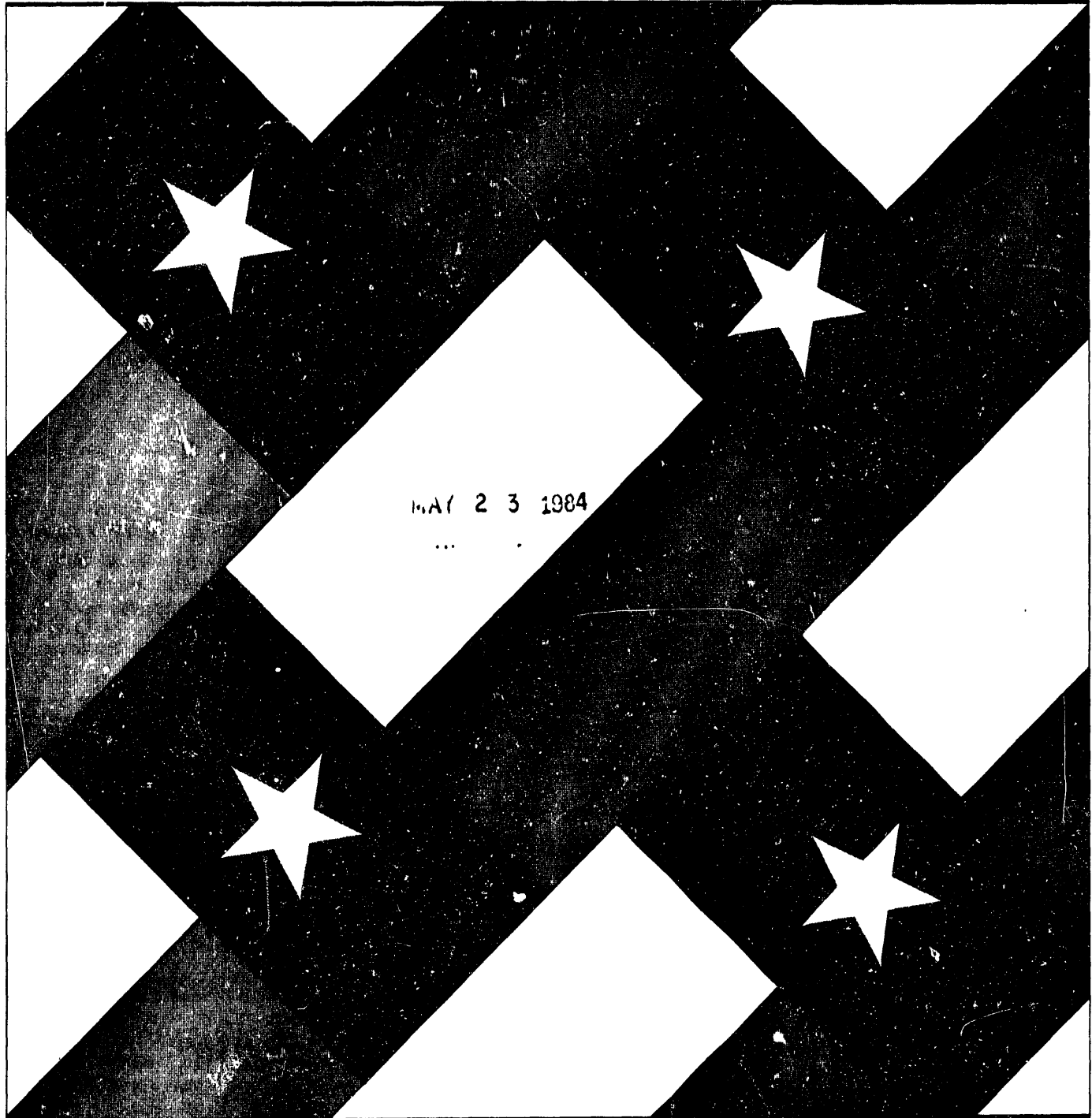
20.6  
3

FILE COPY

# Texas Register

Volume 9, Number 37, May 18, 1984

Pages 2721 - 2800



## Highlights

The Texas Animal Health Commission adopts on an emergency basis and simultaneously proposes for permanent adoption amendments to the Texas poultry regulations  
 Effective date - May 10      pages 2730, 2735  
 The Office of the Secretary of State proposes

amendments concerning the filing of documents  
 Earliest possible date of adoption - June 18      page 2733

The State Board of Insurance proposes amendments concerning the joint underwriting association  
 Earliest possible date of adoption - June 18      page 2754

**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

Material in the *Texas Register* is the property of the State of Texas. However, it may be copied, reproduced, or republished by any person for any purpose whatsoever without permission of the *Texas Register* director, provided no such republication shall bear the legend *Texas Register* or "Official" without the written permission of the director. The *Register* is published under Texas Civil Statutes, Article 6252-13a. Second class postage is paid at Austin, Texas, and additional entry offices.

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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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

John W. Falinter, Jr.  
Secretary of State

Director  
Susan Johnson  
Deputy Director  
Dave Harrell

Documents Section Coordinator  
Jane Hooks

Document Editors  
Cynthia Cooke, Phyllis Smith  
Open Meetings Specialist  
Roberta Knight

Production Section Coordinator  
Sue Bumpous

Production Editors  
Richard Salinas, Kathy Kincade  
Typographers  
Virginia J. Gregory,  
Gale Hathcock-Inman

Circulation Section Coordinator  
Dee Wright

Circulation Assistant  
Kristine Hopkins Mohajer

TAC Editors  
Richard Kallus,  
Christine K. Schulze

Assistant to the Director  
Donna A. Matkin

Administrative Assistant  
Jeff Richardson

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.

# Contents

## The Governor

### Appointment Made May 4

2725 Texas Historical Records Advisory Board

### Appointments Made May 7

2725 State Job Training Coordinating Council

2725 Texas Historical Records Advisory Board

## The Attorney General

### Requests for Opinions

2726 RQ-325

2726 RQ-326

2726 RQ-327

2726 RQ-328

2726 RQ-329

2726 RQ-330

2726 RQ-331

2726 RQ-332

2726 RQ-333

2726 RQ-334

2726 RQ-335

2726 RQ-336

2726 RQ-337

2726 RQ-338

### Open Records Decision

2726 ORD-412 (RQ-286)

## Emergency Rules

### Texas Animal Health Commission

2728 Scabies

2729 Interstate Shows and Fairs

2730 Poultry

## Proposed Rules

### Office of the Secretary of State

2733 Texas Register

### Texas Department of Agriculture

2734 Consumer Services Division

### Texas Animal Health Commission

2734 Scabies

2735 Interstate Shows and Fairs

2735 Poultry

### Texas Optometry Board

2736 General Rules

### State Board of Insurance

2738 Incorporation of Insurance Companies

2738 Life, Health, and Accident Insurance

2740 Rating and Policy Forms

2753 General Provisions

### Texas Department of Human Resources

2765 Child Support Collection

2766 Civil Rights

2766 Legal Services

## Withdrawn Rules

### State Board of Insurance

2772 Life, Health, and Accident Insurance

2772 General Provisions

### Texas Department of Human Resources

2772 Food Stamps

## Adopted Rules

### Texas Animal Health Commission

2773 Brucellosis

### State Securities Board

2773 Rules of Practice in Contested Cases

2774 Terminology

2774 Transactions Exempt from Registration

2776 Registration of Securities

2776 Exemptions by Rule or Order

### Texas Department of Community Affairs

2777 Texas Community Development Program

### Texas Sesquicentennial Commission

2778 Program Guidelines

### Public Utility Commission of Texas

2780 Substantive Rules

### State Board of Insurance

2781 General Provisions

### Texas Department of Human Resources

2784 Food Stamps

2784 Purchased Social Services

2784 Legal Services

## Open Meetings

2785 Texas Aeronautics Commission

2785 Texas Department of Agriculture

2785 Texas Commission on Alcoholism

2785 Texas Board of Architectural Examiners

2785 Texas Corn Producers Board

2786 Texas Department of Corrections

2786 Texas Employment Commission

2786 Commission on Fire Protection Personnel  
Standards and Education

2786 Texas Health Facilities Commission

2786 University of Houston System

2786 Texas Indian Commission

2787 State Board of Insurance

2787 Commission on Jail Standards

2787 Texas Department of Labor and  
Standards

2787 Lamar University

2787 Library Systems Act Advisory Board

2788 State Board of Morticians

2788 Texas National Guard Armory Board

2788 Board of Pardons and Paroles

2788 State Pension Review Board

2788 Public Utility Commission of Texas  
2788 State Purchasing and General Services  
Commission  
2788 Railroad Commission of Texas  
2789 Texas Savings and Loan Department  
2789 Texas State Soil and Water Conservation  
Board  
2790 Texas State Technical Institute  
2790 Texas Tech University  
2790 Texas Water Commission  
2791 West Texas State University  
2791 Regional Agencies

**In Addition**

Texas Department of Agriculture  
2793 Consultant Proposal Request  
Office of the Attorney General  
2793 Request for Public Comments  
Banking Department of Texas  
2794 Applications to Acquire Control of State  
Banks  
Texas Department of Community Affairs  
2794 Contract Adjustment

Office of Consumer Credit Commissioner  
2794 Rate Ceilings  
Texas Education Agency  
2795 Consultant Proposal Request  
Texas Health Facilities Commission  
2795 Applications Accepted for Amendment,  
Declaratory Ruling, and Notices of  
Intent  
State Department of Highways and  
Public Transportation  
2796 Consultant Proposal Request  
State Board of Insurance  
2797 Public Hearing  
Public Utility Commission of Texas  
2797 Consultant Contract Award  
2797 Consultant Proposal Requests  
Railroad Commission of Texas  
2798 Public Hearing  
Texas Savings and Loan Department  
2799 Application for Change of Control of an  
Association  
Texas Sesquicentennial Commission  
2799 Public Information  
Texas Surplus Property Agency  
2800 Public Meeting

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

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

# The Governor

## Appointment Made May 4

### Texas Historical Records Advisory Board

For a term to expire January 23, 1986:

A. Jean Shepherd  
6202 Bayway Drive  
Baytown, Texas 77520

Ms. Shepherd is replacing Mary S. Richardson of Houston, whose term expired.

Issued in Austin, Texas, on May 4, 1984

TRD-845143      Mark White  
Governor of Texas

## Appointments Made May 7

### State Job Training Coordinating Council

For a term to continue at the pleasure of this governor:

Arthur B. Williams  
Wichita County Courthouse  
Wichita Falls, Texas 76307

Mr. Williams is being appointed pursuant to Public Law 97-300.

Issued in Austin, Texas, on May 7, 1984

TRD-845144      Mark White  
Governor of Texas

### Texas Historical Records Advisory Board

For terms to expire January 23, 1986:

Betty Kissler  
Chair  
Department of History  
Southwest Texas State University  
San Marcos, Texas

Dr. Kissler is replacing Maria Dora Guerra of San Antonio, whose term expired.

David Murrah  
Associate Director of Libraries for Special Collections  
Texas Tech University  
Box 4090  
Lubbock, Texas 79409

Dr. Murrah is being reappointed.

For terms to expire January 23, 1987:

Michael Q. Hooks  
Director, Archives and Records  
General Land Office  
1700 North Congress Avenue  
Austin, Texas 78701

Dr. Hooks is replacing William Clark Griggs of Canyon, whose term expired.

Kent Keeth  
Director  
The Texas Collection  
Baylor University  
P.O. Box 6396  
Waco, Texas 76706

Mr. Keeth is being reappointed.

Don E. Carleton  
Director  
Eugene C. Barker Texas History Center  
University of Texas  
Austin, Texas

Dr. Carleton is replacing Nancy Boothe Parker of Houston, whose term expired.

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

TRD-845149,      Mark White  
845147,          Governor of Texas  
845146,  
845145,  
845148

# The Attorney General

Under provisions set out in the Texas Constitution, Texas Civil Statutes (Article 4399), and numerous statutes, the attorney general is authorized to write advisory opinions for state and local officials. These advisory opinions are requested by agencies or officials when they are confronted with unique or unusually difficult legal questions. The attorney general also determines, under authority of the Texas Open Records Act, whether information requested for release from governmental agencies may be held from public disclosure.

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

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

## Requests for Opinions

**RQ-325.** Request from Bob Bullock, Comptroller of Public Accounts, Austin, concerning the costs of the copies of records under the Administrative Procedure Act and the Open Records Act.

TRD-845151

**RQ-326.** Request from Margaret Moore, Travis County attorney, Austin, concerning whether Texas Civil Statutes, Article 4413(29bb), require unarmed security personnel who are employees of individual retailers to register with the Texas Board of Private Investigators and Private Security Agents

TRD-845152

**RQ-327.** Request from Bob Bullock, Comptroller of Public Accounts, Austin, concerning whether information submitted by a taxpayer in support of a request for a refund of sales taxes paid is excepted from disclosure under the Open Records Act

TRD-845153

**RQ-328.** Request from Stan Schlueter, chairman, Ways and Means Committee, House of Representatives, Austin, concerning the applicability of a 15% penalty provided by the Texas Tax Code, §33.07.

TRD-845154

**RQ-329.** Request from William D. Smith, Hutchinson County attorney, Borger; Bill Baumann, Potter County attorney, Amarillo; and D. Wayne Hughes, director, Regional Alcoholism Services,

Panhandle Regional Planning Commission, Amarillo, concerning the authority to fund the Panhandle Alcohol Recovery Center.

TRD-845155

**RQ-330.** Request from Ed Grisham, Texas Employment Commission (TEC), Austin, concerning whether temporary and part-time employees of the TEC accrue vacation, sick leave, and holiday time.

TRD-845156

**RQ-331.** Request from Jim Mapel, criminal district attorney, Angleton, concerning whether Brazoria County may establish a dune protection line along its coast pursuant to the Natural Resources Code, §63.011

TRD-845157

**RQ-332.** Request from Patrick H. Simmons, office of the district/county attorney, Limestone County, Groesbeck, concerning whether salary payments of county employees must be approved monthly by a commissioners court.

TRD-845158

**RQ-333.** Request from Mike Driscoll, Harris County attorney, Houston, concerning whether a sheriff may use only wrecker operators who are members of a private association for the purpose of removing vehicles from public roads as required by law.

TRD-845159

**RQ-334.** Request from Houston Munson, district attorney, 25th Judicial District, Gonzales, concerning whether a county tax assessor/collector may retain fees for cler-

icals and work performed in aiding an attorney hired by the county to collect delinquent taxes, and related questions.

TRD-845160

**RQ-335.** Request from Bill Hale, executive director, Texas Commission on Human Rights, Austin, concerning the authority of a local human relations commission to file suit under Texas Civil Statutes, Article 5221k, §4.03(5).

TRD-845161

**RQ-336.** Request from Gary Thompson, chairman, House County Affairs Committee, Austin, concerning whether revenues received from a hotel occupancy tax may be used to make improvements to a county golf course.

TRD-845162

**RQ-337.** Request from Margaret Moore, Travis County attorney, concerning whether a commissioners court may authorize certain fees under Texas Civil Statutes, Article 3926a

TRD-845163

**RQ-338.** Request from James S. McGrath, criminal district attorney, Jefferson County, Beaumont, concerning the election of commissioners in Jefferson County Drainage District 7.

TRD-845164

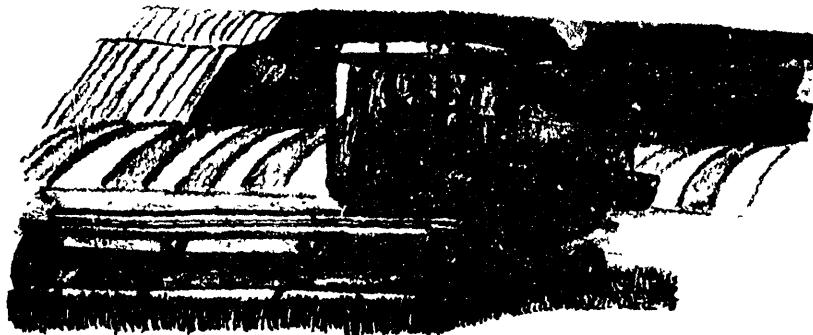
## Open Records Decision

**ORD-412 (RQ-286).** Request from Richard D. Latham, securities commission-

er, State Securities Board, Austin, concerning whether a letter from an assistant attorney general to a client agency is excepted from disclosure under the Open Records Act.

**Summary of Decision.** A letter from an assistant attorney general to a client agency may be withheld from disclosure under the Open Records Act, §3(a)(1), if the client agency invokes the attorney-client privilege.

TRD-845165



# Emergency Rules

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

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

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

## TITLE 4. AGRICULTURE Part II. Texas Animal Health Commission Chapter 39. Scabies

### 4 TAC §39.1

The Texas Animal Health Commission adopts on an emergency basis amendments to §39.1, concerning cattle, sheep, and goat scabies in the scabies regulations.

An injectable drug called Ivermectin has been approved for use as an alternative treatment for scabies control in cattle by the United States Department of Agriculture (USDA). Fifteen other states have also approved the use of Ivermectin. Texas livestock producers are at an economic disadvantage if they are not allowed to use the drug.

On March 16, 1984, the USDA Animal and Plant Health Inspection Service adopted emergency regulations to provide for the use of Ivermectin. With adoption of this regulation by the USDA, it is necessary that this agency take like emergency action to allow the use of Ivermectin. Adoption of this amendment will aid livestock producers by avoiding unnecessary restrictions on the movement of cattle. The ranchers in West Texas are faced with severe drought conditions, and their cattle are thin. Use of this drug will provide ranchers with a more economical way to treat cattle than has previously been available.

The amendments are adopted on emergency basis under provisions of the Agriculture Code, Chapter 161, which grants rule-making authority and sets forth the duty of this agency to protect domestic animals in the state from disease.

### §39.1. Cattle, Sheep, and Goat Scabies.

#### (a) Psoroptic scabies.

(1) When dipping is the selected treatment, the following procedures shall apply.

(A)[(1)] All cattle or sheep visibly infected with scabies or found infected by microscopic examination shall be dipped twice, at intervals of 10-14 days, and kept in the dipping vat sufficient time, depending on the stage of the disease and dip preparation used. Sufficient time should be one minute when using toxaphene or lindane and three-five minutes when using lime-sulphur or nicotine.

(B)[(2)] All cattle or sheep not visibly infected, but which are a part of the diseased herd, shall be classed infected and must be dipped twice. The heads of all animals must be submerged and wet before leaving the vat.

(C)[(3)] At the first dipping of the infected herd, all animals shall be counted and paint-branded on the left hip or side. At the second dipping, a similar brand shall be placed on the right hip or side.

(2) When Ivermectin is the selected treatment, the following procedures shall apply.

(A) All cattle which are visibly infected with scabies or found infected by microscopic examination, or which are part of a diseased herd, shall be treated in accordance with the directions on the label of the drug under the supervision of the commission, United States Department of Agriculture, veterinary services, or an accredited veterinarian. Treated cattle may be released from quarantine not less than 14 days from date of treatment, provided they have been kept physically separated for 14 days from all cattle not part of the group treated.

(B) Ivermectin shall not be used to treat cattle within 35 days prior to slaughter, or female dairy cattle of breeding age.

#### (b) Sarcoptic scabies.



(1) When dipping is the selected treatment, the following procedures shall apply: All dipping or dippings of cattle or sheep for sarcoptic scabies infection shall be done in the same solution of dip and in the same manner as provided for dipping cattle or sheep infected with psoroptic scabies infection; except they shall receive four dippings, and the dippings shall not be required at more frequent intervals than six days, and further provided that one dipping in crude oil shall be effective and sufficient for eradication of sarcoptic scabies infection among cattle. All visibly infected cattle or sheep should be hand-treated by thoroughly saturating the lesions with a strong solution of the dipping fluid before being put into the vat. Cattle shall not be dipped in oil except at the owner's request. No dipping or dippings shall be made in oil when the weather is extremely hot or extremely cold. Cool, not cold, weather is preferred. Unless the vat is approximately 30 feet in length, the cattle should be held in the oil dipping solution a sufficient length of time for them to swim that distance. Every part of the animal, including the head, should be thoroughly covered in oil before it or they are permitted to leave the vat. No oils should be used in the dipping of cattle for scabies except the crude oil known as Beaumont oil, unless it has been treated by an oil chemist and the owner of the cattle and the supervising inspector are assured by the chemist that the oil, when administered, will not be injurious to the animal dipped.

(2) When Ivermectin is the selected treatment, the following procedures shall apply.

(A) All cattle which are visibly infected with scabies or found infected by microscopic examination, or which are part of a diseased herd, shall be treated in accordance with the directions on the label of the drug under the supervision of the commission, United States Department of Agriculture, veterinary services, or an accredited veterinarian. Treated cattle may be released from quarantine not less than 14 days from date of treatment, provided they have been kept physically separated for 14 days from all cattle not part of the group treated.

(B) Ivermectin shall not be used to treat cattle within 35 days prior to slaughter, or female dairy cattle of breeding age.

(c) Cattle and sheep exposed to psoroptic and sarcoptic scabies

(1) When dipping is the selected treatment, the following procedures shall apply: All cattle or sheep exposed to sarcoptic or psoroptic scabies shall be dipped at least once and kept in the dipping vat for a period of at least one minute and should be dipped within a period of 14 days from the date of exposure. If not dipped within the 14-day period, they shall be dipped twice at 10- to 14-day intervals in case of psoroptic and twice in six- to 10-day intervals in case of sarcoptic. The heads of all animals must be submerged and wet before leaving the vat.

(2) When Ivermectin is the selected treatment, the following procedures shall apply.

(A) All cattle which are exposed to sarcoptic or psoroptic scabies shall be treated in accordance with the directions on the label of the drug under the supervision of the commission, United States Department of Agriculture, veterinary services, or an accredited veterinarian. Treated cattle may be released from quarantine not

less than 14 days from date of treatment, provided they have been kept physically separated for 14 days from all cattle not part of the group treated.

(B) Ivermectin shall not be used to treat cattle within 35 days prior to slaughter, or female dairy cattle of breeding age.

(d) (No change )

(e) Quarantines and release (individual herds). Cattle, sheep, and goats infected with or exposed to scabies shall be quarantined as soon as possible after the determination of such fact; and owners, agents, and others having such cattle, sheep, or goats should begin treating [dipping] them within 14 days from the date they are placed under quarantine or at such time as may be designated by the Texas Animal Health Commission. Said quarantine shall not be released until all the cattle, sheep, or goats in such herds or flocks have been properly treated [dipped] and subsequent inspection in not less than 14 days shows them to be free from scabies and exposure thereto.

(f) Duties of owners or caretakers of cattle, sheep, or goats infected with or exposed to scabies. It shall be the duty of all owners or caretakers of any cattle, sheep, or goats which may be quarantined by the Texas Animal Health Commission for infection or exposure to scabies to assist in the inspection and treatment [dipping] of their cattle, sheep, or goats for scabies infection or exposure thereto and provide suitable vats, corrals, and pens for the handling of said cattle, sheep, or goats; and it is hereby declared the duty of all owners of all cattle, sheep, or goats that are restricted from movement under the provisions of these regulations to prevent said movement in violation thereof

(g) Livestock on exhibition at shows, fairs, and exhibitions. All cattle, sheep, or goats that are found to be infected with or exposed to scabies during the process of exhibition in the state shall be at once removed from the show ground, quarantined, and segregated from all other livestock and shall be treated [dipped] in accordance with the provisions of the law and the rules and regulations of the Texas Animal Health Commission.

(h) (No change )

Issued in Austin, Texas, on May 7, 1984

TRD-845251      John W. Holcombe, DVM  
Executive Director  
Texas Animal Health Commission

Effective date May 10, 1984

Expiration date September 7, 1984

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

## Chapter 51. Interstate Shows and Fairs

### 4 TAC §51.1

The Texas Animal Health Commission adopts on an emergency basis amendments to §51.1, concerning cattle, sheep, and goat scabies, in the interstate shows and fairs regulation.

An injectable drug called Ivermectin has been approved for use as an alternative treatment for scabies

control in cattle by the United States Department of Agriculture (USDA). Fifteen other states have also approved the use of Ivermectin. Texas livestock producers are at an economic disadvantage if they are not allowed to use the drug.

On March 16, 1984, the United States Department of Agriculture, Animal and Plant Health Inspection Service, adopted emergency regulations to provide for the use of Ivermectin. With adoption of this regulation by the USDA, it is necessary that this agency take similar emergency action to allow the use of Ivermectin. Adoption of this amendment will aid livestock producers by avoiding unnecessary restrictions on movement of cattle. The ranchers in West Texas are faced with severe drought conditions, and their cattle are thin. Use of this drug will provide ranchers with a more economical way to treat cattle than has been available.

The amendments are adopted on an emergency basis under provisions of the Agriculture Code, Chapter 161, which grants rule-making authority and sets forth the duty of this agency to protect domestic animals in the state from disease.

**§51.1. Admission of Livestock and Poultry into Texas, and Interstate and Intrastate Admission of Livestock and Poultry into Shows, Fairs and Exhibitions.**

(a) (No change.)

(b) Cattle.

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

(3) Scabies, fever ticks.

(A) (No change.)

(B) Scabies—

(i) Cattle originating in scabies quarantined areas outside the State of Texas must, in addition to other requirements, be accompanied by a permit from the Texas Animal Health Commission and an official health certificate certifying that herd of origin has been inspected and declared free of scabies or exposure thereto and the cattle have been treated by one of the following methods:

(I) dipping—the [that] cattle have been officially dipped in toxaphene, lime and sulphur, co-ral, or GX 118 (prolate), under supervision of state or federal employed personnel within 10 days prior to shipment and transported in clean and disinfected trucks, railroad cars, or other vehicles; or

(II) injection with Ivermectin—

(-a-) the cattle entering have been treated with Ivermectin under the supervision of a veterinary services inspector or state inspector in accordance with the directions on the label of the drug within 21 days prior to entry;

(-b-) The treated cattle must be kept physically separated for 21 days following treatment from all cattle not part of the group treated;

(-c-) the treated cattle must, in addition to other requirements, be accompanied by a certificate issued by a state or veterinary services inspector identifying the group of cattle treated and stating the date the cattle were treated. If entry occurs before the end of the 14-day period following treatment, the means of conveyance shall be placarded and billing marked in accordance with the Code of Federal Regulations;

(-d-) Ivermectin shall not be used to treat cattle within 35 days of a slaughter or female dairy cattle of breeding age.

(ii) In addition, the executive director is authorized to place quarantines on other states or parts of states where cattle scabies has been known to exist in the previous 24 months requiring either treatment by official dipping of all cattle within 10 days prior to entry, or injection with Ivermectin of all cattle within 21 days prior to entry, except cattle consigned directly to an approved slaughter establishment for immediate slaughter. Slaughter cattle originating in a quarantined area will be required to be accompanied by an official health certificate or a certificate issued by a state or federal livestock inspector showing "freedom from scabies," in addition to a permit issued from the office of the Texas Animal Health Commission.

(4)-(6) (No change.)

(c)-(i) (No change.)

Issued in Austin, Texas, on May 7, 1984

TRD-845249

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

Effective date: May 10, 1984

Expiration date: September 7, 1984

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

## Chapter 57. Poultry General

### 4 TAC §57.10, §57.11

The Texas Animal Health Commission adopts on an emergency basis amendments to §57.10 and §57.11 of the poultry regulations.

The task force of the Texas Poultry Industry has furnished evidence to the commission of the vulnerability of the poultry industry in Texas to the introduction of devastating diseases such as avian influenza and laryngotracheitis (LT). It further has identified the need for emergency action to control the spread of LT located on four farms in Texas now under LT quarantine. These farms house an estimated one million birds.

Laryngotracheitis is an acute, highly contagious respiratory disease of poultry. Unless amendments are made to the present regulations, the evidence indicates other flocks will continue to be vulnerable to the spread of the disease. By immediately implementing these regulations, a vaccinated population of poultry can be established in the areas around infected flocks before the winter season. Most LT outbreaks occur in the winter months. These regulations are designed to control effectively the spread of LT and prevent the introduction of the disease from out-of-state and should be implemented immediately.

These amendments are adopted on an emergency basis under provisions of the Agriculture Code, Chapter 161, which grants rule-making authority and sets forth the duty of this agency to protect domestic animals in the state from disease.

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

**Approved laboratories**—Texas A&M Poultry Diagnostic Laboratories located at College Station, Center, and Gonzales, Texas, the National Veterinary Services Diagnostic Laboratory located in Ames, Iowa, and other laboratories specifically approved by the commission.

**Commission**—The Texas Animal Health Commission.

**Designated areas**—

(A) **Arkansas-type infectious bronchitis area**—an area in which the Arkansas-type infectious bronchitis vaccine may be used as provided in the regulations.

(B) **Laryngotracheitis (LT) area**—an area considered exposed to LT consisting of a minimum of one-mile radius around an infected farm and in which chick embryo origin LT vaccine may be used as provided in the regulations and where other specific procedures apply.

[Designated area—An area in which chick embryo origin laryngotracheitis (LT) vaccine or Arkansas-type infectious bronchitis vaccine may be used as provided in the regulations.]

**Permit**—A written authorization for movement issued by the commission.

**Reportable poultry disease**—

(A) Infection of and/or exposure to any of the following diseases shall be reported immediately upon disclosure of the disease to the [Texas Animal Health] commission:

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

(B) (No change.)

**Vaccine**—A suspension of attenuated or killed microorganisms administered for the prevention or treatment of an infectious poultry disease and approved for use by the USDA and the [Texas Animal Health] commission. The following is a list of approved vaccines:

(A) (No change.)

(B) infectious bronchitis without restriction; or Arkansas-type upon confirmed diagnosis by an approved laboratory and upon written agreement between the commission and flock owners in a designated area for **Arkansas-type infectious bronchitis** [and the commission].

(C)-(L) (No change.)

(M) **Laryngotracheitis modified tissue culture** without restriction; or chick embryo origin use upon tentative or confirmed diagnosis by an approved laboratory and upon written agreement between the commission and flock owners in a designated area for **laryngotracheitis** [and the commission].

§57.11. *General Requirements.*

(a) **Quarantine provisions.**

(1) Poultry and/or premises shall be placed under quarantine when evidence of infection or possible exposure to any contagious and/or communicable disease not considered to be endemic exists in the State of Texas. A quarantine shall remain in effect until epidemiological evidence of the existing disease or exposure there-to is satisfied. After due consideration of epidemiological evidence, the executive director of the [Texas Animal Health] commission may cause the quarantine to be released.

(2) When laryngotracheitis infection is confirmed in any house on a farm, the entire farm will be placed under quarantine, and all poultry on that farm will be considered infected and no molting will be allowed until after the quarantine has been released. Official quarantine signs will be posted in a prominent place at the entrance to the premise and on the doors of each house. The doors should be locked when the house is unattended.

(3) Premises may be released from laryngotracheitis quarantine when:

(A) the farm has been depopulated and established cleaning and disinfection procedures have been applied;

(B) all infected poultry have been removed and all replacement poultry have been vaccinated twice with cell culture vaccine, no chick embryo origin vaccine has been used, and a surveillance system as established by the commission is carried out with no evidence of active infection; or

(C) all dead poultry and caked litter are removed; the houses are sprayed with disinfectant and closed for 15 to 30 days; and two consecutive sets of non-vaccinated poultry are raised in the houses with no evidence of infection based on commission surveillance.

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

(d) **Surveillance**—The commission may pick up dead poultry at farms to determine if laryngotracheitis or any other disease is present in any area.

(e)[(d)] Interstate movement.

(1) Poultry shipped into the State of Texas shall be accompanied by a permit and official health certificate issued by an accredited veterinarian within 10 days prior to shipment. The health certificate shall state that the poultry have been inspected and are free of evidence of infectious or contagious disease; that the poultry have been vaccinated only with approved vaccines as defined in this regulation; [that if laryngotracheitis vaccinated, the vaccination shall be done at least 30 days prior to entry;] and that the poultry has not originated from an area that has had active laryngotracheitis within the last 30 days. The certificate shall also state the poultry have passed a negative test for pullorum and typhoid within 30 days prior to shipment or that they originate from flocks which have met the pullorum-typhoid requirements of the Texas Pullorum-Typhoid Program and/or the National Poultry Improvement Plan (NPIP). Baby poultry will be exempt from this section if from a NPIP, or equivalent, hatchery, and accompanied by NPIP Form 9-3, or APHIS Form 17-6.

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

(4) **Live poultry, unprocessed poultry, [or] hatching eggs, unprocessed eggs, egg flats, poultry coops, cages, crates, other birds, and used poultry equipment** affected with, or recently exposed to, infectious, contagious, or communicable disease, or originating in state or federal quarantined areas shall not enter Texas without express written consent from the [Texas Animal Health] commission.

(f)[(e)] Depopulation and disposition of poultry and eggs. The [Texas Animal Health] commission shall depopulate or dispose of poultry and/or hatching eggs that pose a disease threat to the poultry industry of the

State of Texas after a hearing before the commission pursuant to the Administrative Procedure Act.

(g) **Dead poultry disposal.** Dead poultry are to be disposed of by incinerating, burying in disposal pits, or hauling to a rendering plant in closed containers.

(h)(f) **Cleaning and disinfecting**

(1) Premises found to have housed, incubated, brooded, or ranged an infected flock shall be cleaned and disinfected under the supervision of the [Texas Animal Health] commission within 15 days following depopulation, unless an extension of time is granted. Infected premises shall not be restocked with poultry or eggs for hatching purposes until the cleaning and disinfecting requirement of this subsection is certified complete by the [Texas Animal Health] commission. **The following cleaning and disinfection procedures are approved for laryngotracheitis:**

(A) completely clean house, spray with disinfectant, and close for 15-30 days; or

(B) remove all dead poultry and caked litter, spray with disinfectant, and close for 15-30 days.

(2) Trucks, loading equipment, and cages or coops used in hauling poultry vaccinated with restricted vaccines, or infected with a reportable disease within a designated area, or from a designated area shall be cleaned and disinfected prior to entering premises on which the disease has not been diagnosed and the vaccine has not been used, or as directed by the commission.

(i) **Designated area for laryngotracheitis.** The following procedures shall apply to all poultry operations.

(1) **Replacement poultry.** All poultry housed in the designated area will be vaccinated twice (no earlier than four weeks of age and again at least four weeks later) with cell culture (eye drop) modified vaccine before being housed for egg production. A certificate of vaccination must be on file with the owner, farm manager, and the commission. Prior entry permit and health certificate with vaccination history are required for poultry originating out-of-state. These poultry may receive the second vaccination upon arrival at farm, but the first vaccination must be no earlier than four weeks of age.

(2) **Molted hens.**

(A) Any hen molted and retained for egg production must be vaccinated with cell culture vaccine after molting.

(B) The hens on known infected premises may be allowed to complete the laying cycle but shall not be molted. Empty houses shall be repopulated only with pullets that have been vaccinated twice with cell culture vaccine at the proper age.

(3) **Broilers may be vaccinated with chick embryo vaccine under the following conditions.**

(A) No vaccination except by agreement with the commission.

(B) **Agreements signed under the following conditions:**

(i) broilers less than five weeks of age located within a designated area;

(ii) the next two flocks following an infected flock if epidemiologically sound;

(iii) chick embryo vaccine can be used in layers or breeders only to stop an outbreak and only by agreement with the commission.

(4) **Movement.**

(A) Permits are required for movement of all noninfected flocks between farms in the designated area. Poultry may move from a designated area only to slaughter and only under permit.

(B) Infected flocks and chick embryo origin vaccinated flocks can be moved only to slaughter under permit.

(5) **Trucks.**

(A) Cleaning and disinfection is required for all trucks hauling infected flocks and chick embryo origin vaccinated flocks.

(B) Farms with poultry infected with laryngotracheitis or vaccinated with chick embryo origin vaccine are to be serviced the last trip of the day. The driver should not enter the poultry house. The driver must wear rubber boots and disinfect them before leaving the farm. All vehicles should be disinfected after entering an infected premise.

(6) **Personnel.**

(A) Employees from infected or chick embryo origin vaccinated farms are not to enter houses on noninfected or nonchick embryo origin vaccinated farms.

(B) When entering infected houses, managers must wear protective clothing and change before entering noninfected houses.

(C) Catching crews must follow cleaning and disinfection procedures before entering and leaving all infected or chick embryo origin vaccinated premises.

(7) **Equipment.**

(A) Egg flats from infected or chick embryo origin vaccinated premises are to be returned to infected houses or disposed of or disinfected.

(B) Equipment from infected or chick embryo origin vaccinated farms cannot be moved to other farms without cleaning and disinfection.

(8) **Dead poultry disposal must be according to regulations.**

Issued in Austin, Texas, on May 7, 1984

TRD-845254

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

Effective date, May 10, 1984

Expiration date, September 7, 1984

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

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

### 1 TAC §91.24

The Office of the Secretary of State proposes amendments to §91.24, concerning the effective date of withdrawals filed with the *Texas Register*. The amendments will allow an agency filing a withdrawal to specify an effective date not to exceed 20 days from filing. Previously, a withdrawal was only effective immediately on filing.

Susan Johnson, publications director, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule.

Ms. Johnson also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed is more flexibility for state agencies in specifying the effective date of withdrawals. 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 Susan Johnson, Director of Publications, *Texas Register*, P.O. Box 13824, Austin, Texas 78711-3824, (512) 475-7886.

The amendments are proposed under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, which provides the *Texas Register*, Office of the Secretary of State, with the authority to adopt rules governing the submission of documents for publication.

### §91.24. Procedure for Filing Withdrawals.

#### (a) Agency withdrawals.

##### (1) Withdrawal of emergency adoptions.

(A) (No change.)

(B) The withdrawal is effective immediately on filing with the *Texas Register*, [Division of the] Office of the Secretary of State, or on a stated date not to exceed 20 days after filing.

##### (2) Withdrawal of proposed rules.

(A) (No change.)

(B) The withdrawal is effective immediately on filing with the *Texas Register*, [Division of the] Office of the Secretary of State, or on a stated date not to exceed 20 days after filing.

(b) (No change.)

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

Issued in Austin, Texas, on May 10, 1984.

TRD-845328

John W. Fainter, Jr.  
Secretary of State

Earliest possible date of adoption  
June 18, 1984

For further information, please call (512) 475-7886.

**TITLE 4. AGRICULTURE  
PART I. Texas Department of  
Agriculture  
Chapter 15. Consumer Services  
Division  
Texas Weights and Measures  
4 TAC §15.3**

The Texas Department of Agriculture proposes amendments to §15.3, concerning technical requirements and commercial weighing and measuring devices.

The Texas Agriculture Code, §13 114 (1981), requires the Texas Department of Agriculture to establish tolerances and specifications for commercial weighing and measuring apparatus used in the state similar to those tolerances and specifications established by the U.S. Department of Commerce/National Bureau of Standards (NBS). The NBS has recently completed publication of its 1984 edition of the National Bureau of Standards Handbook 44, which contains those amendments adopted by the 68th National Conference on Weights and Measures during its annual meeting in 1983

For the purpose of implementing current NBS standards, the department adopts by reference the NBS Handbook (1984), *Specifications, Tolerances, and Other Technical Requirements for Measuring Devices*.

Charles Forester, weights and measures law supervisor, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule.

Mr. Forester also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed is a current and improved system of standardized weights and measures for the State of Texas. 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 Patrick D. Redman, Attorney, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711. All comments should be in writing and substantially comply with the Texas Administrative Code, Title 4, §1.4(b).

The amendments are proposed under the Texas Agriculture Code, §13 114 (1981), which provides the Texas Department of Agriculture with the authority to establish standards and specifications for commercial weighing and measuring apparatus in this state.

**§15.3. Technical Requirements for Commercial Weighing and Measuring Devices.** The Texas Department of Agriculture hereby adopts by reference the National Bureau of Standards Handbook 44 (1984) [(1982)],

*Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices*, containing the specifications, tolerances, and other technical requirements for commercial weighing and measuring devices as adopted by the National Conference on Weights and Measures in 1983 [1981]. The handbook is available upon request from the Superintendent of Documents, U.S. Government Printing Office, 710 North Capitol Street, Washington, D.C. 20402.

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 10, 1984

TRD-845314      Patrick D. Redman  
Agency Liaison  
Texas Department of Agriculture

Earliest possible date of adoption  
June 18, 1984

For further information, please call (512) 475-6686.

**PART II. Texas Animal Health  
Commission  
Chapter 39. Scabies**

**4 TAC §39.1**

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

The Texas Animal Health Commission proposes amendments to §39 1, concerning scabies in cattle. Scabies is a contagious skin disease caused by mites. The commission has been contacted by ranchers, feedlots, and veterinarians asking that the drug Ivermectin be approved for use as an alternative method in treating cattle with scabies in Texas because it is easier to use. The Food and Drug Administration and the United States Department of Agriculture (USDA) have approved the use of Ivermectin, an injectable drug. All infested or exposed cattle, except female dairy cattle of breeding age, and cattle within 35 days of slaughter, can be treated with Ivermectin. The USDA has confirmed that Ivermectin effectively eradicates cattle scabies mites without injury to the cattle. Until recently the only approved method available for treatment of cattle scabies was by dipping the cattle in a vat using an approved dip. The commission deems it advisable to amend its regulations to allow for the use of Ivermectin as an alternative method for treating cattle that are scabies infested.

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

Ken Welch, administration director, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule.

Mr. Welch also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed is time saved and an easier method of injection, if the producers choose the alternate injection method, because cattle can be injected while in the chutes. They cannot be treated by dipping during severely cold weather. 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 Jo Anne Conner, Texas Animal Health Commission, P.O. Box 12966, Austin, Texas 78711.

The amendments are proposed under the Agriculture Code, Chapter 161, which provides the commission with the authority to adopt rules and sets forth the duty of the commission to protect domestic animals in the state from disease

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

Issued in Austin, Texas, on May 7, 1984

TRD-845252      John W. Holcombe, DVM  
Executive Director  
Texas Animal Health Commission

Earliest possible date of adoption  
June 18, 1984

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

## **Chapter 51. Interstate Shows and Fairs**

### **4 TAC §51.1**

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

The Texas Animal Health Commission proposes amendments to §51.1, concerning scabies in cattle in the interstate, shows, and fairs regulations. Scabies is a contagious skin disease caused by mites. The commission has been contacted by ranchers, feedlots, and veterinarians asking that the drug Ivermectin be approved for use as an alternative method in treating cattle with scabies in Texas because it is easier to use. The Food and Drug Administration and the United States Department of Agriculture (USDA) have approved the use of Ivermectin, an injectable drug. All infested or exposed cattle, except female dairy cattle of breeding age and cattle within 35 days of slaughter, can be treated with Ivermectin. The USDA has confirmed that Ivermectin effectively eradicates cattle scabies mites without injury to the cattle. Until recently the only approved method available for treatment of cattle scabies was by dipping the cattle in a vat using an approved dip. The commission deems it advisable to amend its regulations to allow for the use of Ivermectin as an alternative method for treating cattle that are scabies infested.

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

Ken Welch, administration director, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule.

Mr. Welch also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed is saved time and an easier method of injection, if the producers choose the alternate injection method, because the cattle can be injected while in the chutes. The cattle cannot be treated by dipping during severely cold weather. 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 Jo Anne Conner, Texas Animal Health Commission, P.O. Box 12966, Austin, Texas 78711.

The amendment is proposed under the Agriculture Code, Chapter 161, which provides the commission with the authority to adopt rules and sets forth the duty of the commission to protect domestic animals in the state from disease.

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

Issued in Austin, Texas, on May 7, 1984

TRD-845250      John W. Holcombe, DVM  
Executive Director  
Texas Animal Health Commission

Earliest possible date of adoption  
June 18, 1984

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

## **Chapter 57. Poultry General**

### **4 TAC §57.10, §57.11**

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

The Texas Animal Health Commission proposes amendments to §57.10 and §57.11 of the Texas poultry regulations, concerning poultry diseases. The Texas Poultry Federation task force, which represents the broiler, egg, turkey, and breeder segment of the industry has recommended to the commission that a Texas Laryngotracheitis (LT) Program be implemented. This program is designed to control and eradicate the LT infection that presently exists in Texas and prevent the introduction of LT from out of state. If such a program is not implemented in Texas, serious economic losses to the commercial poultry industry could occur.

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

Ken Welch, administration director, has determined that for the first five-year period the rules are in effect there will be fiscal implications as a result of enforcing or administering the rules. The anticipated effect on state government is \$19,560 in 1984, \$19,980 in 1985, \$20,520 in 1986, \$21,000 in 1987, and \$21,555 in 1988. These costs are based on historic levels of infection. The enforcement of these regulation changes will require the employment of one full-time poultry inspector. A major outbreak would require additional resources. There are no anticipated fiscal implications for local government. The anticipated effect on small businesses is \$ .05 per chicken for operators falling in a designated area required to vaccinate their flocks. There is no anticipated difference in the cost of compliance for small and large businesses.

Mr. Welch has also 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 that regulation should prevent production losses as a result of LT, indirectly keeping the cost to the consumer at a lower level. The anticipated economic cost to individuals who are required to comply with the rule as proposed is \$ .05 per bird for the vaccination of flocks in designated areas.

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

The amendments are proposed under the provisions of the Agriculture Code, Chapter 161, which provides the commission with the authority to adopt rules and sets forth the duty of the commission to protect domestic animals and domestic fowl in the state from disease.

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

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

TRD-845253            John W. Holcombe, DVM  
   Executive Director  
   Texas Animal Health Commission

Earliest possible date of adoption:  
June 18, 1984

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

## **TITLE 22. EXAMINING BOARDS Part XIV. Texas Optometry Board Chapter 273. General Rules**

### **22 TAC §273.1**

The Texas Optometry Board proposes an amendment to §273.1, concerning the surrender of license for fail-

ure to pay the renewal fee. The amendment provides for the retention of the license through the expiration period provided by law, but allows for complete and thorough record keeping of the expired licenses.

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

Ms. Ewald also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed is that optometrists not possessing a valid license cannot practice optometry. Thus, only those licensees meeting the requirements of the board will be practicing optometry, thereby protecting the health and welfare of the general public. 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 Lois Ewald, Executive Director, Texas Optometry Board, Suite C-240, 1300 East Anderson Lane, Austin, Texas 78752.

The amendment is proposed under Texas Civil Statutes, Article 4552, §2.14, which provide the Texas Optometry Board with the authority to promulgate procedural and substantive rules and regulations.

**§273.1. Surrender of License.** Any person formerly licensed to practice optometry in this state who receives notification from the board that his or her license to practice optometry has expired for failure to pay the annual renewal fee shall, within 10 days of receipt of such notification from the board, either pay the applicable renewal fee or surrender his or her license by mailing or otherwise delivering such license to the board office. **Alternatively, rather than physically surrender the license, the person may file with the board an affidavit in a form acceptable to the executive director to the effect that such person is not and will not practice optometry in Texas.**

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 9, 1984

TRD-845206            Lois Ewald  
   Executive Director  
   Texas Optometry Board

Earliest possible date of adoption:  
June 18, 1984

For further information, please call (512) 835-1938.

### **22 TAC §273.2**

The Texas Optometry Board proposes an amendment to §273.2, concerning the use of the name of a retired or deceased optometrist in a partnership, professional corporation, or professional association. The amendment establishes procedures for the use of such name in conjunction with the optometrist's practice, regardless of whether or not the retired individual renews his or her license.



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

Ms. Ewald also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed is that the public will be more informed as to the individual practice arrangement and more fully informed as to who is practicing within the practice arrangement, thereby fixing the professional responsibility for the patient's protection. 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 Lois Ewald, Executive Director, Texas Optometry Board, Suite C-240, 1300 East Anderson Lane, Austin, Texas 78752.

The amendment is proposed under Texas Civil Statutes, Article 4552, §2.14, which provide the Texas Optometry Board with the authority to promulgate procedural and substantive rules and regulations.

**§273.2. Use of Name of Retired or Deceased Optometrist.**

(a) In the event of the death or retirement of an optometrist [who chooses not to renew his or her license,] who was practicing optometry in a partnership or with a professional corporation or professional association, the surviving members of the professional corporation or association may, with the written permission of the retiring optometrist or the deceased optometrist's legal representative, continue to practice with the name of the deceased or retired optometrist.

(b) (No change.)

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

Issued in Austin, Texas, on May 9, 1984.

TRD-845207      Lois Ewald  
                         Executive Director  
                         Texas Optometry Board

Earliest possible date of adoption  
June 18, 1984

For further information, please call (512) 835-1938.

**22 TAC §273.3**

The Texas Optometry Board proposes new §273.3, concerning clarification of the Texas Optometry Act, §5.06, for consistency in enforcement. The new section will cover the prohibition of offering contact lenses as a prize or premium.

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

Ms. Ewald also has determined that for each year of the first five years the rule as proposed is in effect the

public benefit anticipated as a result of enforcing the rule as proposed is that the optometrist/licensee and other individuals will be made aware of the enforcement of the Act, §5.06, by the board, which will include contact lenses, as well as spectacles, thus allowing for compliance with the statutes, which will result in the protection of the public health and welfare. 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 Lois Ewald, Executive Director, Texas Optometry Board, Suite C-240, 1300 East Anderson Lane, Austin, Texas 78752.

The new section is proposed under Texas Civil Statutes, Article 4552, §2.14, which provide the Texas Optometry Board with the authority to promulgate procedural and substantive rules and regulations.

**§273.3. Contact Lenses as Prize or Premium.** In order to provide consistency in the enforcement of the Texas Optometry Act, §5.06, no person in this state shall give or cause to be given, deliver or cause to be delivered, in any manner whatsoever, any contact lenses as a prize or premium, or as an inducement to sell any book, paper, magazine, or any work of literature or art, or any item of merchandise whatsoever.

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 9, 1984.

TRD-845208      Lois Ewald  
                         Executive Director  
                         Texas Optometry Board

Earliest possible date of adoption:  
June 18, 1984

For further information, please call (512) 835-1938.



## **TITLE 28. INSURANCE Part I. State Board of Insurance**

*(Editor's note: Because the State Board of Insurance's rules have not yet been published in the Texas Administrative Code (TAC), they do not have designated TAC numbers. For the time being, the rules will continue to be published under their Texas Register numbers. However, the rules will be published under the agency's correct TAC title and part. The text of the following rule proposed for repeal will not be published. The rule may be examined in the offices of the State Board of Insurance, 1110 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

### **Incorporation of Insurance Companies Amendments to Charters Checklist for Charter Amendments**

**059.02.03.001**

The State Board of Insurance proposes the repeal of Rule 059.02.03.001, which adopts certain checklists for obtaining information as part of applications for amendments to charters of certain insurance companies. It is the board's opinion that these checklists need not be adopted in rule form. Much of what is required by the rule is already required by statutory law. It is not necessary for the remaining matters in the checklist to be an absolute requirement since evidence similar in substance (although not necessarily in form) to matters contained in checklists will, in almost all cases, be necessary to properly review an application to amend a charter. It is not expected that board practices will be changed much as a result of this repeal.

R. B. Ashworth, deputy insurance commissioner, 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 as a result of the repeal. There is a possible savings to small business insurers as a result of the repeal since certain matters required by the checklists will no longer be absolutely required. However, since the evidence required by the checklists will, in almost all cases, be required in some form before an application can be reviewed, the effects are expected to be small, and will depend on the nature of particular applications and the practices of particular applicants. There is no anticipated difference between large and small businesses on a cost-per-hour-of-labor basis.

Mr. Ashworth also 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 elimination of an unnecessary rule from the board's rules on file with the Office of the Secretary of State. The anticipated economic effect on individuals who are required to comply with the repeal as proposed is a possible savings, since certain matters required by the checklists will no longer be absolutely required. However, since the evidence required by the checklists will, in almost all cases, be required

in some form before an application may be determined, the effects are expected to be small, and will depend on the nature of particular applications and the practices of particular applicants.

Comments on the proposal may be submitted to R. B. Ashworth, Deputy Insurance Commissioner, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The repeal is proposed under the Insurance Code, Article 2.03 and Article 3.05, pursuant to which the charters of general casualty, fire and marine, and life, health, and accident insurance companies may be amended, and pursuant to the board's authority to repeal any rule it has previously adopted.

*.001. Checklist for Charter Amendments.*

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 8, 1984.

TRD-845210      James W. Norman  
                                 Chief Clerk  
                                 State Board of Insurance

Earliest possible date of adoption:  
June 18, 1984

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

### **Life, Health, and Accident Insurance Order of Benefit Determination for Insured Dependent Children in a Coordination of Benefits Provision**

**059.03.48.001, .002**

The State Board of Insurance proposes new Rules 059.03.48.001 and .002, concerning an order of benefit determination for insured dependent children in policies, contracts, certificates, endorsements, or riders filed pursuant to the Insurance Code, Article 3.42, which contain a coordination of benefits provision. Article 3.42, §(j), provides generally that contracts must provide for the order of benefit determination for insured dependent children. The board has determined that guidelines for a reasonable standardization defining an order of benefit determination for insured dependent children in a coordination of benefits provision is necessary.

A. W. Pogue, Policy Approval Division manager, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rules. The rules simply embody a standard procedure for determining the primacy of coverage. There could be an increase or decrease in the cost to small business insurers depending on the insurer's present practice in determining priority of coverage. There could also be increased costs if it becomes necessary for an insurer to alter forms. There is no anticipated difference in costs between small and large businesses on a cost-per-hour-of-labor loss.

Mr. Pogue also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed is standardization of the type of coverage specified. Moreover, in the event of separation or divorce, the custodial parent will be able to recoup medical expenditures on his or her dependent child or children. The anticipated economic cost to individuals who are required to comply with the rules as proposed is a decrease or increase in claims costs depending on the insurer's present practice in determining priority on coverage. There could also be increased costs if it becomes necessary for an insurer to alter forms.

Comments on the proposal may be submitted to A. W. Pogue, Division Manager, Policy Approval Division, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

These new rules are proposed under the Insurance Code, Article 3.42, §(i), pursuant to which the board may promulgate and enforce reasonable rules and regulations and order such provision as is necessary in the accomplishment of the purpose of the Insurance Code, Article 3.42, §(i).

*.001. Purpose and Scope.* The purpose of these rules is to provide guidelines for a reasonable standardization defining an order of benefit determination for insured dependent children in a coordination of benefits provision. The rules apply to all policies, contracts, or certificates of accident or health insurance, group accident or health insurance, hospitalization insurance, group hospitalization insurance, medical or surgical insurance, and group medical or surgical insurance containing a coordination of benefit determination filed for approval with the State Board of Insurance. These rules control such coordination of benefits determination notwithstanding the provisions of any other rule of the State Board of Insurance.

*.002. Determination of Order of Benefits.* For the purposes of these rules, the order of benefits determination is as follows:

- (1) the benefits of a plan which covers the person on whose expenses claim is based other than as a dependent shall be determined before the benefits of a plan which covers such person as a dependent;
- (2) the benefits of a plan which covers the person on whose expenses claim is based as a dependent of a male person shall be determined before the benefits of a plan which covers such person as a dependent of a female person; except that in the case of a person for whom claim is made as a dependent child,
  - (A) when the parents are separated or divorced and the parent with custody of the child has not remarried, the benefits of a plan which covers the child as a dependent of the parent with custody of the child will be determined before the benefits of a plan which covers the child as a dependent of the parent without custody;
  - (B) when the parents are divorced and the parent with the custody of the child has remarried, the benefits of a plan which covers the child as a dependent of the parent with custody shall be determined before the benefits of a plan which covers that child as a dependent

of the step-parent, and the benefits of a plan which covers that child as a dependent of the step-parent will be determined before the benefits of a plan which covers that child as a dependent of the parent without custody;

(C) notwithstanding subparagraphs (A) and (B) of this paragraph, if there is a court decree which would otherwise establish financial responsibility for the medical, dental, or other health care expenses with respect to the child, the benefits of a plan which covers the child as a dependent of the parent with such financial responsibility shall be determined before the benefits of any other plan which covers the child as a dependent child;

(3) when paragraphs (1) and (2) do not establish an order of benefit determination, the benefits of a plan which has covered the person on whose expenses claim is based for the longer period of time shall be determined before the benefits of a plan which has covered such person the shorter period of time, except that:

(A) the benefits of a plan covering the person on whose expenses claim is based as a laid-off or retired employee or as the dependent of such person shall be determined after the benefits of any other plan covering such person as an employee other than as a laid-off or retired employee or a dependent of such person; and

(B) if either plan does not have a provision regarding laid-off or retired employees, and, as a result, each plan determines its benefits after the other, then the provisions of subparagraph (A) of this paragraph do not apply.

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 8, 1984

TRD-845211 James W. Norman  
Chief Clerk  
State Board of Insurance

Earliest possible date of adoption:  
June 18, 1984

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

## Variable Annuity Contracts

059.03.72.001-.004

*(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 State Board of Insurance, 1110 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The State Board of Insurance proposes the repeal of Rules 059.03.72.001-.004, concerning variable annuity contracts.

The 68th Legislature, 1983, enacted the Insurance Code, Article 3.75, relative to variable annuity and variable life insurance contracts. Article 3.75 becomes effective on September 1, 1984. The present rules are not appropriate under the new statute. The present rules were adopted under the Insurance Code, Article 3.72, which is being repealed effective September 1, 1984. Accordingly, these rules are proposed to be repealed effective September 1, 1984. At a later

date, new rules will be proposed for contracts written under Article 3.75. Portions of these rules dealing specifically with the regulation of variable annuity agents will also be proposed as a separate set of rules

Woody Pogue, deputy insurance commissioner, 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. Any change in this respect will result from new Article 3.75 and any new rules adopted thereunder

Mr. Pogue also 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 elimination of rules which will be inappropriate on the effective date of the statutory law change. There is no anticipated economic cost to individuals as a result of the repeal. Any change in this respect will result from new Article 3.75 and any new rules adopted thereunder.

Comments on the proposal may be submitted to Woody Pogue, Deputy Insurance Commissioner, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786

The repeal is proposed under the Insurance Code, Article 3.72, §15, pursuant to which the State Board of Insurance is authorized and directed to issue such reasonable rules and regulations as may be necessary to carry out the various purposes and provisions of Article 3.72, and in augmentation thereof, and pursuant to the board's authority to repeal any rule it has previously adopted

- .001. *Variable Annuity Examinations.*
- .002. *Licensing of Variable Annuity Agents.*
- .003. *Licensing of Variable Annuity Agents, Temporary Rules.*
- .004. *Variable Annuity Rules and Regulations.*

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 8, 1984

TRD-845212 James W Norman  
Chief Clerk  
State Board of Insurance

Earliest possible date of adoption  
September 1, 1984

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

## Rating and Policy Forms Reports on Experience

059.05.05.001

*(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 State Board of Insurance, 1110 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The State Board of Insurance proposes the repeal of Rule 059.05.05.001, which adopts by reference a statistical plan for private passenger automobiles. This statistical plan is subject to adoption under the Insurance Code, Article 5.96, which is an alternative to the Administrative Procedure and Texas Register Act. Simultaneously with this repeal, the board is considering the adoption of a current statistical plan under that statute. No present practice or requirement of the board is being changed as a result of this repeal.

Gaylon Daniel, Property/Casualty Actuarial Division staff actuary, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. Daniel also 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 elimination of a rule which is not necessary to be on file with the *Texas Register*, and the replacement of the rule with a current statistical plan adopted under an alternative procedure which provides greater administrative efficiency. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Gaylon Daniel, Staff Actuary, Property/Casualty Division, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The repeal is proposed under the Insurance Code, Article 5.05, pursuant to which the the board may promulgate standard and uniform statistical plans for automobile insurance, and pursuant to the board's authority to repeal any rule it has previously adopted.

- .001. *Insurance Services Office Automobile Insurance Statistical Plan.*

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 8, 1984

TRD-845213 James W Norman  
Chief Clerk  
State Board of Insurance

Earliest possible date of adoption  
June 18, 1984

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

## 059.05.05.002

*(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 State Board of Insurance, 1110 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The State Board of Insurance proposes the repeal of Rule 059.05.05.002, which adopts by reference the National Association of Independent Insurers automobile insurance statistical plan. This statistical plan is subject to adoption under the Insurance Code, Article

5.96, which is an alternative to the Administrative Procedure and Texas Register Act. Simultaneously with this repeal, the board is considering the adoption of a current statistical plan under that statute. No present practice or requirement of the board is being changed as a result of this repeal.

Gaylon Daniel, Property/Casualty Actuarial Division staff actuary, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. Daniel also 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 elimination of a rule which is not necessary to be on file with the *Texas Register*, and the replacement of the rule with a current statistical plan adopted under an alternative procedure which provides greater administrative efficiency. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Gaylon Daniel, Staff Actuary, Property/Casualty Division, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The repeal is proposed under the Insurance Code, Article 5.05, pursuant to which the board may promulgate standard and uniform statistical plans for automobile insurance, and pursuant to the board's authority to repeal any rule it has previously adopted.

*.002. National Association of Independent Insurers  
Automobile Insurance Statistical Plan.*

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 8, 1984

TRD-845214      James W Norman  
                         Chief Clerk  
                         State Board of Insurance

Earliest possible date of adoption.  
June 18, 1984

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

**059.05.05.003**

*(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 State Board of Insurance, 1110 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The State Board of Insurance proposes the repeal of Rule 059.05.05.003, which adopts by reference the National Independent Statistical Service automobile insurance statistical plan. This statistical plan is subject to adoption under the Insurance Code, Article 5.96, which is an alternative to the Administrative Procedure and Texas Register Act. Simultaneously with this repeal, the board is considering the adoption of a current statistical plan under that statute. No present

practice or requirement of the board is being changed as a result of this repeal.

Gaylon Daniel, Property/Casualty Actuarial Division staff actuary, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. Daniel also 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 elimination of a rule which is not necessary to be on file with the *Texas Register*, and the replacement of the rule with a current statistical plan adopted under an alternative procedure which provides greater administrative efficiency. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Gaylon Daniel, Staff Actuary, Property/Casualty Division, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The repeal is proposed under the Insurance Code, Article 5.05, pursuant to which the board may promulgate standard and uniform statistical plans for automobile insurance, and pursuant to the board's authority to repeal any rule it has previously adopted.

*.003. National Independent Statistical Service  
Automobile Insurance Statistical Plan.*

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 8, 1984

TRD-845215      James W Norman  
                         Chief Clerk  
                         State Board of Insurance

Earliest possible date of adoption  
June 18, 1984

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

**059.05.05.004**

*(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 State Board of Insurance, 1110 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The State Board of Insurance proposes the repeal of Rule 059.05.05.004, which adopts by reference an automobile liability experience rating plan. This rating plan is subject to adoption under the Insurance Code, Article 5.96, which is an alternative to the Administrative Procedure and Texas Register Act. Simultaneously with this repeal, the board is considering the adoption of a current rating plan under that statute. No present practice or requirement of the board is being changed as a result of this repeal.

Gaylon Daniel, Property/Casualty Actuarial Division staff actuary, has determined that for the first five-

year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. Daniel also 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 elimination of a rule which is not necessary to be on file with the *Texas Register*, and the replacement of the rule with a current rating plan adopted under an alternative procedure which provides greater administrative efficiency. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Gaylon Daniel, Staff Actuary, Property/Casualty Division, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The repeal is proposed under the Insurance Code, Article 5.01 and Article 5.10, pursuant to which the board may promulgate standard and uniform rating plans for automobile insurance, and pursuant to the board's authority to repeal any rule it has previously adopted.

*.004. Automobile Liability Experience Rating Plan.*

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 8, 1984

TRD-845216 James W. Norman  
Chief Clerk  
State Board of Insurance

Earliest possible date of adoption:  
June 18, 1984

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

**059.05.05.005**

*(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 State Board of Insurance, 1110 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The State Board of Insurance proposes the repeal of Rule 059.05.05.005, which adopts by reference a commercial statistical plan. This statistical plan is subject to adoption under the Insurance Code, Article 5.96, which is an alternative to the Administrative Procedure and Texas Register Act. Simultaneously with this repeal, the board is considering the adoption of a current statistical plan under that statute. No present practice or requirement of the board is being changed as a result of this repeal.

Gaylon Daniel, Property/Casualty Actuarial Division staff actuary, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. Daniel also 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 elimination of a rule which is not necessary to be on file with the *Texas Register*, and the replacement of the rule with a current statistical plan adopted under an alternative procedure which provides greater administrative efficiency. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Gaylon Daniel, Staff Actuary, Property/Casualty Division, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The repeal is proposed under the Insurance Code, Article 5.05, pursuant to which the board may promulgate standard and uniform statistical plans for automobile insurance, and pursuant to the board's authority to repeal any rule it has previously adopted.

*.005. Commercial Statistical Plan.*

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 8, 1984.

TRD-845217 James W. Norman  
Chief Clerk  
State Board of Insurance

Earliest possible date of adoption:  
June 18, 1984

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

**Filing of Rates and Rating Information  
059.05.15.017**

*(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 State Board of Insurance, 1110 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The State Board of Insurance proposes the repeal of Rule 059.05.15.017, which adopts by reference tables of basic three-year term prepaid premiums for blanket fidelity bonds for mercantile establishments. These tables are subject to adoption under the Insurance Code, Article 5.97, which is an alternative to the Administrative Procedure and Texas Register Act. Simultaneously with this repeal, the board is considering the adoption of the tables under that statute. No present practice or requirement of the board is being changed as a result of this repeal.

Robert L. Kurio, Casualty Division bond, burglary, and plate glass assistant director, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. Kurio also 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 elimination of a rule which is not necessary to be on file with the *Texas Register*, and the replacement of the rule with tables adopted under an alternative procedure. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Robert L. Kurio, Assistant Director, Bond, Burglary, and Plate Glass, Casualty Division, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The repeal is proposed under the Insurance Code, Article 5.15, pursuant to which the board may promulgate standard and uniform rates, rating plans, and manual rules for insurance regulated under the Insurance Code, Chapter 5, Subchapter B, and pursuant to the board's authority to repeal any rule it has previously adopted.

*.017. Tables of Basic Three-Year Term Prepaid Premiums for Blanket Fidelity Bonds—Mercantile Establishments.*

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 8, 1984

TRD-845218 James W. Norman  
Chief Clerk  
State Board of Insurance

Earliest possible date of adoption  
June 18, 1984

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

**059.05.15.021**

*(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 State Board of Insurance, 1110 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The State Board of Insurance proposes the repeal of Rule 059.05.15.021, which adopts certain standard provisions for glass insurance policies. These provisions are subject to adoption under the Insurance Code, Article 5.97, which is an alternative to the Administrative Procedure and Texas Register Act. Simultaneously with this repeal, the board is considering the adoption of these forms under that statute. No present practice or requirement of the board is being changed as a result of this repeal.

Robert L. Kurio, Casualty Division bond, burglary, and plate glass assistant director, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. Kurio also 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 elimination of a rule which is not necessary to be on file with the *Texas Register*, and the replacement of the rule with current forms adopted under an alternative procedure which provides greater administrative efficiency. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Robert L. Kurio, Assistant Director, Bond, Burglary, and Plate Glass, Casualty Division, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The repeal is proposed under the Insurance Code, Article 5.15, pursuant to which the board may approve standard and uniform policy and endorsement provisions for insurance regulated under the Insurance Code, Chapter 5, Subchapter B, and pursuant to the board's authority to repeal any rule it has previously adopted.

*.021. Standard Provisions for Glass Policies.*

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 8, 1984

TRD-845219 James W. Norman  
Chief Clerk  
State Board of Insurance

Earliest possible date of adoption  
June 18, 1984

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

**059.05.15.024**

*(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 State Board of Insurance, 1110 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The State Board of Insurance proposes the repeal of Rule 059.05.15.024, which adopts rules, rates, and forms for miscellaneous coverages. These rules, rates, and forms are subject to adoption under the Insurance Code, Article 5.97, which is an alternative to the Administrative Procedure and Texas Register Act. Simultaneously with this repeal, the board is considering the adoption of these forms under that statute. No present practice or requirement of the board is being changed as a result of this repeal.

Robert L. Kurio, Casualty Division bond, burglary, and plate glass assistant director, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. Kurio also 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 elimination of a rule which is not necessary to be on file with the *Texas Register*, and the replacement of the rule with current rules, rates, and forms adopted under an alternative procedure which provides greater administrative efficiency. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Robert L. Kurio, Assistant Director, Bond, Burglary, and Plate Glass, Casualty Division, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The repeal is proposed under the Insurance Code, Article 5.15, pursuant to which the board may approve standard and uniform rules, rates, and policy and endorsement forms for insurance regulated under the Insurance Code, Chapter 5, Subchapter B, and pursuant to the board's authority to repeal any rule it has previously adopted.

*.024. Rules, Rates, and Forms for Miscellaneous Coverages.*

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 8, 1984.

TRD-845220            James W. Norman  
                                 Chief Clerk  
                                 State Board of Insurance

Earliest possible date of adoption  
June 18, 1984

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

## Filing of Rating Information

### 059.05.15.101, .102

The State Board of Insurance proposes amendments to Rule 059.05.15.101 and Rule 059.05.15.102, concerning procedures respecting (a) rate filings under the Insurance Code, Chapter 5, Subchapter B. An (a) rate filing is a filing for board approval of a rate for a risk for which there is no standard and uniform rate. These rules specify procedures for the filing of (a) rates, the revision of (a) rate filings, the continuation of effectiveness of (a) rate filings, obtaining of previously approved (a) rate filings, and the applicability of expense modifications to (a) rated exposures. These rules have been renumbered. Except for changes in the rules which delete the requirement for a reaffirmation application in Rule .001(d) and (e) and Rule .102(c), the rules are the same in substance as Rule 059.05.15.003 presently on file with the *Texas Register*. These changes conform the rules to previous board action. The only other substantive change is that the charge for material accompanying an (a) rate filing is increased from \$1.00 to \$1.50. The other changes are nonsubstantive and editorial in nature.

Milton S. Troxell, Casualty Division general liability director, has determined that for the first five-year period the rules will be in effect there will be no fiscal

implications for state or local government as a result of enforcing or administering the rules. The only expected economic effect on small businesses from this rule change will result from the increase in charge for material accompanying an (a) rate filing from \$1.00 to \$1.50. There is no expected difference in cost between large and small businesses on the basis of size per se.

Mr. Troxell also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of the rules as proposed is clearer rules in regular *Texas Register* form. The only anticipated cost to individuals who are required to comply with the rules as proposed from these amendments will be the increase in the charge for material accompanying an (a) rate filing from \$1.00 to \$1.50.

Comments on the proposal may be submitted to Milton S. Troxell, Director, General Liability, Casualty Division, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The amendments are proposed under the Insurance Code, Article 5.15, pursuant to which the board reviews (a) rate filings of coverage regulated under the Insurance Code, Chapter 5, Subchapter B, and pursuant to the board's authority under the Insurance Code, Article 1.04 and Article 5.15, and Texas Civil Statutes, Article 6252-13a, to adopt procedural rules necessary or appropriate for it to carry out its statutory duties, and pursuant to the Insurance Code, Article 4.07, pursuant to which the board may make appropriate charges for rating information.

### *.101. Approval of (a) Rate Filings. [(a) Rated Exposures.]*

[(a) The Board of Insurance Commissioners this day considered and hereby establishes the procedures set out herein for the approval and distribution of general liability (a) rates.] The Insurance Code, Chapter 5, Subchapter B, does not vest in the State Board of Insurance authority to make rates. Thus, it is improper for company representatives, agents, or others to call on the General Liability Section of Casualty Insurance Division for suggested (a) rates.

(b) [Subchapter B provides that the insurer shall file the rates which it proposes to use and set out the character and extent of the coverage contemplated. It further provides that the information upon which the insurer supports the filing must accompany the application.] All (a) rate applications [, therefore,] must indicate the rate or rates the insurer proposes to charge and a complete description of the (a) rated exposures and pertinent data for such rate or rates. In the event the information accompanying the application is not considered sufficient to justify the proposed rates, the submission will be disapproved or the submitting insurer will be permitted to supply additional data.

(c) After (a) rates are established, such rates shall not be revised prior to their expiration as provided in these rules [herein] until the insurer that established the (a) rates is notified and given a chance to be heard as contemplated by Subchapter B.



(d) [Once (a) rates are submitted and approved for an individual risk, such rates shall remain in effect so long as there is no material change in the hazards, provided the insurer on the risk complies with conditions hereinafter stipulated for continuance of the (a) rates beyond the policy expiration.] Approved (a) rates may be revised provided information is furnished establishing to the satisfaction of the State Board of Insurance that the (a) rates approved for the risk do not meet the standards as set out in the statute.

[(e) If the insurer currently insuring an (a) rated exposure finds that no change exists in the hazards or other relevant conditions sufficient to warrant a change in the outstanding (a) rate, the insurer may file a reaffirmation of the outstanding rate within 90 days but not less than 15 days prior to expiration of the current policy. Unless such reaffirmation is made in accordance with the foregoing, the approved (a) rates will expire with the expiration of the current policy.]

**.102. Distribution of (a) Rates.**

(a) General liability (a) rates that have been approved for an individual risk may be obtained from the Casualty Insurance Division of the State Board of Insurance.

(b)[(a)] Requests for outstanding (a) rates shall [should] be made in writing, and the approved (a) rates will be furnished without charge. Whenever a request is received for the information accompanying the filing, other than the rates, such data will be furnished, upon receipt of a properly signed letter of authority, at a charge of \$1.50 [\$1.00]. Companies, their representatives or agents, may [should] not make quotations on (a) rated operations until they have obtained the rates that have been approved or until legally determined (a) rates have been established.

(c)[(b)] Application for (a) rates may be made only be a qualified insurer or its authorized rating organization. Applications must be filed in duplicate. [If an insurer submits a statement that there has been no change in the (a) rated exposures, such reaffirmation must be filed in duplicate.] Upon approval by the board, one copy of the form will be stamped "approved" and returned to the submitting insurer or rating organization.

(d)[(c)] Experience modifications as determined under the general liability experience rating plan are applicable to all (a) rated exposures with certain enumerated exceptions specified in Section II, Rule 2, of the plan. [Board Order 501044.]

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 10, 1984

TRD-845319      James W. Norman  
                         Chief Clerk  
                         State Board of Insurance

Earliest possible date of adoption  
June 18, 1984

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

## Rate Administration

059.05.19.002

*(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 State Board of Insurance, 1110 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The State Board of Insurance proposes the repeal of Rule 059.05.19.002, which adopts by reference a National Association of Independent Insurers statistical plan for general liability, burglary, glass, and fidelity, surety, and forgery insurance. This statistical plan is subject to adoption under the Insurance Code, Article 5.97, which is an alternative to the Administrative Procedure and Texas Register Act. Simultaneously with this repeal, the board is considering the adoption of a current statistical plan under that statute. No present practice or requirement of the board is being changed as a result of this repeal.

Gaylon Daniel, Property/Casualty Actuarial Division staff actuary, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. Daniel also 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 elimination of a rule which is not necessary to be on file with the *Texas Register*, and the replacement of the rule with a current statistical plan adopted under an alternative procedure which provides greater administrative efficiency. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Gaylon Daniel, Staff Actuary, Property/Casualty Division, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786

The repeal is proposed under the Insurance Code, Article 5.19, pursuant to which the board may promulgate standard and uniform statistical plans for general liability, burglary, glass, and fidelity, surety, and forgery insurance, and pursuant to the board's authority to repeal any rule it has previously adopted.

*.002. National Association of Independent Insurers Statistical Plans for General Liability, Burglary, Glass, and Fidelity, Surety, and Forgery 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 May 8, 1984.

TRD-845222      James W. Norman  
                         Chief Clerk  
                         State Board of Insurance

Earliest possible date of adoption  
June 18, 1984

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

059.05.19.003

*(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 State Board of Insurance, 1110 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The State Board of Insurance proposes the repeal of Rule 059.05.19.003, which adopts by reference the National Independent Statistical Service statistical plans for general liability and burglary, theft, and robbery insurance. These statistical plans are subject to adoption under the Insurance Code, Article 5.97, which is an alternative to the Administrative Procedure and Texas Register Act. Simultaneously with this repeal, the board is considering the adoption of current statistical plans under that statute. No present practice or requirement of the board is being changed as a result of this repeal.

Gaylon Daniel, Property/Casualty Actuarial Division, staff actuary, 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 this repeal.

Mr. Daniel has also 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 elimination of a rule which is not necessary to be on file with the *Texas Register*, and the replacement of the rule with current statistical plans adopted under an alternative procedure which provides greater administrative efficiency. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Gaylon Daniel, Staff Actuary, Property/Casualty Division, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786

The repeal is proposed under the Insurance Code, Article 5.19, pursuant to which the board may promulgate standard and uniform statistical plans for general liability, burglary, glass, and fidelity, surety, and forgery insurance; and pursuant to the board's authority to repeal any rule it has previously promulgated.

*.003. National Independent Statistical Service  
Statistical Plans for General Liability and  
Burglary, Theft, and Robbery 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 May 8, 1984

TRD-845223 James W. Norman  
Chief Clerk  
State Board of Insurance

Earliest possible date of adoption  
June 18, 1984

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

059.05.19.004

*(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 State Board of Insurance, 1110 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The State Board of Insurance proposes the repeal of Rule 059.05.19.004, which adopts by reference the Surety Association of America fidelity, forgery, and surety statistical plan. This statistical plan is subject to adoption under the Insurance Code, Article 5.97, which is an alternative to the Administrative Procedure and Texas Register Act. Simultaneously with this repeal, the board is considering the adoption of a current statistical plan under that statute. No present practice or requirement of the board is being changed as a result of this repeal.

Gaylon Daniel, Property/Casualty Actuarial Division staff actuary, had determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. Daniel has also 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 elimination of a rule which is not necessary to be on file with the *Texas Register*, and the replacement of the rule with a current statistical plan adopted under an alternative procedure which provides greater administrative efficiency. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Gaylon Daniel, Staff Actuary, Property/Casualty Division, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The repeal is proposed under the Insurance Code, Article 5.19, pursuant to which the board may promulgate standard and uniform statistical plans for fidelity, forgery, and surety bond coverage, and pursuant to the board's authority to repeal any rule it has previously promulgated.

*.004. Surety Association of America Fidelity,  
Forgery, and Surety Statistical Plan.*

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 8, 1984

TRD-845225 James W. Norman  
Chief Clerk  
State Board of Insurance

Earliest possible date of adoption  
June 18, 1984

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

**059.05.19.005**

*(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 State Board of Insurance, 1110 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The State Board of Insurance proposes the repeal of Rule 059 05 19 005, which adopts by reference the general liability experience rating plan. This rating plan is subject to adoption under the Insurance Code, Article 5.97, which is an alternative to the Administrative Procedure and Texas Register Act. Simultaneously with this repeal, the board is considering the adoption of a current rating plan under that statute. No present practice or requirement of the board is being changed as a result of this repeal.

Gaylon Daniel, Property/Casualty Actuarial Division staff actuary, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. Daniel also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is the elimination of a rule which is not necessary to be on file with the *Texas Register*, and the replacement of the rule with a current statistical plan adopted under an alternative procedure which provides greater administrative efficiency. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Gaylon Daniel, Staff Actuary, Property/Casualty Division, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The repeal is proposed under the Insurance Code, Article 5.15, pursuant to which the board may promulgate standard and uniform rating plans for general liability insurance, and pursuant to the board's authority to repeal any rule it has previously promulgated.

**.005 General Liability Experience Rating Plan.**

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 8, 1984

TRD-845224      James W. Norman  
                         Chief Clerk  
                         State Board of Insurance

Earliest possible date of adoption  
June 18, 1984

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

**059.05.19.009**

*(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 State Board of Insurance,*

*1110 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The State Board of Insurance proposes the repeal of Rule 059 05.19.009, which adopts by reference a statistical plan for burglary coverage. This statistical plan is subject to adoption under the Insurance Code, Article 5.97, which is an alternative to the Administrative Procedure and Texas Register Act. Simultaneously with this repeal, the board is considering the adoption of a current statistical plan under that statute. No present practice or requirement of the board is being changed as a result of this repeal.

Gaylon Daniel, Property/Casualty Actuarial Division staff actuary, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. Daniel also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is the elimination of a rule which is not necessary to be on file with the *Texas Register*, and the replacement of the rule with a current statistical plan adopted under an alternative procedure which provides greater administrative efficiency. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Gaylon Daniel, Staff Actuary, Property/Casualty Division, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The repeal is proposed under the Insurance Code, Article 5.19, pursuant to which the board may promulgate standard and uniform statistical plans for burglary coverage, and pursuant to the board's authority to repeal any rule it has previously promulgated.

**.009 Burglary Statistical Plan.**

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 8, 1984

TRD-845226      James W. Norman  
                         Chief Clerk  
                         State Board of Insurance

Earliest possible date of adoption  
June 18, 1984

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

**059.05.19.010**

*(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 State Board of Insurance, 1110 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The State Board of Insurance proposes the repeal of Rule 059.05.19.010, which adopts by reference a statistical plan for general liability insurance. This statistical plan is subject to adoption under the Insurance Code, Article 5.97, which is an alternative to the Administrative Procedure and Texas Register Act. Simultaneously with this repeal, the board is considering the adoption of a current statistical plan under that statute. No present practice or requirement of the board is being changed as a result of this repeal.

Gaylor Daniel, Property/Casualty Actuarial Division staff actuary, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. Daniel also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is the elimination of a rule which is not necessary to be on file with the *Texas Register*, and the replacement of the rule with a current statistical plan adopted under an alternative procedure which provides greater administrative efficiency. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Gaylon Daniel, Staff Actuary, Property/Casualty Division, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The repeal is proposed under the Insurance Code, Article 5.19, pursuant to which the board may promulgate standard and uniform statistical plans for automobile insurance, and pursuant to the board's authority to repeal any rule it has previously promulgated.

*.010. General Liability Statistical Plan*

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 8, 1984

TRD-845227 James W Norman  
Chief Clerk  
State Board of Insurance

Earliest possible date of adoption  
June 18, 1984

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

**059.05.19.011**

*(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 State Board of Insurance, 1110 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The State Board of Insurance proposes the repeal of Rule 059.05.19.011, which adopts by reference a statistical plan for glass insurance. This statistical plan is subject to adoption under the Insurance Code, Article 5.97, which is an alternative to the Administrative Procedure and Texas Register Act. Simultane-

ously with this repeal, the board is considering the adoption of a current statistical plan under that statute. No present practice or requirement of the board is being changed as a result of this repeal.

Gaylon Daniel, Property/Casualty Actuarial Division staff actuary, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. Daniel also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is the elimination of a rule which is not necessary to be on file with the *Texas Register*, and the replacement of the rule with a current statistical plan adopted under an alternative procedure which provides greater administrative efficiency. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Gaylon Daniel, Staff Actuary, Property/Casualty Division, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The repeal is proposed under the Insurance Code, Article 5.19, pursuant to which the board may promulgate standard and uniform statistical plans for glass insurance, and pursuant to the board's authority to repeal any rule it has previously promulgated.

*.011. Glass Statistical Plan.*

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 8, 1984

TRD-845228 James W Norman  
Chief Clerk  
State Board of Insurance

Earliest possible date of adoption  
June 18, 1984

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

**059.05.19.012**

*(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 State Board of Insurance, 1110 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The State Board of Insurance proposes the repeal of Rule 059.05.19.012, which adopts by reference a fidelity and surety statistical plan. This statistical plan is subject to adoption under the Insurance Code, Article 5.97, which is an alternative to the Administrative Procedure and Texas Register Act. Simultaneously with this repeal, the board is considering the adoption of a current statistical plan under that statute. No present practice or requirement of the board is being changed as a result of this repeal.

Gaylon Daniel, Property/Casualty Actuarial Division staff actuary, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. Daniel also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is the elimination of a rule which is not necessary to be on file with the *Texas Register*, and the replacement of the rule with a current statistical plan adopted under an alternative procedure which provides greater administrative efficiency. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Gaylon Daniel, Staff Actuary, Property/Casualty Division, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786

The repeal is proposed under the Insurance Code, Article 5.19, pursuant to which the board may promulgate a standard and uniform statistical plan for fidelity and surety coverage, and pursuant to the board's authority to repeal any rule it has previously promulgated

*.012. Fidelity and Surety Statistical Plan*

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 8, 1984

TRD-845229 James W Norman  
Chief Clerk  
State Board of Insurance

Earliest possible date of adoption.  
June 18, 1984

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

no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. Daniel also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is the elimination of a rule which is not necessary to be on file with the *Texas Register*, and the replacement of the rule with a current statistical plan adopted under an alternative procedure which provides greater administrative efficiency. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Gaylon Daniel, Staff Actuary, Property/Casualty Division, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The repeal is proposed under the Insurance Code, Article 5.19, pursuant to which the board may promulgate standard and uniform statistical plans for fidelity and surety coverage, and pursuant to the board's authority to repeal any rule it has previously promulgated

*.013. Fidelity and Surety Minimum Statistical Plan.*

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 8, 1984

TRD-845230 James W Norman  
Chief Clerk  
State Board of Insurance

Earliest possible date of adoption  
June 18, 1984

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

**059.05.19.013**

*(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 State Board of Insurance, 1110 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The State Board of Insurance proposes the repeal of Rule 059.05.19.013, which adopts by reference a fidelity and surety minimum statistical plan. This statistical plan is subject to adoption under the Insurance Code, Article 5.97, which is an alternative to the Administrative Procedure and Texas Register Act. Simultaneously with this repeal, the board is considering the adoption of a current statistical plan under that statute. No present practice or requirement of the board is being changed as a result of this repeal.

Gaylon Daniel, Property/Casualty Actuarial Division staff actuary, has determined that for the first five-year period the repeal will be in effect there will be

**Board Shall Fix Rates**

**059.05.25.002**

*(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 State Board of Insurance, 1110 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The State Board of Insurance proposes the repeal of Rule 059.05.25.002, pursuant to which insurers are directed to maintain extended coverage statistics in a manner that enables them to report extended coverage premiums and losses to the State Board of Insurance on a county basis, in accordance with the prescribed statistical plan for fire and allied lines insurance. This requirement is contained in the statistical plan for fire and allied lines insurance and is therefore a duplication. No present practice or requirement of the board is being changed as a result of this repeal.

Gaylon Daniel, Property/Casualty Actuarial Division staff actuary, has determined that for the first five-

year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. Daniel also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is the elimination of a rule which is a duplication. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Gaylon Daniel, Staff Actuary, Property/Casualty Division, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The repeal is proposed under the Insurance Code, Article 5.28, pursuant to which the board may request and obtain information from insurers respecting fire and allied lines insurance, and pursuant to the board's authority to repeal any rule it has previously promulgated.

*.002. Extended Coverage Premium and Loss Statistics.*

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 8, 1984.

TRD-845231 James W. Norman  
Chief Clerk  
State Board of Insurance

Earliest possible date of adoption.  
June 18, 1984

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

**059.05.25.007**

*(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 State Board of Insurance, 1110 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The State Board of Insurance proposes the repeal of Rule 059.05.25.007, which adopts by reference the Texas property statistical plan for residential and commercial risks. This statistical plan is subject to adoption under the Insurance Code, Article 5.96, which is an alternative to the Administrative Procedure and Texas Register Act. Simultaneously with this repeal, the board is considering the adoption of a current statistical plan under that statute. No present practice or requirement of the board is being changed as a result of this repeal.

Gaylon Daniel, Property/Casualty Actuarial Division staff actuary, has determined for the first five-year period the repeal will be in effect there be no fiscal implications for state or local government or small businesses as a result of this repeal.

Mr. Daniel has also 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 elimination of a rule which is not necessary to be on file with the *Texas Register*, and the replacement of the rule with a current statistical plan adopted under an alternative procedure which provides greater administrative efficiency. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Gaylon Daniel, Staff Actuary, Property/Casualty Division, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The repeal is proposed under the Insurance Code, Article 5.28, pursuant to which the board may request and obtain information from insurers respecting fire and allied lines insurance, and pursuant to the board's authority to repeal any rule it has previously promulgated.

*.007. Texas Property Statistical Plan for Residential and Commercial Risks.*

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 8, 1984.

TRD-845232 James W. Norman  
Chief Clerk  
State Board of Insurance

Earliest possible date of adoption.  
June 18, 1984

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

**Fire Detection and Fire Alarm Devices  
and Systems**

**059.05.43.202**

*(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 State Board of Insurance, 1110 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The State Board of Insurance proposes the repeal of Rule 059.05.43.202, concerning an application and examination for licensure as a fire alarm installation superintendent. This rule has been superseded by Rules 059.41.43.200-.244 and is therefore no longer necessary. No present practice or requirement of the board will change as a result of this repeal.

Louis V. di Donato, State Fire Marshal's Office general counsel, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. di Donato has also 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 elimination of an outdated rule. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Louis V. di Donato, General Counsel, State Fire Marshal's Office, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The repeal is proposed under the Insurance Code, Article 5.43-2, which authorizes the State Board of Insurance to regulate sales, servicing, installation, and maintenance of fire detection and fire alarm devices and systems, and pursuant to the board's authority to repeal any rule it has previously promulgated.

*.202. Requirement of Application and Examination for Fire Alarm Installation Superintendent.*

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 8, 1984.

TRD-845234 James W. Norman  
Chief Clerk  
State Board of Insurance

Earliest possible date of adoption:  
June 18, 1984

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

**059.05.25.010**

*(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 State Board of Insurance, 1110 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The State Board of Insurance proposes the repeal of Rule 059.05.25.010, which adopts by reference a statistical plan for inland marine insurance. This statistical plan is subject to adoption under the Insurance Code, Article 5.97, which is an alternative to the Administrative Procedure and Texas Register Act. Simultaneously with this repeal, the board is considering the adoption of a current statistical plan under that statute. No present practice or requirement of the board is being changed as a result of this repeal.

Gaylon Daniel, Property/Casualty Actuarial Division staff actuary, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. Daniel has also 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 elimination of a rule which is not necessary to be on file with the *Texas Register*, and the replacement of the rule with a current statistical plan adopted under an alternative procedure which provides greater administrative efficiency. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Gaylon Daniel, Staff Actuary, Property/Casualty Division, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The repeal is proposed under the Insurance Code, Article 5.28 and Article 5.53, pursuant to which the board may request and obtain information from insurers respecting inland marine insurance, and pursuant to the board's authority to repeal any rule it has previously promulgated.

*.010. Inland Marine Statistical Plan.*

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 8, 1984.

TRD-845233 James W. Norman  
Chief Clerk  
State Board of Insurance

Earliest possible date of adoption:  
June 18, 1984

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

**Workers' Compensation Rate  
Administration**

**059.05.58.001**

*(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 State Board of Insurance, 1110 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The State Board of Insurance proposes the repeal of Rule 059.05.58.001, which adopts by reference the Texas Workers' Compensation Unit statistical plan manual. This statistical plan manual is subject to adoption under the Insurance Code, Article 5.96, which is an alternative to the Administrative Procedure and Texas Register Act. Simultaneously with this repeal, the board is considering the adoption of a current statistical plan manual under that statute. No present practice or requirement of the board is being changed as a result of this repeal.

Gaylon Daniel, Property/Casualty Actuarial Division staff actuary, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. Daniel also 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 elimination of a rule which is not necessary to be on file with the *Texas Register*, and the replacement of the rule with a current statistical plan manual adopted under an alternative procedure which provides greater administrative efficiency. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Gaylon Daniel, Staff Actuary, Property/Casualty Division, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The repeal is proposed under the Insurance Code, Article 5.58, pursuant to which the board may promulgate standard and uniform statistical plans for workers' compensation and employers' liability insurance, and pursuant to the board's authority to repeal any rule it has previously adopted.

*.001. Texas Workers' Compensation Unit Statistical Plan Manual.*

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 8, 1984.

TRD-845235 James W. Norman  
Chief Clerk  
State Board of Insurance

Earliest possible date of adoption:  
June 18, 1984  
For further information, please call (512) 475-2950.

**Premium Rating Plans**

**059.05.77.001**

*(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 State Board of Insurance, 1110 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The State Board of Insurance proposes the repeal of Rule 059.05.77.001, which adopts by reference the retrospective Plan D rating supplement for Texas general liability, glass, and theft lines. This supplement is part of retrospective rating Plan D, which is subject to adoption under the Insurance Code, Article 5.97. Article 5.97 is an alternative to the Administrative Procedure and Texas Register Act. Simultaneously with this repeal, the board is considering the adoption of retrospective rating Plan D under that statute. Accordingly, this rule is not necessary. No present practice or requirement of the board is being changed as a result of this repeal.

Billy D. Young, retrospective rating supervisor, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. Young also 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 elimination of a rule which is not necessary to be on file with the *Texas Register*, and the replacement of the rule with a current retrospective rating plan adopted under an alternative procedure which provides greater administrative efficiency. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Billy D. Young, Retrospective Rating Supervisor, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The repeal is proposed under the Insurance Code, Article 5.77, pursuant to which the board may promulgate or approve standard and uniform rating plans, and pursuant to the board's authority to repeal any rule it has previously adopted.

*.001. Retrospective Rating Plan D Rating Supplement for Texas General Liability, Glass, and Theft Lines.*

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 8, 1984.

TRD-845236 James W. Norman  
Chief Clerk  
State Board of Insurance

Earliest possible date of adoption:  
June 18, 1984  
For further information, please call (512) 475-2950.

**059.05.77.002**

*(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 State Board of Insurance, 1110 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The State Board of Insurance proposes the repeal of Rule 059.05.77.002, which adopts by reference a retrospective Plan D supplement for workers' compensation—Table M, which is the part of retrospective rating Plan D which is subject to adoption under the Insurance Code, Article 5.96 and Article 5.97. Article 5.96 and Article 5.97 are alternatives to the Administrative Procedure and Texas Register Act. Simultaneously with this repeal, the board is considering the adoption of retrospective rating Plan D under that statute. Accordingly, this rule is not necessary. No present practice or requirement of the board is being changed as a result of this repeal.

Billy D. Young, retrospective rating supervisor, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. Young also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal is the elimination of a rule which is not necessary to be on file with the *Texas Register*, and the replacement of the rule with a current retrospective rating plan adopted under an alternative procedure which provides greater administrative efficiency. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Billy D. Young, Retrospective Rating Supervisor, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.



The repeal is proposed under the Insurance Code, Article 5.77, pursuant to which the board may promulgate or approve standard and uniform rating plans, and pursuant to the board's authority to repeal any rule it has previously promulgated.

**.002. Retrospective Rating Plan D Rating Supplement for Workmen's Compensation—Table M.**

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 8, 1984

TRD-845237 James W. Norman  
Chief Clerk  
State Board of Insurance

Earliest possible date of adoption:

June 18, 1984

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

The repeal is proposed under the Insurance Code, Article 5.77, pursuant to which the board may promulgate or approve standard and uniform rating plans, and pursuant to the board's authority to repeal any rule it has previously promulgated.

**.003. Retrospective Rating Plan D Rating Supplement for Texas Automobile Liability and Physical Damage 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 May 8, 1984

TRD-845238 James W. Norman  
Chief Clerk  
State Board of Insurance

Earliest possible date of adoption:

June 18, 1984

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

**059.05.77.003**

*(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 State Board of Insurance, 1110 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The State Board of Insurance proposes the repeal of Rule 059.05.77.003, which adopts by reference a retrospective Plan D supplement for Texas automobile liability and physical damage insurance. This supplement is a part of retrospective rating Plan D, which is subject to adoption under the Insurance Code, Article 5.96. Article 5.96 is an alternative to the Administrative Procedure and Texas Register Act. Simultaneously with this repeal, the board is considering the adoption of retrospective rating Plan D under that statute. Accordingly, this rule is not necessary. No present practice or requirement of the board is being changed as a result of this repeal.

Billy D. Young, retrospective rating supervisor, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. Young also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is the elimination of a rule which is not necessary to be on file with the *Texas Register*, and the replacement of the rule with a current retrospective rating plan adopted under an alternative procedure which provides greater administrative efficiency. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Billy D. Young, Retrospective Rating Supervisor, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

**General Provisions  
Texas Medical Liability Insurance  
Underwriting Association**

**059.21.49.307**

*(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 State Board of Insurance, 1110 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The State Board of Insurance proposes the repeal of Rule 059.21.49.307, concerning the plan of operation of the joint underwriting association established under the Texas Medical Liability Insurance Underwriting Association Act. Rule 059.21.49.307 is an amendment to Rule 059.21.49.301, which is the original plan of operation of the joint underwriting association. Rule 059.21.49.307 has never been formally incorporated into Rule 059.21.49.301. That incorporation is proposed simultaneously with this proposed repeal. Rule 059.21.49.301 is being reformatting and renumbered as Rules 059.21.50.001 *et seq.* There will, therefore, be no substantive change in board procedures or requirements resulting from the simultaneous repeal and the previously mentioned amendment to the plan of operation.

Charles Sobek, casualty group medical professional liability supervisor, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. Sobek has also 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 clarification of the board's rules on file with the *Texas Register*. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Charles Sobeck, Supervisor, Medical Professional Liability, Casualty Group, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The repeal is proposed under the Insurance Code, Article 21.49, §3, pursuant to which the board may direct that the plan of operation of the joint underwriting association be amended, and pursuant to the board's authority to repeal any rule it has previously promulgated.

*.307. Medical Liability Insurance Underwriting Association Act: Plan of Operation II.*

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 8, 1984.

TRD-845239 James W. Norman  
Chief Clerk  
State Board of Insurance

Earliest possible date of adoption  
June 18, 1984

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

**Joint Underwriting Association  
(Miscellaneous IV)**

059.21.50.001, .002, .005, .006

The State Board of Insurance proposes amendments to Rules 059.21.50.001, .002, .005, and .006, concerning the plan of operation of the joint underwriting association established under the Insurance Code, Article 21.49-3 (the Texas Medical Liability Insurance Underwriting Association Act).

These proposed amendments, if adopted, will make the rules current under Administrative Procedure and Texas Register Act (APTRA) procedure. Except for minor changes designed to make it clear that the rules conform to statutory law, the amendments track precisely board action respecting rule changes to the plan of operation. No present board practice or requirement will change as a result of these amendments. The rules have been reformatted and renumbered. Originally, they were all contained in Rule 059.21.49.301.

Charles Sobeck, Casualty Division medical professional liability supervisor, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rules.

Mr. Sobeck also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed is the revision of rules to make them current under APTRA procedure. 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 Charles Sobeck, Supervisor, Medical Professional Liability, Casualty Division, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The amendments are proposed under the Insurance Code, Article 21.49-3, §3, pursuant to which the joint underwriting association's plan of operation may be amended.

*.001. Definitions. [Plan of Operation I. Came on for consideration by the State Board of Insurance a Plan of Operation for the Texas Medical Liability Insurance Underwriting Association, which was created by Senate Bill 491, Acts of the 64th Legislature, 1975 (Texas Civil Statutes Insurance Code, Article 21.49-3) and effective June 3, 1975. The State Board of Insurance, pursuant to such statute, has appointed a temporary board of directors of the association (Board Order 29173). After consultation with the joint underwriting association, representatives of the public, the Texas Medical Association, the Texas Podiatry Association, the Texas Hospital Association, and other affected individuals and organizations, and having also carefully considered the content and purpose of Senate Bill 491, the State Board of Insurance hereby promulgates a plan of operation under authority of Senate Bill 491, §1, subsection 3(c). The State Board of Insurance hereby directs its chief clerk to transmit a copy of this order forthwith to each of the temporary directors of the association. The plan of operation shall be effective on August 15, 1975. The plan of operation is hereby adopted and is attached hereto and made a part of this order for all purposes. On the basis of hearings held, this order remains open for further consideration, review, and amendments as the board considers necessary. Board Order 29443. Plan of Operation of the Texas Medical Liability Insurance Underwriting Association. Part one. Introduction. Article I. Definitions.]*

(a) Words defined in Act. Unless the context clearly dictates the contrary, words defined in the **Insurance Code, Article 21.49-3**, [Senate Bill 491 (Acts, 64th Legislature, Regular Session, 1975)] and not specifically defined in these rules shall have the same definition when used in these rules as they have in such Act.

(b) **Words defined in the rules** [Definitions]. Unless the context clearly dictates the contrary:

(1) Act—The Texas Medical Liability Insurance Underwriting Association Act, [Senate Bill 491, Acts, Regular Session, 64th Legislature, 1975;] codified as the [of the] Insurance Code [of Texas]), Article 21.49-3.

(2)-(10) (No change.)

*.002. Operation of the Texas Medical Liability Insurance Underwriting Association.*

(a) **Membership.** The association is created by the Act. The membership of the association shall consist of all insurers authorized to write and engaged in writing, within this state, on a direct basis, automobile liability and liability other than automobile insurance on or after January 1, 1975, except farm mutual insurance companies and county mutual companies. Any insurer authorized to write and engaged in writing any insurance, the writing of which requires such insurer to become a member of the association, who becomes authorized to write and engages in writing such insurance after the effective date

of the Act shall become a member of the association on the first day of January immediately following the date such insurer engaged in writing such insurance, and the determination of such insurer's participation in the association shall be made as of the date of such membership in the same manner as for all members of the association. Any member which ceases to be authorized to write or which ceases to engage in the writing of any insurance which would require such insurer to become a member of the association shall remain a member of the association until midnight on December 31 next following the date such insurer ceases to be authorized to write or ceases to write such insurance, and such insurer's participation in the association shall cease as of that time; **provided, however, that each member shall participate in any financial deficit of the association for all calendar years subsequent to December 31, 1976, during which the insurer was a member of the association, whenever such deficit is determined** [except, that such insurer shall remain liable for occurrences insured under all policies in force as of the time the insurer ceases to be a member of the association to the same extent as if such insurer had not ceased to be a member of the association, and further, except that such insurer shall not be liable for any occurrences insured under any policies which become effective subsequent to the time the insurer ceases to be a member of the association]. The member shall be charged or credited in due course with its proper share of all expenses[,] or losses [or profits] **and any recoupment or reimbursement allocable thereto.** In the event that a member is merged or consolidated with another insurer, the continuing insurer shall become a member of the association in place of the merged or consolidated member, provided that such member shall be deemed to have become a member of the association on the date the merged or consolidated member became a member and provided, further, that such member shall pay no initial expense fee.

(b) Expense fees.

(1) Initial expense fee. Each member shall pay to the association an initial expense fee of \$100. All charter members of the association shall pay such fee on or before the 25th day of August 1975. All other members of the association shall pay such fee on or before the date they become [became] members of the association.

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

(c) Meetings of members.

(1) (No change.)

(2) Meetings.

(A) Annual meeting. The annual meeting of the members shall be held not later than the 30th day of June of each year at an hour and place to be determined by the board of directors for the purpose of electing directors and for the transaction of such other business as may come before the meeting. If the election of directors shall not be held on the day so designated for any annual meeting of the members, the board of directors shall cause the election to be held at a special meeting of the members as soon thereafter as [conveniently] may be convenient.

(B) (No change.)

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

(d) Directors.

(1) Election. At the first annual meeting of members and at each annual meeting thereafter, the members shall elect directors **from among member companies** to hold office until the next succeeding annual meeting. **Such an elected director shall designate at least two individuals to act as primary and alternate representatives on its behalf.**

(2) Membership.

(A) (No change.)

(B) Five directors **to be so elected** shall be separate members of the association representing each of the following: National Association of Independent Insurers; American Insurance Association; **Alliance of American Insurers** [American Mutual Insurance Alliance]; Association of Fire and Casualty Companies in Texas; an insurer organized under the laws of and domiciles in the State of Texas [and elected by the members]. The remaining four directors shall be any members elected by the members at the annual meeting. No member shall fill more than one seat on the board of directors, and no members affiliated by ownership, management, or control shall simultaneously occupy seats on the board of directors. No later than 60 days prior to the annual meeting the board of directors shall select a nominating committee of five member companies. The five directors representing the previously listed categories shall be nominated by the nominating committee. The remaining four directors may be nominated by any member of the association by submitting such nominee's name to the nomination committee. In order to be eligible for election to the board of directors, a member must be nominated at least 30 days prior to the annual meeting at which directors are elected.

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

(5) Notice of special meeting. Notice of any special meeting shall be given at least five days prior thereto by notice delivered personally or mailed to each director's [director at his] business address or by telegram. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, so addressed with postage thereon prepaid. If the notice be given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company. Any director may waive notice of any meeting. The attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objection to the transaction of any business because the meeting is not lawfully called or convened.

(6)-(10) (No change.)

(11) General powers. **The board of directors shall have the management of the business and affairs of the association subject to the supervision and control, at all times, of the board as herein and in the Act set forth.** Included among the powers of the board of directors, but not in limitation thereof, are the following:

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

(C) to appoint and remove or suspend such subordinate officers, agents, employees, or representatives as they may deem necessary and to determine their duties and fix, and from time to time change, their salaries or remuneration, and to require security as and when they think fit:

(D)-(F) (No change.)

(G) to contract, from time to time, with the Texas Workers' [Workmen's] Compensation Pool, the term of such contract not to exceed 12 months, the term of any renewal thereof not to exceed 12 months [on an annual basis and not thereafter], to carry out the administrative functions of operating the association, under the direction of the association subject to the provisions of law and these rules, upon the terms and for the consideration expressed therein. Such contract may [shall] not become effective until the same has been approved by the [State] board [of Insurance];

(H) to contract, from time time [on an annual basis and not thereafter], with one or more members, the term of such contract not to exceed 12 months, the term of any renewal thereof not to exceed 12 months, to act as servicing carriers to perform all policy functions of the association, including, without limitation to, underwriting, issuance of policy, coding and premium accounting, settlement of claims to conclusion, and reporting to the Texas Workers' [Workmen's] Compensation Pool and the association, as may be directed by the association, subject to provisions of law and these rules, upon the terms and for the consideration expressed herein [therein]. Such contracts [contract] may not become effective until the same have been approved by the [State] board [of Insurance];

(I)-(L) (No change.)

(M) to either or both accept and refuse the assumption of [assume] reinsurance from its members, and cede and purchase reinsurance provided; however, that such reinsurance shall be governed by rules promulgated by the board;

(N) to direct the collection, administration, investment, and valuation of the policyholders' stabilization reserve fund consistent with the Act and these rules.

(12) Committees.

(A) The board of directors, by resolution or resolutions passed by a majority of the whole board of directors, may designate one or more committees, each committee to consist of two or more of the directors of the association which, to the extent provided in said resolution or resolutions, shall have and may exercise the powers of the board of directors in the management of the business and affairs of the association. Such committee or committees shall have such name or names as may be determined from time to time by appropriate resolution. All such committees shall keep regular minutes of their proceedings and report the same to the board of directors when required

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

(13) (No change.)

(14) Vacancies.

(A) A particular directorship [director] shall be considered to be vacant upon the resignation of the member holding such directorship.

(B) (No change.)

(e) Officers.

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

(4) Chairman of the board. The chairman of the board shall preside at all meetings of the members and at all meetings of the directors, appoint and discharge employees and agents of the association subject to the approval of the directors, fix the compensation of em-

ployees and agents, make and sign contracts and agreements in [to] the name of the association, and appoint committees. He shall see that the books, reports, statements, and certificates are properly kept, made, and filed, if necessary, and he shall generally do and perform all acts incident to the office of chairman of the board or which may be authorized or required by law, by these rules, or by the board of directors, not inconsistent herewith.

(5) Vice-chairman of the board. The vice-chairman, [of the board] elected by the board of directors, shall have such powers and shall perform such duties as shall be assigned to him [by the board], not inconsistent herewith.

(6) Secretary. The secretary shall:

(A) (No change.)

(B) see that all notices are duly given as required by the provisions of these rules. In case of the secretary's absence or refusal or neglect to give the required notice, such notice may be given at the direction of the chairman of the board[,] of [the] directors, or of the members upon whose request the meeting is called;

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

(E) annually determine each member's participation in the association in the manner required by the Act and these rules and shall keep a register of each member's percentage of participation; and

(F) (No change.)

(7) Treasurer. The treasurer shall have [the] custody of all funds, securities, evidences of indebtedness and other valuable documents of the association, including those attributable to the policyholders' stabilization reserve fund. He shall receive and give, or cause to be given, receipts and acquittances for money paid in on account of the association, and shall pay out of the funds on hand all just debts of the association, of whatever nature, upon maturity of the same. He shall enter, or cause to be entered, in books of the association to be kept for that purpose, full and accurate accounts of all money received and paid out on account of the association, and whenever required by the board of directors, he shall keep, or cause to be kept, such other books as would show a true record of the reserves, expenses, losses, gains, assets, and liabilities of the association.

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

(h) Protection of directors and officers. Any person or insurer made or threatened to be made a party to any civil, criminal, administrative, or investigative action, suit, or proceeding (other than an action by or in the right of the association) because such person or insurer is or was a member or is serving or served on a committee or is or was an officer or employee of the association, or is or was serving any other entity or organization at the request of the association, shall be entitled without further act on that person's or insurer's [his or its] part to be indemnified by the association against all judgments, fines, amounts paid in settlement, reasonable costs and expenses (including attorneys' fees) and [any] other liabilities actually and reasonable incurred (other than for amounts paid to the association itself) as a result of such threatened or actual action, suit, or proceeding, except in relation to matters as to which that person or insurer [he or it] shall be finally adjudged in such action, suit, or proceeding to be liable by reason of willful misconduct

in the performance of that person's or insurer's [his or its] duties or obligations to the association or other entity as provided above and, with respect to any criminal actions or proceedings, except when such person or insurer believed or had reasonable cause to believe that their [his or its] conduct was unlawful. Such indemnification shall be provided whether or not such person or insurer is a member or is holding office or is employed or serving at the time of such action, suit, or proceeding, and whether or not any such liability was incurred prior to the adoption of these rules. Such indemnification shall not be exclusive of the other rights such person or insurer may have, and shall pass to the successors, heirs, executors, or administrators of such person or insurer. The termination of any such action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent shall not in itself create a presumption that such person or insurer was liable by reason of willful misconduct or that they [he or it] had reasonable cause to believe that their [his or its] conduct was unlawful. In each instance in which a question of indemnification arises, entitlement thereto, pursuant to the conditions set forth herein, shall be determined by the board of directors by a majority vote of a quorum consisting of directors that were not parties to such action, suit, or proceeding or by the board of directors, whether interested or disinterested, if based upon a written opinion of legal counsel that the action, suit, or proceeding could qualify for indemnification because of reasonable doubt that the members of the board of directors were liable by reason of willful misconduct in the performance of duties or obligations to the association or other entity as provided in this subsection, or that there was reasonable doubt that the members of the board of directors believed or had reasonable cause to believe that the conduct was unlawful, and the board of directors shall also determine the time and manner of payment of such indemnification; provided, however, if any such action, suit, or proceeding is terminated by compromise settlement, indemnification in respect of such disposition shall be made only if such settlement had the prior approval of the board of directors, and provided further that a person or insurer who or which has been wholly successful, on the merits or otherwise, in the defense of a civil or criminal action, suit, or proceeding of the character described herein shall be entitled in every instance to indemnification as authorized herein. Expense incurred in defending a civil or criminal action, suit, or proceeding may be paid by the association in advance of the final disposition of such action, suit or proceeding, as authorized by the board of directors in the specific case, upon receipt of an undertaking by or on behalf of the person or insurer to repay such amount, unless it shall ultimately be determined that such person or insurer [he] is entitled to be indemnified by the association as authorized herein. Nothing herein shall be deemed to preclude a person or insurer who or which the board of directors has determined not to be entitled to indemnification from asserting the right to such indemnification by legal proceedings. Such indemnification as is herein provided shall be apportioned among all members, including any names in any such action, suit, or proceeding, in the same manner as other operating expenses of the association.

(i) (No change.)

(j) Examinations. The board shall make an examination into the affairs of the association at least annually. Such examination shall be conducted, the report thereon filed, and expenses borne and paid for, in the manner prescribed in the Insurance Code, Article 1.15 and Article 1.16, as amended.

**.005[.004]. Medical Liability Insurance.**

(a) The policy.

(1) Approval.

(A) **Initial filing in 1975.** [The association shall cause to be issued policies providing for medical liability insurance.] Within 10 days after the effective date of these rules, the association shall submit, for the approval of the board, pursuant to the Insurance Code, Article 5.15 as amended an initial filing, in proper form, of policy forms, classifications, rates, rating plans, and rating rules applicable to medical liability insurance.

(B) **Subsequent filings.** When amendments or subsequent filings with respect to the association's policy forms, classifications, rates, rating plans, and rating rules applicable to medical liability insurance are proposed by the association, any such amendments or filings shall be submitted to the board for approval pursuant to the Act, §4(b)(1).

(2) **Duration of policies.** All policies issued by the association shall be written for a period of one year to commence at 12:01 a.m. on their respective effective dates and to terminate one year thereafter. No policies may be issued by the association with an effective date after the date fixed in the act for a plan of suspension to become effective and operative [December 31, 1977]. All policies shall be written upon forms approved by the board [on the "occurrence" basis], and shall contain a provision which requires, as a condition precedent to settlement or compromise of any claim, the consent or acquiescence of the insured. If, however, the insured refuses to consent to any settlement recommended in writing by the association and shall elect to contest or continue any legal proceedings, the liability of the association shall not exceed the amount for which the claim could have been settled plus the cost and expenses incurred up to the date of such refusal.

(3) **Limits of liability.**

(A) No individual or organization may be insured by policies issued, or caused to be issued, by the association for an amount exceeding a total of **\$750,000 per occurrence (for all coverages combined) and \$1.5 million aggregate per annum (for all coverages combined)**. As used herein, the terms "individual" and "organization" mean each physician and health care provider holding a separate license or accreditation from the appropriate licensing or accrediting agency as applicable [§300.000].

(B) If provided, bodily injury liability limits must be the same as medical (professional) liability limits subject to the maximum policy limits specified in subparagraph A of this paragraph.

(4) **Special provisions.**

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

(C) **Policies of excess medical liability insurance written by the association shall:** [The usual and customary Policy and Endorsement Forms issued by the Insurance Service Office, New York, New York, and ap-

proved by the board from time to time, shall be used by the association.]

(i) be on a following form basis to the underlying medical (professional) liability insurance coverage over which it is written;

(ii) be issued subject to review of the underlying coverage if such review is deemed necessary by the association or its representatives;

(iii) not be issued in those cases where the net retention at risk by the primary carrier is less than \$25,000 per occurrence or less than \$75,000 aggregate per annum;

(iv) be issued only when the underlying insurance coverage is underwritten by a member of the association; and

(v) terminate automatically if the underlying policy of medical liability insurance over which it is written is canceled, expires, limits are exhausted, or otherwise terminates.

(5) Rates, rating plans, and rating [rate] rules applicable. The rates, rating plans, rating rules, rating classifications, and territories applicable shall be those established pursuant to the Act, §4.

(b) Application, underwriting standards, and acceptance[,] or [underwriting and] rejection

(1) Eligibility and forms. Any physician and any health care provider (as those terms are defined in the Act, §2) which falls within any of the categories of such physicians and health care providers established by order of the board from time to time as being eligible to obtain coverage from the association, shall be entitled to apply to the association for a policy of medical liability insurance; provided, however, that if the applicant is a partnership, professional association, or corporation (other than a nonprofit corporation certified under Texas Civil Statutes, Article 4509a) comprised of eligible health care providers, such as physicians, dentists, or podiatrists, all of the partners, members, or shareholders thereof must also be individually insured in the association. Any category of physician or health care provider, which by order of the board has been excluded from eligibility to obtain coverage from the association, may be eligible for coverage in the association if, after at least 10 days' notice and a hearing, it is determined by the board that medical liability insurance is not available for the category of physician or health care provided. [Any licensed physician, licensed podiatrist, or hospital or certified anesthetist, including partnerships, corporations, and professional associations, provided all members of the partnership or shareholders of the corporation or professional association are individually insured in the association, shall be entitled to apply to the association for a policy of medical liability insurance.] All applications for medical liability insurance shall be made on forms prescribed by the board of directors of the association and approved by the board. Such application forms shall contain a statement as to whether or not there are any unpaid premiums, assessments, or stabilization reserve fund charges due from the applicant for prior insurance. Application may be made on behalf of the applicant by an agent authorized pursuant to the Insurance Code, Article 21.14. Such agent need not be appointed by a servicing company.

(2) Licensed agent. If a policy of medical liability insurance is written through a licensed agent, then:

(A) [with respect to such a policy written to a person licensed to practice medicine or podiatry or a person certified to administer anesthesia] the commission paid to the licensed agent shall be 10% of the first \$1,000 of such policy premium, 5.0% of the next \$9,000 of such policy premiums, and 2.0% of the policy premium in excess of \$10,000 with respect to policies written by the association on the form approved for physicians and noninstitutional health care providers;

(B) [with respect to such a policy written to any hospital licensed under the Texas Hospital Licensing Law, as amended (Texas Civil Statutes, Article 4437f)], the commission paid to the licensed agent shall be 12.5% of the first \$2,000 of such policy premium, 7.5% of the next \$3,000 of such policy premium, 5.0% of the next \$15,000 of such policy premium, and 2.0% of the policy premium in excess of \$20,000 with respect to policies written by the association on the form approved for hospitals and other institutional health care providers; [and]

(C) with respect to an excess liability insurance policy written by the association for a physician or any other health care provider (as those terms are defined in the Act) the commission paid to the licensed agent shall be 10% of the policy premium, provided, however, that the commission shall not exceed \$250 with respect to a policy written on the form approved for physicians and other noninstitutional health care providers and shall not exceed \$500 with respect to a policy written on the form approved for hospitals and other institutional health care providers; and

(D)[(C)] no [such] commission whatsoever shall be payable in respect to any assessment payable by the policyholder [insured] by reason of a deficit incurred by the association, including charges for the policyholder's stabilization reserve fund. Upon cancellation, the agent shall refund any unearned portion of the commission to the association.

(3) Submission. Application for medical liability insurance on the prescribed form shall be accompanied by tender of the amount of the deposit premium and the charge for the policyholder's stabilization reserve fund required [by the Texas Workmen's Compensation Pool] to bind the policy.

(4) Underwriting standards.

(A) The following underwriting standards shall apply with respect to policies of medical liability insurance written by the association [to a person licensed to practice medicine or podiatry, or a person certified to administer anesthesia].

(i) all applicants to the association shall be currently licensed, chartered, [or] certified or accredited to practice or provide their respective health care services in Texas;

(ii)-(iii) (No change.)

(iv) each application shall be accompanied by authorization for and consent to investigations in respect of material information bearing upon the moral character, professional reputation, and fitness to engage in the activities embraced by the applicant's license with respect to applicants who are to be provided coverage on the form approved for physicians and noninstitutional health care providers, or the reputation, method of operation, accident prevention programs, and fitness to engage in the activities embraced by the applicant's license, char-

ter, certificate, or accreditation with respect to applicants who are to be provided coverage on the form approved for hospitals and other institutional health care providers, including authorization to every person or entity, public or private, to release to the association any documents, records, or other information bearing upon foregoing;

(v) no coverage may be afforded either by binder or by policy issuance to any applicant whose license, charter, certificate, or accreditation has been ordered canceled, revoked, or suspended; provided, that if such [and which] order has been probated by the appropriate regulatory body or [state] licensing agency [until] the probation may be [order has been] reviewed by the association for [and] a determination [made] whether, and if so the basis [bases] upon which, coverage may [will] be afforded in the association; [and]

(vi) with respect to policies written on the form approved for hospitals and other institutional health care providers, the applicant, to be eligible for coverage in the association, shall comply with all significant recommendations arising out of a loss control or risk management engineering report either prior to binding coverage or as soon as practicable concurrently with coverage.

(vii)[(vi)] there shall be no unpaid, uncontested premium, [or] assessment or charge due from the applicant.

(B) With respect to hospitals licensed under the Texas Hospital Licensing Law, as amended, (Texas Civil Statutes, Article 4437f):

(i) all applicants to the association shall be currently licensed or certified in Texas;

(ii) all applicants to the association shall provide evidence of inability to obtain coverage in the admitted voluntary market. Rejections by two carriers licensed and engaged in writing the coverage applied for in Texas shall be acceptable evidence;

(iii) any material misrepresentation in the application for coverage shall be cause to decline coverage upon discovery by the association or its agents;

(iv) each application shall be accompanied by authorization for and consent to investigations in respect of material information bearing upon the reputation and fitness to engage in the activities embraced by the applicant's license, including authorization to every person or entity, public or private, to release to the association any documents, records or other information bearing upon the foregoing;

(v) to be eligible for coverage in the association applicants shall comply with all significant recommendations arising out of an engineering report either prior to binding coverage or as soon as practicable concurrently with coverage; and

(vi) there may be no unpaid, uncontested premium or assessment due from the applicant.]

(B)(C) For the purpose [purposes] of this section, a rejection shall have occurred if the applicant is accepted in the admitted voluntary market at a rate higher than those rates approved by the board from time to time under this plan.

(5) Receipt of the application Upon [After] receipt of the application, the required deposit premium and the policyholders stabilization reserve fund charge, [and the full amount of the premium] the association shall, within 30 days:

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

(c)[(C)] Cancellation, nonrenewal, and notice.

(1) Cancellation by the association. The association may not cancel a policy of insurance issued under these rules except for: [The board of directors shall establish rules and procedures relating to the cancellation of policies of medical liability insurance and shall submit such rules and procedures to the board for approval in the same manner as prescribed in Rule 059.21.49.314(1)(i).]

(A) nonpayment of premium, or

(B) nonpayment of policyholder's stabilization reserve fund charge, or

(C) nonpayment of assessment, or

(D) evidence of fraud or material misrepresentation, or

(E) cause which would have been grounds for nonacceptance of the risk under these rules had such cause been known to the association at the time the policy was issued, or

(F) any cause arising subsequent to the issuance of the policy which would have been grounds for nonacceptance of the risk under these rules had such cause existed at the time of acceptance, or

(G) noncompliance with reasonable loss control or risk management engineering recommendation in accordance with subsection (b)(4)(A)(vi) of this rule. Upon cancellation of a policy of insurance by the association, the association shall refund to the insured the unearned portion of any paid premium on a pro rata basis provided all assessments and policyholder's stabilizations reserve fund charges have been fully paid; otherwise, only that portion of unearned premium over any unpaid assessment and policyholder's stabilization reserve fund charge will be refunded. Policyholder assessments and policyholder's stabilization reserve fund charges are fully earned upon payment; therefore, except as provided in the Act, no portion is refundable.

(2) Cancellation by the insured. A policy of insurance may be cancelled at any time:

(A) by the insured upon written request for cancellation of the policy;

(B) by an insurance premium finance company in accordance with the provisions contained in the Insurance Code, Article 24.17, as amended; in which case the association shall refund the unearned portion of any paid premium according to the approved short rate table, provided all assessments and policyholder's stabilization reserve fund charges have been fully paid; otherwise, only that portion of the unearned premium over any unpaid assessment and policyholder's stabilization reserve fund charge will be refunded. Policyholder assessments and policyholder's stabilization reserve fund charges are fully earned upon payment; therefore, except as provided in the Act, no portion is refundable.

(3) Exhausted policy limits. If there is outstanding a claim or claims under any policy of insurance on which, a reserve or reserves have been established, which in the aggregate or when combined with losses previously paid under such policy, equal or exceed the aggregate limits of coverage under such policy, then the association shall notify the insured and at the option of the insured the policy may be canceled and, if canceled, the premium shall be fully earned and the insured may apply for a new

policy to be effective concurrently with the termination date of the canceled policy.

(4) Notice of cancellation, nonrenewal, or premium increase.

(A) The association may cancel a policy of medical professional liability insurance or decline to renew such policy for any reason listed in subsection (c)(1) of this rule at any time within the first 90 days from the effective date of the policy by sending 90 days' written notice to the insured.

(B) The association may cancel a policy of medical professional liability insurance or decline to renew such policy for nonpayment of premium, assessments, or policyholder stabilization reserve fund charge or loss of license, charter, certification, or accreditation at any time during the policy period by sending 10 days' written notice to the insured.

(C) Notice of cancellation or nonrenewal pursuant to subparagraph (A) and subparagraph (B) of this paragraph shall contain a statement of the reason for such cancellation or nonrenewal and a statement that the insured has the right to appeal pursuant to Rule 059.21.50.004(f) of these rules and the Act.

(D) The association shall give at least 90 days' written notice to an insured before increasing the premium by reason of a rate increase on the insured's medical professional liability insurance policy. The notice shall state the amount of the increase.

(d) Removal of risks. Any member at any time, upon written consent from the insured filed with the association 30 days in advance, or at an earlier time as may be determined by the manager of the association upon application filed with him in writing by the insured, may write any such risk as regular business, in which event the designated servicing company shall cancel its policy pro rata as of a date and time specified by the manager of the association. The association will require written confirmation from the member that the member is taking the risk out of the association before allowing pro rata cancellation.

(e)(d)] Payment of claims.

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

.006. [.005.] *Amendments.* Amendments to these rules may be made by the board of directors, subject to the approval of the board, or shall be made at the direction of the board.

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 8, 1984

TRD-845240 James W Norman  
Chief Clerk  
State Board of Insurance

Earliest possible date of adoption  
June 18, 1984

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

059.21.50.003

*(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 State Board of Insurance,*

*1110 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The State Board of Insurance proposes the repeal of Rule 059.21.50.003, concerning a part of the plan of operation of the joint underwriting association established under the Insurance Code, Article 21.49-3 (the Texas Medical Liability Insurance Underwriting Act).

The part of the plan of operation proposed to be repealed is Part Three, concerning members' participation in the Texas Medical Liability Insurance Underwriting Association. Simultaneously with this repeal, a new provision for members' participation is being proposed. Except for minor changes designed to make it clear that the provisions track statutory law, the new material will track precisely previous board action respecting the plan of operation. The new material, if adopted, will make the rule current under the Administrative Procedure and Texas Register Act. No present board practice or requirement will change as a result of this repeal. The entire set of rules respecting the joint underwriting association plan of operation have been reformatted and renumbered. Originally, the entire plan of operation was contained in Rule 059.21.49.301.

Charles Sobeck, Casualty Division medical professional liability supervisor, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. Sobeck also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is to make the rules current under the Administrative Procedure and Texas Register Act. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Charles Sobeck, Supervisor, Medical Professional Liability, Casualty Division, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The repeal is proposed under the Insurance Code, Article 21.49-3, §3, pursuant to which the joint underwriting association's plan of operation may be amended, and pursuant to the board's authority to repeal any rule it has previously promulgated.

.003. *Part Three. Members' Participation in the Texas Medical Liability Insurance Underwriting Association.*

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 8, 1984

TRD-845241 James W Norman  
Chief Clerk  
State Board of Insurance

Earliest possible date of adoption  
June 18, 1984

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



**059.21.50.004**

The State Board of Insurance proposes new Rule 059.21.50.004, concerning a part of the plan of operation of the joint underwriting association established under the Insurance Code, Article 21.49-3 (the Texas Medical Liability Insurance Underwriting Act). The part of the plan of operation proposed concerns participation in the joint underwriting association. Simultaneously, an out-of-date provision respecting participation (Rule 059.21.50.003) is proposed for repeal. Except for minor changes designed to make it clear that the provisions track statutory law, the new rule will track precisely previous board action respecting the plan of operation. The new rule, if adopted, will make the rule current under Administrative Procedure and Texas Register Act procedure. No present board practice or requirement will change as a result of this proposal. The entire set of rules respecting the joint underwriting association has been reformatted and renumbered. Originally, the entire plan of operation was contained in Rule 059.21.49.301.

Charles Sobeck, Casualty Division medical professional liability supervisor, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule.

Mr. Sobeck also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed is to make the rules current under Administrative Procedure and Texas Register Act procedure. 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 Charles Sobeck, Supervisor, Medical Professional Liability, Casualty Division, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The new rule is proposed under the Insurance Code, Article 21.49-3, §3, pursuant to which the joint underwriting association's plan of operation may be amended.

*.004. Members and Policyholders Participation in the Texas Medical Liability Insurance Underwriting Association.*

(a) Powers of the association. The association is created by the Act and shall be governed by the provisions of the Act, as amended, and these rules. Pursuant to the Act and these rules, with respect to medical liability insurance, the association shall have the power on behalf of its members:

(1) to issue or cause to be issued policies of insurance to applicants including primary, excess, and incidental coverages; provided that no individual or organization may be insured by policies issued by the association for an amount exceeding a total of \$750,000 per occurrence (for all coverages combined) and \$1.5 million aggregate per annum (for all coverages combined);

(2) to underwrite such insurance and to adjust

and pay losses with respect thereto, or to appoint service companies to perform these functions;

(3) to either or both accept and refuse the assumption of reinsurance from its members; and

(4) to cede and purchase reinsurance.

(b) Collection and investment of funds.

(1) Collection. The treasurer shall, on behalf of the association, be responsible for the collection of all the premiums received by the association from the sale of medical liability insurance and incidental coverages, all assessments levied against the members, all assessments and charges levied against policyholders (including contributions to the policyholder's stabilization reserve fund), and all proceeds from the investment of funds.

(2) Investment. All funds collected by the association shall be retained in a checking account or accounts in any bank or banks doing business in the State of Texas and/or may be invested only in the following: in interest-bearing time deposits or certificates of deposit in any bank or banks doing business in the State of Texas which are members of the Federal Deposit Insurance Corporation; or in treasury bills or notes of the government of the United States of America; or in such other investments as may be proposed by the board of directors and approved by the board. The board of directors shall determine what portion of such funds shall be retained in a checking account or accounts and what portion of such funds shall be invested in the investments previously listed, as well as which specific investments, if any, shall be made.

(c) Policyholder's stabilization reserve fund. The Act, §4A, creates the policyholder's stabilization reserve fund and provides that this fund shall be administered as provided in the Act and these rules and that the advisory directors shall be chosen as provided in these rules.

(1) General provisions.

(A) In accordance with the Act, §3A, the board shall establish by rule the categories of physicians and other health care providers who are eligible to obtain coverage from the association. Such rule may be revised from time to time to include or exclude from eligibility particular categories of such health care providers and physicians.

(B) The following provisions also govern:

(i) Within 15 days after the effective date of any board order establishing eligibility, the board of directors shall extend invitations to the appropriate Texas organizations representing eligible health care providers and physicians to each designate an advisory director to represent each eligible category of health care provider and physician and advise the association of its choice of director.

(ii) Each designated advisory director shall have a vote on any matter coming before any meeting of the entire body of advisory directors and that vote shall be weighted in the proportion that the new written premium collected during the most recently completed calendar year from policies issued to each category of health care provider and physician bears to the total new written premiums collected from all categories of health care providers and physicians during the same calendar year. The proportion of weighting of the advisory directors' votes shall be determined annually by the association, not later than August 31.

(iii) The designated advisory directors shall meet not later than October 15, 1977, and not later than September 15 annually thereafter at a place in Texas to be stipulated by the board of directors to consider the amount of funds available and the status of the policyholder's stabilization reserve fund and shall inform the board of directors of the percentage to be charged to all policyholders of all policies issued or renewed by the association during the next calendar year. This percentage shall be communicated to the board of directors no later than November 1, 1977, and not later than September 20, annually thereafter.

(iv) If any organization described in clause (i) of this subparagraph fails to designate an advisory director, the directors designated by the remaining organizations shall constitute the entire body of advisory directors and their establishment of the policyholder's stabilization reserve fund charge shall be accepted as valid by the association and imposed pursuant to the operational procedures of the association, upon approval of the board.

(v) In the event that the advisory directors fail to establish a specific percentage charge for the policyholder's stabilization reserve fund to be collected for the coming calendar year before the applicable deadline, the board of directors shall immediately submit for approval by the board a charge to be collected from policyholders of each new and renewal policy during the forthcoming calendar year in accordance with the provisions of the Insurance Code.

(vi) The advisory directors shall serve without salary or other fee, and shall not be reimbursed for any expenses. The advisory directors, in the performance of their duties, shall be afforded the protection of Rule 059.21.49.312(h) of these rules.

(C) The policyholder's stabilization reserve fund charge shall be collected from each policyholder annually, as may be appropriate, and shall be stated as a percentage of the annual premium due for all coverages on all policies issued or renewed on or after the effective date of the charge. Such percentage charge shall remain in effect until changed in accordance with subparagraph (B) of this paragraph.

(D) The policyholder's stabilization reserve fund charge shall be separately stated in the policy, but shall not constitute a part of premium or be subject to premium taxation, servicing fees, acquisition costs, commissions, or any other such charges. Further, the policyholder's stabilization reserve fund charge shall not be considered premiums for the purpose of any assessments levied under subsection (d) of this rule.

(E) The policyholder's stabilization reserve fund charges shall be collected and administered by the association and shall be treated as a liability of the association along with and in the same manner as premium and loss reserves. The fund shall be valued annually by the board of directors within 90 days of the close of the last preceding calendar year.

(F) Collections of the policyholder's stabilization reserve fund charge shall continue throughout each calendar year for which established; provided however, that no charge will be made during the next succeeding calendar year if the net balance in the fund after recoup-

ment of any prior year's deficit equals or exceeds the association's estimate of the projected sum of premiums to be written in the calendar year following the valuation date of the fund.

(2) Policyholder's stabilization reserve fund charge. The proportionate policyholder's stabilization reserve fund charge shall be based on the total annual written premium for all coverages provided by the association to the policyholder. The policyholder's stabilization reserve fund charges shall not be refundable if any portion of the coverage premium is earned or the association is exposed to any liability under the policies that are the basis for the charge. The policyholder's stabilization reserve fund charge shall apply to all new and renewal policies effective on and after January 1, 1978.

(3) Disbursements from the policyholder's stabilization reserve fund. Disbursements from the policyholder's stabilization reserve fund shall not be made for any purpose other than to recoup a deficit from operations as defined in subsection (d) of this rule. Upon suspension of the association, pursuant to the suspension promulgated by the board, any funds remaining in the policyholder's stabilization reserve fund shall be added to the special fund created by the board appointed statutory liquidator. Any investment income earned on the funds of the policyholder's stabilization reserve fund shall be added to that fund.

(d) Participation by members and policyholders of the association.

(1) Deficit and remedy of a deficit.

(A) The association shall have sustained a deficit from operations whenever the aggregate of the incurred losses (reported and unreported), plus all loss adjustment expenses incurred, plus commissions and plus other administrative expenses (including servicing carrier fees) incurred by the association in a given calendar year exceed the aggregate of the net premiums earned and other net income (including investment income earned) realized by the association in the same calendar year.

(B) Any deficits sustained by the association in any one calendar year shall be recouped, pursuant to these rules and the rating plan then in effect, by one or more of the following procedures in this sequence:

(i) First, a contribution from the policyholder's stabilization reserve fund until the same is exhausted.

(ii) Second, an assessment upon the policyholders pursuant to paragraph (3) of this subsection and the Act, §5(a).

(iii) Third, an assessment upon the members of the association pursuant to paragraph (4) of this subsection and the Act, §5(b).

(2) Surplus and disposition of a surplus.

(A) The association shall have sustained a surplus from operations whenever the aggregate of the incurred losses (reported and unreported), plus all loss adjustment expenses incurred, plus commissions and plus other administrative expenses (including servicing carrier fees) incurred by the association in a given calendar year do not exceed the aggregate of the net premiums earned and other net income (including investment income earned) realized by the association in the same calendar year.

(B) Upon approval by the board of directors, surplus from operations shall be ratably distributed as reimbursements to members who have been assessed pursuant to paragraph (4) of this subsection and have paid such assessments, but have not been previously reimbursed therefor and have not been allowed the premium tax credit (offset) pursuant to subsection (e) of this rule.

(C) Any balance remaining in the funds of the association at the close of its fiscal year, meaning its then excess of revenue over expenditures after approved reimbursement of members' contributions, shall be added to the reserves of the association.

(3) Participation by policyholders of the association.

(A) Assessment of policyholders; contingent liability therefor. Each policyholder of the association shall have contingent liability for a proportionate share of any assessment of policyholders made by the association. Whenever a deficit, as calculated pursuant to paragraph (1)(A) of this subsection, is sustained by the association in any one calendar year and the deficit has not been recouped in its entirety from the policyholder's stabilization reserve fund, its directors shall levy an assessment only upon those policyholders who held policies in force at any time within the two most recently completed calendar years in which the association was issuing policies preceding the date on which the assessment was levied. The aggregate amount of the assessment shall be equal to that part of the deficit not recouped from the stabilization reserve fund. The maximum aggregate assessment per policyholder shall not exceed the annual premium as determined by the association for the liability policy most recently in effect. Subject to such maximum limitation, each policyholder shall be assessed for that portion of the deficit reflecting the proportion which the earned premium on policies issued during the two most recently completed calendar years of such policyholder bears to the total earned premium for all the policies issued by the association for the same period.

(B) Procedure for assessment of policyholders. Assessments of policyholders shall be made in accordance with the following:

(i) Notice of assessment shall be sent by certified mail, return receipt requested, to each policyholder being assessed within 30 days of the meeting of the board of directors at which such assessment was levied. Such notice shall be forwarded to the address of such policyholder as it appears on the books of the association. Such notice shall state the policyholder's allocated amount of assessment and shall inform each policyholder of the sanctions imposed by clause (ii) of this subparagraph for the failure to pay such assessment within the time prescribed by these rules

(ii) Each policyholder shall remit to the association payment in full of an assessment within 30 days of receipt of notice of assessment. If the association has not received payment in full of the policyholder's assessment within 40 days of posting of the notice of assessment, then the association shall promptly cancel any policy of insurance which the policyholder shall at that time have in force with the association and shall be entitled to offset any unearned premium otherwise refundable on such policy against the amount of that policyholder's

unpaid assessment. Such cancellation of current insurance coverage shall in no way affect the right of the association to proceed against such policyholder in any court of law or equity in the United States for any remedy provided by law or contract to the association, including, but not limited to, the right to collect such policyholder's assessment.

(4) Participation by members of the association.

(A) Assessment of members. The Act provides that in the event that sufficient funds are not available for the sound financial operation of the association, in addition to assessments of policyholders paid pursuant to these rules in accordance with paragraph (3) of this subsection and contributions from the policyholder's stabilization reserve fund, all members shall, on a basis authorized by the board, as long as the board deems it necessary, contribute to the financial requirements of the association in the manner provided for in this section and the Act, §5. Any assessment or contribution shall be reimbursed to the members with interest at a rate to be approved by the board. Pending recoupment or reimbursement of assessments or contributions paid to the association by a member, the unrepaid balance of such assessments and contributions may be reflected in the books and records of the insurer as an admitted asset of the insurer for all purposes, including exhibition in annual statements pursuant to the Insurance Code, Article 6.12.

(B) Procedure for assessment of members.

(i) All insurers which are members of the association shall participate in its writings, expenses, and losses in the proportion that the net direct premiums, as defined herein, of each such member, excluding that portion of premiums attributable to the operation of the association, written in this state during the preceding calendar year bears to the aggregate net direct premiums written in this state by all members of the association during the same calendar year. Each insurer's participation in the association shall be determined annually on the basis of such net direct premiums written during the preceding calendar year as reported in the annual statements and other reports filed by that insurer that may be required by the board. No member shall be obligated in any one year to reimburse the association on account of its proportionate share in the unrecouped deficit from operations of the association in that year in excess of 1.0% of its surplus to policyholders and the aggregate amount not so reimbursed shall be reallocated among the remaining members in accordance with the method of determining participation prescribed in this subsection, after excluding from the computation the total net direct premiums of all members not sharing in such excess deficit. In the event that the deficit from operations allocated to all members of the association in any calendar year shall exceed 1.0% of their respective surplus to policyholders, the amount of such deficit shall be allocated to each member in accordance with the method of determining participation prescribed in this subsection.

(ii) Notice of assessment shall be sent by certified mail, return receipt requested, to each member within 30 days of the meeting of the board of directors at which such assessment was levied. Such notice shall be forwarded to the office address of such member as it appears on the books of the association. Such notice

shall state the member's allocated amount of assessment and shall inform each member of the sanctions imposed by clause (iii) of this subparagraph for the failure to pay such assessment within the time prescribed by these rules.

(iii) Each member shall remit to the association payment in full of its assessed amount of any assessments levied by the board of directors within 30 days of receipt of notice of assessment. If the association has not received payment in full of a member's allocated amount of assessment within 40 days of notice of the receipt by the member of the notice of assessment, then the association shall report to the commissioner of insurance the fact that such assessment has not been paid and the commissioner of insurance may take such actions as are permitted under the Insurance Code, as amended, including, but not limited to, calling a public hearing pursuant to the Insurance Code, Article 1.10, §7, as amended, to consider revocation of the certificate of authority of the delinquent member. Any action by the commissioner of insurance shall in no way affect the right of the association to proceed against such member in any court of law or equity in the United States for any remedy provided by law or contract to the association, including, but not limited to, the right to collect such member's assessment. A member, by mailing payment of its allocated amount of assessment as provided herein, shall not thereby waive any right it may have to contest the computation of its allocated amount of assessment. Such contest shall not, however, toll the time in which assessment shall be paid, or the report is to be made to the commissioner of insurance, or the commissioner, upon receipt of such report, is to take action, all as set out in this paragraph.

(5) Basis of computation of deficit, surplus, and assessments. The computation of the deficit or surplus in operations of the association and the computation of assessment of members and policyholders shall be computed on a calendar year basis in accordance with the reporting requirements of the annual statement filed with the board

(e) Premium tax credit (offset) for members assessments. To the extent that a member has been assessed and has paid one or more assessments as contemplated by these rules and has not received reimbursement from the association for such assessments, that member, as provided for in the Act, §4(b)(3), shall be allowed a credit against its premium taxes under the Insurance Code, Article 4.10, as amended for all lines of insurance which the member is writing in the State of Texas, which are subject to a premium tax under Article 4.10. The tax credit, in the aggregate amount of such assessments plus interest at a rate to be approved by the board shall be allowed at a rate of 20% per year for five successive years following the year in which such deficit was sustained and at the option of the member may be taken over an additional number of years. For purposes of this premium tax offset, expense fees paid pursuant to Rule 059.21.49.312(b)(1) and (2) of these rules are deemed to be assessments.

(f) Appeals.

(1) Appeal to board of directors. Any person insured or applying for insurance pursuant to the Act or his duly authorized representative or any affected insurer who may be aggrieved by an act, ruling, or decision of

the association, may, within 30 days after such act, ruling, or decision, appeal to the board of directors of the association. The board of directors of the association shall hear said appeal in 30 days after receipt of such requests or appeal and shall give not less than 10 days' written notice of the time and place of hearing to the person making such requests or his duly authorized representative. Within 10 days after such hearing, the board of directors of the association shall affirm, reverse, or modify its previous action or the act, ruling, or decision appealed to the board of directors of the association.

(2) Appeal to board. In the event any person insured or applying for insurance is aggrieved by the final action of the board of directors of the association or in the event the association is aggrieved by the action of the board with respect to any ruling, order, or determination of the board of directors of the association or of the board or in the event that the board of directors fails to act after having received notice under paragraph (1) of this subsection, the aggrieved party may, within 30 days after such action, make a written request to the board for a hearing thereon. The board shall hear the association, or the appeal from an act, ruling, or decision of the association within 30 days after receipt of such request or appeal and shall give not less than 10 days' written notice of the time and place of hearing to the association making such request or the person, or his duly authorized representative, appealing from the act, ruling, or decision of the board of directors of the association. Within 30 days after such hearing, the board shall affirm, reverse, or modify its previous action or the act, ruling, or decision appealed to the board. Pending such hearing and decision thereon, the board may suspend or postpone the effective date of its previous rule or of the act, ruling, or decision appealed to the board. The association, or the person aggrieved by any order or decision of the board, may thereafter appeal in accordance with the Insurance Code, Article 1.04(f), as amended.

(g) Suspension of the association. Pursuant to the Act, the board shall promulgate a plan of suspension consistent with provisions of the Act as amended. The plan of suspension shall provide for the maintenance of reserves for losses and loss adjustment expenses which may be reported subsequent to the expiration of all policies in force. If, after the date of suspension ordered by the board, the board finds, after notice and hearing, that all known claims have been paid, provided for, or otherwise disposed of by the association relating to policies issued prior to such suspension, then the board may wind up the affairs of the association relating to policies issued prior to such suspension by paying all funds remaining in the association to a special fund created by the statutory liquidator of the board as a reasonable reserve to be administered by said liquidator for unknown claims and for reimbursing assessments and contributions in accordance with the Act, §4(b)(5). The board shall, after consultation with the representatives of the public, the Texas Medical Association, the Texas Podiatry Association, the Texas Hospital Association, and other affected individuals and organizations, promulgate a plan for distribution of funds, if any, less reasonable and necessary expenses, to the policyholders ratably in proportion to premiums and assessments paid during the period of time in which the association issued policies. When all claims

have been paid and no further liability of this association exists, the statutory liquidator shall distribute all funds in its possession to the applicable policyholders in accordance with the plan promulgated by the board. If such reserve fund administered by the statutory liquidator proves inadequate, the association shall be treated as an insolvent insurer in respect to the application of the provisions of the Insurance Code, Articles 21.28, 21.28A, and 21.28-C, not inconsistent with the Act. Notice of claims shall be made upon the board.

(h) Termination of policies. No policy shall be issued by the association after the date fixed in Article 21.49-3 for a plan of suspension to become effective and operative. All then issued policies shall continue in force until terminated in accordance with the terms and conditions of such policies.

(i) Auditing of members. The association may audit the records of any member relating to the subject matter of the Act or these rules according to rules promulgated by the board which may establish what policies, records, book of accounts, documents, and related material shall be necessary to carry out its functions. Such material shall be provided by the members in the form and with the frequency reasonably required by such rules.

(j) Reactivation. Pursuant to the Act, the board may reactivate the Joint Underwriting Association, in keeping with the provisions of the Act.

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 8, 1984

TRD-845242 James W Norman  
Chief Clerk  
State Board of Insurance

Earliest possible date of adoption:  
June 18, 1984

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

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Resources Chapter 13. Child Support Collection

*(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 proposes the repeal of §13.2004 and §13.4103, concerning child support collection. The rules are being repealed because the operation of the Child Support Program was transferred to the Office of the Attorney General.

David Hawes, programs budget and statistics director, has determined that for the first five years the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. Hawes also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is the continued enforcement of child support services through the transfer of responsibility to the Office of the Attorney General. There is no anticipated economic cost to individuals as a result of the repeal.

Comments may be sent to Cathy Rossberg, Acting Administrator, Policy Development Support Division—326, Texas Department of Human Resources, 153-B, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in this *Register*.

### Subchapter U. Child Support Collection Services

#### 40 TAC §13.2004

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

§13.2004. *AFDC Foster Care Case.*

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 10, 1984

TRD-845199 Marlin W Johnston  
Commissioner  
Texas Department of Human Resources

Earliest possible date of adoption:  
June 18, 1984

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

### Subchapter II. Legal Processes.

#### 40 TAC §13.4103

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

§13.4103. *Paternity Determination.*

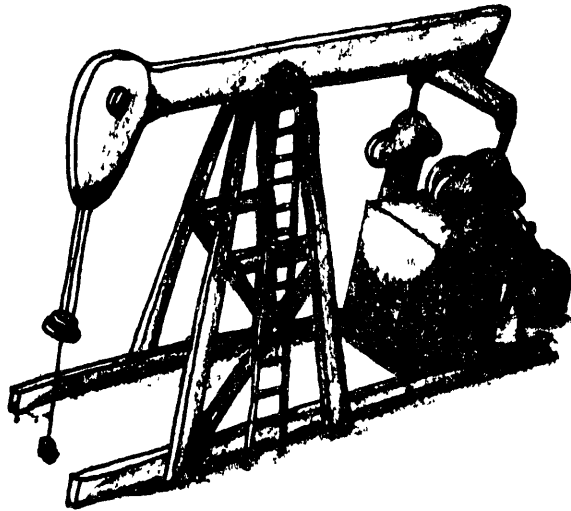
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on May 10, 1984.

TRD-845209 Marlin W Johnston  
Commissioner  
Texas Department of Human Resources

Earliest possible date of adoption:  
June 18, 1984

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



## **Chapter 73. Civil Rights Subchapter OO. Administrative Disqualification Hearings**

### **40 TAC §73.4003**

The Texas Department of Human Resources proposes amendments to §73.4003, concerning administrative disqualification hearings in its civil rights rules. The amendments further clarify the definition of intentional program violation.

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

Mr. Hawes also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing or administering the rule as proposed is a clearer understanding of the definition of intentional program violation. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments may be sent to Cathy Rossberg, Acting Administrator, Policy Development Support Division—167, Texas Department of Human Resources 153-B, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in this *Register*.

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

#### **§73.4003. Definition of Intentional Program Violation.**

(a) A household member has committed an intentional program violation if he has intentionally [purposefully]:

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

(b) A household member may be charged with an intentional program violation even if he has not actually received benefits to which he is not entitled.

(c) The DHR does not pursue overissuances occurring more than six years from the date the overissuance is discovered.

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 10, 1984.

TRD-845200

Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Earliest possible date of adoption:

June 18, 1984

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

## **Chapter 79. Legal Services**

The Texas Department of Human Resources (DHR) proposes the repeal of existing §§79.1201, 79.1202, and 79.1207, and new §79.1207, concerning the appeals process and fair hearings procedures. The DHR also proposes amendments to §§79.1101-79.1104, 79.1203-79.1206, 79.1210, 79.1211, 79.1213, 79.1214, and 79.1301. The DHR is proposing the repeals, new rule, and amendments to make clarifications, delete internal operating procedures, and eliminate duplication of information in its rules.

David Hawes, programs budget and statistics director, has determined that for the first five-year period the rules and repeals are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rules and repeals as proposed.

Mr. Hawes also has determined that for each year of the first five years the rules and repeals are in effect the public benefit anticipated is a clearer understanding of the fair hearing process. There is no anticipated economic cost to individuals required to comply with the rules as proposed or as a result of the repeals.

Comments may be sent to Cathy Rossberg, Acting Administrator, Policy Development Support Division—167, Texas Department of Human Resources 153-B, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in this *Register*.

### **Subchapter L. Fair Hearings**

#### **40 TAC §79.1101-79.1104**

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

§79.1101. *Definitions.* The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

Appellant—An [ ' ]applicant for[ ' ] or [ ' ]recipient of[ ' ] assistance who requests [has made a request for] a fair hearing.

**Assistance—Assistance includes** money payments (including protective payments), medical assistance, social services, food stamp benefits, and participation in the **Employment Services Program** [Work Incentive Program].

**Date of request for hearing—**The date on which the appellant or representative clearly expresses a desire to appeal [in writing or orally to a department representative]. It is not **determined** [controlled] by the date of the petition for fair hearings; however, both dates may be the same. If they are not the same, [the worker or other] staff [member] who completed the petition **indicates** [will indicate] the date the appellant [clearly] expressed a desire to appeal. For social services purchased through **contracted** [contract] agencies, this is the date **the contracted** [the request is received by the contract] agency **received the request** [staff]. The hearing officer at his/[her] discretion and based upon the evidence in the case may find that the date of the appeal is earlier than the **designated** date [designated by the worker]. If **someone outside of DHR or the contracted** [the request is made through anyone not connected with the department or a contract] agency **makes the request**, then the date **DHR receives the request** is [the request is received by the department will be] considered the date of request.

**Hearing—**An informal, orderly, and readily available proceeding held before an impartial **DHR** representative. [of the State Department of Public Welfare, in which a dissatisfied] **At the hearing, an** appellant or representative, including legal counsel, may present **the** [his] case **as he wishes** [in a manner of his choosing] to show that any action, inaction, or agency policy affecting **the** [his] case should be corrected [by the department].

**Hearing officer—**A [The] **DHR** employee **who** [in the administrative structure designated by] the commissioner **designates** [as the one] responsible for conducting fair hearings. He/[she] is also responsible for making the final administrative decision. Any program director, supervisor, or other **designated** person [designated by the commissioner] may act as the hearing officer in his/[her] respective region, except **when he** [in those instances where he/she] is disqualified or unable to act.

**Representative—**[For the purpose of a hearing is] Any person who assists the appellant in presenting his/[her] case.[.] A [including] legal counsel, relative, friend, or other spokesperson **may serve as representative**.

**Request for hearing—**Any clear expression **that the appellant wants:**[, either written or oral, to the department by the appellant or representative to the effect that he wishes]

(A) to appeal[,] a **DHR action, inaction, or decision;** and [that he/she wants an opportunity]

(B) to present his case to an authority higher than the local worker. **The appellant or representative may make the request.**

**Right of appeal—**The opportunity for a fair hearing before **DHR** [the state agency]. [Right of appeal is granted to] Any applicant or recipient requesting a hearing **for any of the following reasons has the right to appeal:** [because his or her]

(A) **The client's** claim for assistance is denied, modified, or not acted up with reasonable promptness;[,]

(B) **A DHR action results** [or because he or

she is aggrieved by any other agency action resulting] in suspension, reduction, discontinuance, or termination of assistance;[,]

(C) [or] In AFDC cases, **DHR determines** [a determination] that a protective, vendor, or two-party payment [should] be made;[,]

(D) [Also, a recipient can request a hearing] In AFDC cases, **DHR continues protective, vendor, or two-party payments** [in which a decision is made to continue such payments when they are being made] because of the **client's mismanagement of** [recipient's demonstrated inability to manage the] AFDC funds. **The DHR** [The department] does not make vendor or two-party payments at this time. For food stamp cases, refer to the food stamp program rules about requests for fair hearings.

**§79.1102. Principles.** The underlying principles in the fair hearing process are **that** [as follows]:

(1) **the DHR** [That the Texas Department of Human Resources] is accountable to the appellant for action or **inaction** [lack of action] with reasonable promptness **according to the conditions of the** [as defined by the department in relation to his] case;

(2) [that] the appellant has a right to appeal [to the department on] any **DHR** action or **inaction** [failure to act with reasonable promptness] on **the** [his] claim for assistance;

(3) [that] the appellant may question **DHR's** [the] interpretation of the law [by the department,] and the **reasonability** [reasonableness] and **equitability** [equitableness] of **DHR** [departmental] policies, if the appellant thinks [he/she is aggrieved by their interpretation or application to] his claim for assistance **has been wrongly handled;**

(4) [that] the hearing is an informal administrative procedure which attempts to serve the interests of the appellant and ensures due process, and

(5) [that] the appellant is entitled to all judicial remedies [as] provided by state and federal law.

**§79.1103. Objectives.** The major objectives in providing fair hearings are to[as follows]:

(1) [to] provide each appellant an opportunity to assert his right to assistance and to secure[, through the fair hearing process,] equity [in his situation] in relation to the law and **DHR** [department] policies affecting his **receiving** [receipt of] assistance;

(2) [to] enable the appellant and **DHR** to **examine facts from** [the department to ascertain factual data upon] which **DHR** [the department] may make a just decision;

(3) [to] contribute to **the uniform** [uniformity in the] application of the assistance laws and policies;

(4) [to] safeguard appellants from **DHR staff's** mistaken, negligent, unreasonable, or arbitrary action or inaction [by department staff]; and

(5) [to] call attention to **DHR** [departmental] policies which are inequitable, [or] unjust, or **cause** [work] undue hardships, so that **changes** [needed modification and clarification] may be made.

**§79.1104. Requirements.** The primary requirements in the fair hearing procedure are [as follows]:

(1) **the DHR** [That the Texas Department of Human Resources] is responsible for fulfilling fair hear-

ing provisions, for delegating responsibility for the conduct of the fair hearing, and for making [rendering] and implementing the decisions. The hearing officer [to whom the commissioner has delegated responsibility for decisions] is the hearing authority;

(2) a [That the hearing is conducted by the] hearing officer conducts the hearing;

(3) the DHR issues and publicizes [That] hearing procedures [are issued and publicized by the department].;

(4) [That] decisions [by] the hearing officer makes on behalf of DHR [rendered in the name of the department,] are binding on the state and local offices; and

(5) the DHR establishes and maintains [That the department must establish and maintain] a method of making decisions accessible to the appellants, their representatives, and the public [according [subject] to provisions [relating to] safeguarding assistance information).

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 10, 1984.

TRD-845201      Marlin W Johnston  
                         Commissioner  
                         Texas Department of Human  
                         Resources

Earliest possible date of adoption  
June 18, 1984

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

### Subchapter M. Appeals Process

40 TAC §§79.1201, 79.1202, 79.1207

*(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.)*

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

§79.1201. *State Office Responsibility.*

§79.1202. *Opportunity for Appeal.*

§79.1207. *Notice Requirement—Proposed Termination or Reduction of Assistance.*

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 10, 1984.

TRD-845202      Marlin W Johnston  
                         Commissioner  
                         Texas Department of Human  
                         Resources

Earliest possible date of adoption  
June 18, 1984

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

40 TAC §§79.1203-79.1206, 79.1210,  
79.1211, 79.1213, 79.1214

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

§79.1203. *Conference with Supervisor.*

(a) If the applicant, recipient, or any person [aggrieved by a department decision] expresses dissatisfaction with a DHR [the] decision to the worker, the worker fully explains the basis for the decision, the applicable law and policies, and the right of appeal. The worker also gives the applicant or recipient an opportunity to request a conference with the supervisor, if desired. [However, it is not required that] The client, however, is not required to have [such] a conference.[.] The worker must not interfere with or delay [and] the filing of the appeal [should not be interfered with or delayed] if the person [he or she] chooses not to have a conference.

(b) A conference gives the applicant or recipient the opportunity to express dissatisfaction [to department staff] and receive an explanation of DHR's [the staff's] action. It [This] does not compromise or affect his [or her] right to appeal. An adequate conference might make some hearings unnecessary and help the appellant to better present his [or her] case in hearings that are held.

(c) (No change.)

§79.1204. *Group Hearings.* If recipients request a group hearing on a question of agency policy, it must be granted. In all cases except food stamp cases, the request must be in writing, signed by each appellant [applicant], and must state the common issue(s). Requests for group hearings in food stamp cases may be oral or written. An appellant may also withdraw from a group hearing at any time before [prior to] a final decision. If an appellant wishes to withdraw, he must make the request [Such request must be made] in writing and sign it. [be signed by the appellant. The same procedures which apply to individual hearings will be followed in] Group hearings follow the same procedures as individual hearings.

§79.1205. *Information on Right of Appeal.*

(a) Applicants, [and] recipients, or any people dissatisfied with a DHR [person aggrieved by any department] decision or policy must be informed of their right to a fair hearing. The worker must explain the procedure for an appeal, the person's right of appeal, and the right to be represented by others, including legal counsel. The worker must [will] also provide information to clients concerning available legal services in the community. This information may be posted [provided through notices] in each office.

(b) Upon application and at each review, workers must give each applicant or client a written notice informing him of his rights, including the right to appeal. [At his first contact with the department, each applicant must be given an appropriate notice informing the applicant in writing of his or her rights, including the right to appeal. At each review of an active case, the individual will also be notified in writing of his or her rights, including the right to a fair hearing, method of obtaining such a hearing, and the right to be represented by others, including legal counsel.]



(c) **The DHR's Fair Hearings, Fraud, and Civil Rights Handbook** is available at all local offices for appellants or their representatives to review. [In cases of any proposed action to terminate total assistance or reduce a money grant, the worker sends a notification letter to the claimant of financial or medical assistance. In cases of any proposed action to increase the amount of applied income, the worker sends a notification letter-nursing facility payment to the recipient or responsible individual acting on the recipient's behalf. These forms inform the person of the right to request a conference or appeal and give the person 10 days notice before action is taken. A notice of adverse action is used for food stamp recipients when their benefits are to be reduced or denied within a certification period.]

(d) A notice of case action is sent to all applicants for and recipients of aid to families with dependent children (AFDC) money payments and to denied applicants for medical assistance only. The back of the form contains a statement informing the person of the right to appeal.

(e) Social services eligibility notification notifies applicants for social services of their eligibility or ineligibility for social services. It contains a statement concerning the right to a fair hearing.

(f) A notification of level of care determination letter will be sent to all applicants for and recipients of nursing facility care. The letter contains a statement informing the person of the right to appeal.

(g) The appellant or the appellant's representative may at any reasonable time review the appeal procedure set out in the *Fair Hearings, Fraud, and Civil Rights Handbook* of the Texas Department of Human Resources, which is available at the local offices.]

§79.1206. *Hearing Officer.*

(a) (No change.)

(b) Disqualification. A hearing officer is disqualified if he directly participated in the case decision being appealed. **The hearing officer participated if** [Criteria for deciding disqualification because of direct participation in a decision include]:

(1) [participation] in a case conference with [either] the worker, contract manager, or the supervisor, **he assisted in making a decision about the case** [to discuss the situation and to assist the worker or supervisor to make a decision];

(2) **he reviewed** [review of] either the entire record or a summary of it [the record] for the same purpose;

(3) **he has a personal interest** [of the hearing officer] in the outcome of the appeal decision;

(4) [justified allegations by] the appellant **justifiably questions** [about] the hearing officer's fairness; or

(5) **he supervised** [supervision of] the worker or contract manager **even without being** [though he may not have been] involved in the decision

(c) Alternate hearing officer. The hearing officer may believe [that] there are grounds to disqualify him from holding the hearing[,] or that [a question of] his impartiality **has been questioned** [may be raised]. If so, he sends the regional attorney a memorandum [to the regional attorney] outlining the facts of the situation. The regional attorney decides if the hearing officer should be

disqualified.[, and,] If necessary, the regional attorney informs the regional administrator so that he may designate a new hearing officer.

(d) Hearing officers' powers and duties. The hearing officer:

(1)-(4) (No change.)

(5) orders, if relevant and useful, an independent medical assessment or professional evaluation from a source satisfactory to the appellant and DHR [the department];

(6) makes a fair hearing decision for DHR [the department,] according to these rules. This decision is the final administrative decision in the fair hearing; and

(7) does not have the authority to reverse a decision based on DHR [departmental] policy **an appellant alleges is** [that is alleged to be] contrary to law or unconstitutional. **The recommendation to reverse a decision must come from the Office of the General Counsel** [, except upon the recommendation of Legal Division].

§79.1210. *Fair Hearing Request—Time.*

(a) The department restricts the right to appeal to the client, his legal guardian, or his authorized representative. The client, **however**, may choose any individual or institution as his authorized representative. **When** [In cases in which assistance or service is provided by] a third party vendor **provides assistance or service**, the vendor may not appeal because of what he may consider an adverse action against the client.

(b) (No change.)

(c) If more time elapses between the effective date [of action] and the request date [the client requests a fair hearing], the worker offers to process a reapplication or to review the case situation. A food stamp client may request a fair hearing to question his current level of benefits at any time within a certification period.

(d) The worker or the hearing officer may change the decision [at] any time before or during the hearing process. The appellant, however, has the right to proceed with the fair hearing after an adjustment is made.

(e) If the client is satisfied with the last action but is still dissatisfied with the previous action, he may appeal the first decision. If the client is dissatisfied with both decisions, he may appeal both.

(f) (No change.)

§79.1211. *Petition for Fair Hearing.*

(a) If the client requests a fair hearing in writing (or orally in food stamp cases) [from a department representative], staff **completes** [complete] a petition for fair hearing and **sends** [send] it to the hearing officer.

(b) [The petition is the official record of the request for a fair hearing. The petition includes specific information about the basis for and the date of the client's dissatisfaction.

(c) The client later may state that an earlier letter, which **DHR staff** [was] treated as routine correspondence [by DHR staff], was intended as a request for a fair hearing. **In this** [if this is the] case, staff **completes** [complete] a petition, **attaches** [attach] the original correspondence, and **sends** [send] it to the hearing officer. The date of the request[,] as defined in the department rule [about the date of request for a fair hearing,] is shown on the petition. Staff also **sets** [set] up a conference with the client if he requests one.

(c)(d) If the client is represented by legal counsel or other representative, he must complete and sign the petition for fair hearing. He must do this before a copy of the acknowledgment and notice of fair hearing and copies of all forms and correspondence are mailed to the counsel or representative.

**§79.1213. Setting the Fair Hearing.**

(a) The hearing officer acknowledges the request and sets the fair hearing within five workdays after receiving [receipt of] the petition for fair hearing and any eligibility documents necessary for the fair hearing.

(b) (No change.)

(c) The hearing is held at a reasonable place and time. This may be the local office or the appellant's home [of the appellant]. The hearing officer considers the physical condition of the appellant and availability of transportation [are some of the factors which the hearing officer considers] in setting the place of the fair hearing. A bilingual interpreter is available if the hearing officer determines it is necessary. A qualified sign language interpreter is available for deaf persons requiring one.

**§79.1214. Notice of Fair Hearing.**

(a) The acknowledgment and notice of fair hearing form serves as a notice of the fair hearing. It is sent to the appellant to acknowledge the request for a hearing and to suggest a time, date, and place for the fair hearing. Appellants unable to read are informed [given the information] orally and [as well as] in writing. [The hearing officer includes with the acknowledgment:

- (1) a copy of the statement of appellant's rights in hearing proceedings;
- (2) an envelope with the hearing officer's address; and
- (3) a request for another appointment form, if the date, place, or time is unsatisfactory.

(b) The acknowledgment and notice of fair hearing form is mailed to the appellant within five workdays after receipt of the petition and at least 10 days before the day set for the fair hearing unless the appellant requests an earlier date

(c) For level-of-care appeals, a level of care given for a new condition or a significant change in a previous condition does not affect the appeal of the adverse action.]

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 10, 1984

TRD-845204      Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Earliest possible date of adoption

June 18, 1984

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

**40 TAC §79.1207**

The new section is proposed under the Human Resources Code, Title 2, Chapter 22, which authorizes

the department to administer public assistance programs.

**§79.1207. Notice Requirement—Proposed Termination or Reduction of Assistance.**

(a) The DHR must give clients timely and/or adequate notice if a review of the client's situation shows that the grant is to be lowered or denied or services reduced or terminated; DHR decides to make or continue a protective, vendor, or two-party payment; or DHR decides to continue a protective payment in AFDC mismanagement cases.

(1) An adequate notice includes a statement of the proposed action; the reasons for the action; the specific regulations supporting the action; an explanation of the client's right to a hearing; and the circumstances under which assistance or services are continued if the client requests a hearing.

(2) The DHR must give adequate notice to every client for across-the-board reductions necessarily made in good faith, such as denials or reductions made because of changes in DHR policies of general applicability; termination of the grant when a client reaches the maximum eligibility age, such as an AFDC child reaching 18 years old or 19 years old if attending school; or reduction because a member of the dependent group received a new grant, and the total of the two grants is equal to or larger than the original grant.

(b) The DHR may withhold assistance or services without the timely 10-day notice, but it must send adequate notice not later than the date of action; if:

(1) the DHR has facts confirming the death of a client or of an AFDC payee when no relative is available to serve as the new payee;

(2) the client sends a clear written and signed statement that he no longer wishes assistance or services. The statement gives information that requires DHR to terminate or reduce assistance or services. The client must indicate that he understands the consequence of supplying this information. Staff must ensure that the signature is the same as that in the case record;

(3) the client has been admitted or committed to an institution, and further payments to the client do not qualify for federal financial participation under the state plan;

(4) the client has been placed in skilled nursing care, intermediate care, or long-term hospitalization;

(5) the client's whereabouts are unknown, and the postal service returns mail DHR sent indicating no known forwarding address. If the client is located during the payment period covered by the returned check, DHR must make the check available to him;

(6) a client is accepted for assistance in a new jurisdiction (either certified in another state or for SSI), and this has been established by the new jurisdiction,

(7) an AFDC child is removed from the home as a result of a judicial determination or voluntarily placed in foster care by the legal guardian;

(8) the client fails to submit a correctly completed status report and the household admits it did not submit the status report; or

(9) the client's attending physician prescribes a lower level of care or concurs with the Texas Department

of Health's long-term care unit's change in level-of-care determination.

(c) The DHR may terminate without notice a person in a supervised living and emergency care facility who threatens the health and safety of others. In food stamp cases, DHR notifies clients according to requirements in the food stamp 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 May 10, 1984.

TRD-845203      Marlin W. Johnston  
                         Commissioner  
                         Texas Department of Human  
                         Resources

Earliest possible date of adoption:

June 18, 1984

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

## Subchapter N. Hearing Procedure

### 40 TAC §79.1301

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

#### §79.1301. *Conduct of Fair Hearing.*

(a) (No change.)

(b) The fair hearing is not open to the public, but [in food stamp cases,] friends and relatives of the appellant may attend if **the appellant [he] chooses. Reporters may tape record (but may not photograph) the hearing if the appellant chooses.** All persons attending the fair hearing must have:

(1) an interest in the rights of the appellant; and

(2) [have] an opportunity to give information pertinent to the issues under consideration.

(c) **If space is limited**, the hearing officer has the authority to limit the number of persons attending the fair hearing [if space is limited].

(d) The fair hearing must be recorded. The recording or stenographer's notes are kept on file for 90 days (three years in food stamp appeals) after the fair hearing. During this period, [the notes or recording are available to] the appellant and representative **may copy or transcribe this information** [for copying or transcribing] at **his [their] own expense**. The hearing officer prepares a summary of what took place at the fair hearing. This is the official record of the fair hearing. Confidentiality rules apply to this information.

(e) In some cases the hearing officer may use teleconference equipment [in a fair hearing]. The program representative **thus** may take part in the fair hearing by telephone. The use of this equipment does not change the conduct of the fair hearing or affect the rights of the parties. The [program] representative taking part by telephone may ask and be asked questions. The hearing officer must share with the appellant any documents from which **this [the program] representative** testifies.

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 10, 1984

TRD-845205      Marlin W. Johnston  
                         Commissioner  
                         Texas Department of Human  
                         Resources

Earliest possible date of adoption:

June 18, 1984

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

# Withdrawn Rules

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

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

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

## TITLE 28. INSURANCE Part I. State Board of Insurance

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

### Life, Health, and Accident Insurance Order of Benefit Determination for Insured Dependent Children in a Coordination of Benefits Provision

059.03.48.001, .002

The State Board of Insurance has withdrawn from consideration for permanent adoption proposed new Rules 059.03.48.001 and .002, concerning life, health, and accident insurance. The text of the new rules as proposed appeared in the November 18, 1983, issue of the *Texas Register* (8 TexReg 4794).

Issued in Austin, Texas, on May 10, 1984

TRD-845320 James W. Norman  
Chief Clerk  
State Board of Insurance

Filed May 11, 1984  
For further information, please call (512) 475-2950.

### General Provisions Insurance Premium Finance

059.60.01.009

The State Board of Insurance has withdrawn from consideration for permanent adoption proposed new

Rule 059.60.01.009, concerning general provisions. The text of the new rule as proposed appeared in the November 25, 1983, issue of the *Texas Register* (8 TexReg 4890).

Issued in Austin, Texas, on May 8, 1984

TRD-845174 James W. Norman  
Chief Clerk  
State Board of Insurance

Filed May 9, 1984  
For further information, please call (512) 475-2950.

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Resources Chapter 9. Food Stamps Subchapter 00. Definition of Income 40 TAC §§9.4002-9.4024

The Texas Department of Human Resources has withdrawn from consideration for permanent adoption the proposed repeal of §§9.4002-9.4024, concerning food stamps. The notice of the proposed repeal appeared in the March 23, 1984, issue of the *Texas Register* (9 TexReg 1694).

Issued in Austin, Texas, on May 10, 1984

TRD-845257 Cathy Rossberg  
Acting Administrator  
Texas Department of Human  
Resources

Filed: May 11, 1984  
For further information, please call (512) 441-3355,  
ext. 2037.

An agency may take final action on a rule 30 days after a proposal has been published in the *Register*. The rule becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

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

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

# Adopted Rules

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

The Texas Animal Health Commission adopts an amendment to §35.6, without changes to the proposed text published in the March 13, 1984, issue of the *Texas Register* (9 TexReg 1464).

On December 22, 1983, the commission was notified in a letter from the United States Department of Agriculture (USDA) that funds allocated to Texas for indemnity payment (payment to herd owners for brucellosis reactor animals by the USDA) and fee basis testing (payment with federal funds for testing of infected herds by private veterinary practitioners at the request of the herd owner) would be exhausted prior to year end. Based on this information, the commission met and deemed it necessary to reduce the present indemnity rates to a flat rate of \$43 per head. By reducing the amount allowed for indemnity, those funds can be redirected into other areas of the Brucellosis Program that are critical to its operation.

This amendment allows for the payment of a flat rate of \$43 to the herd owner with brucellosis reactor animals. The herd owner, however, must meet the criteria set forth in §35.2(j) of the brucellosis regulations.

No comments were received regarding adoption of the amendment.

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

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 7, 1984

TRD-845255      John W. Holcombe, DVM  
Executive Director  
Texas Animal Health Commission

Effective date: May 31, 1984  
Proposal publication date: March 13, 1984  
For further information, please call (512) 475-4111.



## TITLE 7. BANKING AND SECURITIES Part VII. State Securities Board Chapter 105. Rules of Practice in Contested Cases

7 TAC §105.3

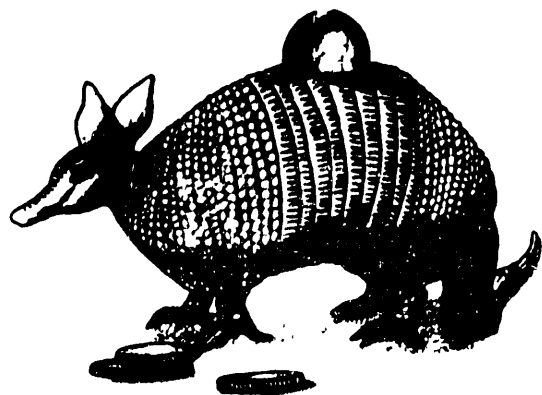
The State Securities Board adopts an amendment to §105.3, without changes to the proposed text pub-











**TITLE 10. COMMUNITY  
DEVELOPMENT  
Part I. Texas Department of  
Community Affairs  
Chapter 9. Texas Community  
Development Program  
Subchapter A. Allocation of Program  
Funds**

**10 TAC §9.6**

The Texas Department of Community Affairs (TDCA) adopts new §9.6, with changes to the proposed text published in the April 13, 1984, issue of the *Texas Register* (9 TexReg 2057)

The new section concerns the functions of the regional review committees established under the Texas Community Development Program. The new section establishes the role and responsibilities of the regional review committees in the Texas Community Development Program allocation system. The new section covers the composition and role of the regional review committees, meetings, conflicts of interest, voting, appeals, and waivers.

No comments were received regarding adoption of the new section. The TDCA has made changes from the proposed text of the new section to correct errors and to provide clarification. In addition, §9.6(c)(3), relating to voting, has been changed to reflect the recommendation of the State Community Development Review Committee, and §9.6(e) has been added to provide for waivers in extenuating circumstances.

The new section is adopted under Texas Civil Statutes, Article 4413(201), §4A, which provide the Texas Department of Community Affairs with the authority to allocate community development block grant nonentitlement area funds to eligible counties and municipalities in accordance with rules and regulations adopted by the Texas Department of Community Affairs.

**§9.6 Regional Review Committees**

(a) **Composition.** There is a regional review committee in each of the 24 state planning regions. Each committee consists of at least 12 members appointed by the

governor, each of whom must be a member of the governing body of an eligible unit of general local government. A member vacates his position or a regional review committee when he ceases to be such a local elected official. Composition of each regional committee reflects geographic diversity within the region, difference in population among eligible localities, and types of government (general law cities, home rule cities, and counties). The chairman of the committee is also appointed by the governor. Members of the committee will serve one-year terms.

(b) **Role.** Each regional review committee will review and score all applications submitted from within its region under the community development project fund. Each regional review committee may review and comment on economic development project fund and planning/capacity building project fund applications. Each regional review committee will send its scores and comments to the Texas Department of Community Affairs (TDCA). Regional review committees may elect to utilize staff of regional planning commissions to assist with project review responsibilities.

(c) **General requirements.** In the performance of its responsibilities, each regional review committee shall comply with all federal and state laws and regulations relating to the administration of community development block grant nonentitlement area funds including, but not limited to, requirements of this subchapter, the scoring procedures specified in the current *Regional Review Committee Guidebook*, and the procedures established by the regional review committee under the Texas Community Development Program.

(1) **Meetings.** Each meeting held by a regional review committee shall conform to the following requirements:

(A) The regional review committee shall notify each applicant with the regional review committee's state planning region, in writing, of the date, time, and location of the meeting at least five days prior to the meeting.

(B) Each applicant shall be provided with the opportunity to make a presentation to the regional review committee.

(C) The order of the presentations shall be randomly selected by the regional review committee.

(D) All discussions, deliberations, and votes shall be made in public except for items which would be specifically exempted under the Texas Open Meetings Act.

(E) A quorum of two-thirds of the current members of the regional review committee, rounded up to the next highest number, shall be present. Any actions taken by a regional review committee in which a quorum was not present shall be voidable, provided however, that if a conflict of interest situation has required a regional review committee member to excuse himself, thus dropping the number of participating members below the two-thirds requirement, a quorum shall have been considered present.

(2) **Conflicts of interest.** No member of a regional review committee shall participate in the deliberations concerning an application or vote on an application if the member is on the governing body of the applicant.

(3) **Voting.** Only appointed members of a regional review committee may vote on an action of the regional review committee, provided however, that a

regional review committee member may designate an alternate to participate in the regional review committee's deliberations. Each regional review committee shall retain all ballots or other voting records used by its members. Such records shall be maintained in an accessible location and be made available for inspection by the public and the TDCA upon request for a period of one year. Each member of a regional review committee shall sign each of his or her ballots and other voting records.

(d) Appeals. An applicant may appeal the actions of the regional review committee established in its state planning region by following the procedures set forth in this subsection. The TDCA will withhold the running of computer scores on community development project fund applications for five working days after the regional review committee's scoring meeting or until all regional appeals, if any, have been resolved, whichever is longer. If an appeal affects another applicant within its region, the regional review committee must provide written notification of the appeal to that applicant.

(1) An applicant shall notify its regional review committee, in writing, of an alleged violation of regional review committee procedures committed by the regional review committee within five working days after the date of the regional review committee meeting which is the subject of the appeal. The applicant shall also send a copy of the appeal to the TDCA. All appeals must be based on a specifically identified violation of regional review committee procedures.

(2) Within five working days after receipt of an appeal, the regional review committee shall take one of the following actions.

(A) The regional review committee agrees that the complained of procedural violation occurred, makes appropriate adjustments to regional scores, and notifies the applicant and the TDCA. Any agreement must be ratified by a quorum of the membership of the regional review committee.

(B) An informal consultation is held between the applicant and a designated representative of the regional review committee. A summary of either an agreement of the unresolved issues must be sent to the applicant and the TDCA. Any agreement must be ratified by a quorum of the membership of the regional review committee; or

(C) The regional review committee disagrees and provides the applicant and the TDCA with a written statement of the basis of the disagreement. The regional review committee may hold a hearing if so requested by the applicant, as long as both the initial hearing and the rehearing are held within five working days after the receipt of the original appeal.

(3) If the appeal is resolved, the TDCA will run the computer scores and provide funding recommendations to the State Review Committee.

(4) If the appeal is not resolved, the TDCA will prepare an appeal file for the State Review Committee. The file will include:

- (A) the appeal;
- (B) the response of the regional review committee;
- (C) TDCA staff reports; and
- (D) comments of other interested parties.

(5) The State Review Committee shall make one of the following recommendations to the executive director of the TDCA:

(A) sustain the appeal and suggest corrective actions; or

(B) reject the appeal and sustain the regional scores.

(e) Waivers. The TDCA may waive any provision in this section upon a finding of extenuating circumstances.

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 14, 1984.

TRD-845323

Douglas C Brown  
General Counsel  
Texas Department of Community  
Affairs

Effective date: June 4, 1984

Proposal publication date: April 13, 1984

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



## TITLE 13. CULTURAL RESOURCES Part V. Texas Sesquicentennial Commission Chapter 53. Program Guidelines 13 TAC §53.4

The Texas Sesquicentennial Commission adopts the repeal of §53.4, without changes to the proposal published in the December 9, 1983, issue of the *Texas Register* (8 TexReg 5082).

By repealing §53.4, the commission will replace the sesquicentennial commemorative products policy with a more comprehensive and understandable policy, which will create a better understanding and ensure specific accountability in the implementation of a statewide sesquicentennial commemorative products program

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 6145-11, §9 and §10, which provide the Texas

Sesquicentennial Commission with the authority to promulgate policy to perform 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-845184      Randy M Lee  
                         Executive Director  
                         Texas Sesquicentennial  
                         Commission

Effective date: May 30, 1984

Proposal publication date December 9, 1983

For further information, please call (512) 475-1986.

The Texas Sesquicentennial Commission adopts new §53.4, with changes to the proposed text published in the December 9, 1983, issue of the *Texas Register* (8 TexReg 5083).

Current commission policy governing commemorative products is being replaced by a more comprehensive and understandable policy since the inception of the original policy. Further study has resulted in a more detailed and accountable policy governing the sale and use of sesquicentennial commemorative products.

The commemorative products policy will create a better understanding and ensure specific accountability in the implementation of a statewide sesquicentennial commemorative products program.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 6145-11, §9 and §10, which provide the Texas Sesquicentennial Commission with the authority to promulgate policy to perform its functions

**§53.4. Commemorative Products.**

(a) A sesquicentennial commemorative products program will reflect the highest quality, widest distribution, and greatest benefit possible to the State of Texas and to all official sesquicentennial organizations

(b) The entire program will be kept as simple as possible.

(c) An official commemorative product is so designated because it has been sanctioned for manufacture and sale and for use of the official sesquicentennial logo by the commission and is defined as a product with commemorative value. Official commemorative products shall be the only products displaying the wording, "official commemorative of the Texas 1986 Sesquicentennial," or represented as being official.

(d) The number of official commemorative product categories may be enlarged, but in principle should not include more than 25 products. It is the intent of the commission to keep the total number of commemorative categories to a minimum. Official commemorative product categories may include:

- (1) medallion.
- (2) flag.
- (3) Texas patriot kit.

- (4) spur
- (5) belt buckle.
- (6) boots.
- (7) hat.
- (8) ring.
- (9) map.
- (10) bronze object, gold object, or silver object.
- (11) print.
- (12) ceramic object.
- (13) plate.
- (14) crystal object.
- (15) mug or stein.
- (16) pitcher.
- (17) button (blazer button set).
- (18) pin.
- (19) pistol.
- (20) rifle.
- (21) knife.
- (22) art poster.
- (23) Republic of Texas currency (reproduction).
- (24) Republic of Texas artifact (reproduction).
- (25) Texana (an open category for an object or

objects of a uniquely Texas nature to be suggested by applicants, whereby such objects will not fit into any other category).

(e) The design of official commemorative products will be selected by the commission. The commission shall conduct a formal period of solicitation for commemorative product proposals. All manufacturers and their products will be evaluated and selected on the basis of a total product and marketing proposal submitted to the commission. The commission will select individual manufacturers of commemorative products on the basis of the value and desirability of the manufacturers' entire proposals. One manufacturer will be selected for each category. Through the submission of proposals, manufacturers will have the opportunity to compete to be the exclusive manufacturer and licensee for individual categories of commemorative products. Vendors and marketers of commemorative products shall be selected by manufacturers, but the commission must give approval to each vendor which distributes official commemorative products. Each vendor representing an official commemorative product manufacturer shall be registered by the manufacturer with the commission before the vendor may market official commemorative products.

(f) Product proposal evaluations will be made by the commission in each category for each manufacturer, based on the following minimum technical, marketing, and financial criteria.

(1) Technical criteria.

(A) Each product must be demonstrated to have:

- (i) commemorative value to the Texas Sesquicentennial;
- (ii) appropriateness to theme of the Texas Sesquicentennial; and
- (iii) evidence of product quality, product safety, and its environmental compatibility.

(B) Each manufacturer must provide:

- (i) evidence of a potentially successful marketing strategy;

- (ii) evidence of a potentially successful production ability;
- (iii) an original suggested design; and
- (iv) references.

(C) All official commemorative products shall display the Texas sesquicentennial logo

(2) Marketing and financial criteria.

(A) Each official commemorative product shall bear a royalty fee based upon the wholesale price of each product shipped from the manufacturer. The royalty fee shall be suggested by the manufacturer at the time of application to the commission. The royalty fee shall be expressed both as a percentage of the wholesale price per item and as a whole dollar amount per item. The royalty fee on each item shipped shall be remitted to the commission within 30 days of each product shipment from the manufacturer. At the same time, each manufacturer must report to the commission the quantities of products shipped to each retail vendor.

(B) Officially sanctioned organizations such as Texas Independence Community or Texas Independence Association organizations may sell or benefit from commemorative products in their respective areas of jurisdiction. All manufacturers and vendors may sell commemorative products through or in cooperation with these officially sanctioned organizations. Manufacturers or vendors may also market and distribute the products directly through catalogs, mail-order, sales to non-sanctioned areas, and out-of-state sales.

(C) Applicants should provide a clear and thorough description of a proposed statewide marketing plan. Other terms and conditions of sale imposed by the manufacturers should be submitted in the proposal and must include warranties of the product quality, guarantees of performance regarding quantities, and distribution and payment arrangements with officially sanctioned selling organizations and the commission

(D) Each applicant must demonstrate an ability to provide appropriate promotional and collateral material; i.e. advertisements, flyers, catalogs, etc.

(E) Official commemorative products may only be sold between January 1, 1985, and January 1, 1987.

(3) Proposals may include additional supportive material to assist the commission in its evaluation process.

(g) The commission may, at its discretion, revoke its sanction from an official commemorative product manufacturer or vendor which does not act in accordance with commission guidelines and policy.

(h) Any royalties, salaries, wages, fees, or other monetary benefits may not accrue directly or indirectly to a member of the commission for an official commemorative product sanctioned by the commission.

(i) Each selected official manufacturer shall, at no cost, provide at least two samples of the finished product to the State Library and Archives Commission for permanent retention.

(j) Locally sanctioned organizations may develop proprietary commemorative products using the logo, with the commission's approval in each instance. Display of the logo on such products shall incorporate the name of the respective community or organization.

(k) The commission may develop and sell educational and promotional materials in accordance with established bid procedures of the State Purchasing and General Services Commission. Products designated as educational or promotional are not subject to the guidelines for official commemorative products.

(l) The commission may award a special commemorative product license and sanction the use of the logo on certain limited edition products and/or cottage industry products which do not conflict with, duplicate, or diminish the value of exclusive official commemorative products. The technical, marketing, and financial criteria for these special products shall be the same as with official commemorative products.

(m) The commission and the State of Texas assume no liabilities and make no guarantees other than those which are expressly stated herein.

(n) Executive Order MW-8 affects state agencies purchasing goods and services by annually establishing small and minority business participation goals. Although the commission will not purchase commemorative products, in its evaluation process, it will attempt to follow the intent of Executive Order MW-8 by encouraging small and minority business participation in the program.

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-845185

Randy M. Lee  
Executive Director  
Texas Sesquicentennial  
Commission

Effective date: May 30, 1984

Proposal publication date: December 9, 1983

For further information, please call (512) 475-1986.

## TITLE 16. ECONOMIC REGULATION

### Part II. Public Utility Commission of Texas

#### Chapter 23. Substantive Rules Customer Service and Protection

##### 16 TAC §23.44

The Public Utility Commission of Texas adopts amendments to §23.44, without changes to the proposed text published in the March 30, 1984, issue of the Texas Register (9 TexReg 1794).

The amendments encourage fairer distribution of the cost of providing new water and sewer services, avoid misuse of utility capital through the overextension of system facilities, and help assure that consumers are

not asked to pay twice for the same facilities due to the subdivision of property.

The amendments give the provider of water or sewer services the option of including in its extension policy provisions requiring developers to provide contributions in aid of construction for increased demand on production, storage, treatment, or transmission facilities when a property is divided into five or more serviceable lots

No comments were received regarding adoption of the amendments; however, the commission did receive a letter requesting clarification of the proposed section's function and effective date. Willow Glen Estates, Inc., and Spring Valley Water Company asked if contracts made under existing tariffs would be modified by the adoption of the amendments. The commission assured the companies that the amendments had no effect on existing tariffs

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

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 10, 1984

TRD-845247      Rhonda Colbert Ryan  
Secretary of the Commission  
Public Utility Commission of  
Texas

Effective date: May 31, 1984  
Proposal publication date March 30, 1984  
For further information, please call (512) 458-0100.

## **TITLE 28. INSURANCE**

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

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

#### **General Provisions**

#### **Insurance Premium Finance**

##### **059.60.01.004**

The State Board of Insurance adopts an amendment to Rule 059 60 01 004, without changes to the proposed text published in the November 25, 1983, issue of the *Texas Register* (8 TexReg 4890).

The amendments require employees of insurance premium finance companies to be aware of the re-

quirements of the Insurance Code, Chapter 24, Texas Civil Statutes, Title 79, Chapter 3 and Chapter 4, as amended, the Federal Truth in Lending law, and Regulation Z as they pertain to insurance premium finance. The amendment specifically provides that the employees of insurance premium finance companies be familiar with the previously mentioned federal and state laws

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Insurance Code, Article 1.04(b) and Article 24.09, which empower the State Board of Insurance to adopt rules and regulations pertaining to insurance premium finance.

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 7, 1984.

TRD-845175      James W Norman  
Chief Clerk  
State Board of Insurance

Effective date: May 30, 1984  
Proposal publication date: November 25, 1983  
For further information, please call (512) 475-2950.

##### **059.60.01.008, .010, .011**

The State Board of Insurance adopts new Rules 059.60.01.008, .010, and .011, without changes to the proposed text published in the November 25, 1983, issue of the *Texas Register* (8 TexReg 4890).

The new sections specify various requirements and procedures relating to the Insurance Premium Finance Division of the State Board of Insurance. Rule .008 informs insurance premium finance companies of the law on escheat to assure that an insured's money will be held aside until such time as he is located. Rule .010 requires a premium finance company to give explanation of a loan denial to the insured and agent. Rule .011 prohibits the financing of motor club memberships which are not considered insurance premium.

No comments were received regarding adoption of the new sections.

The new sections are adopted under the Insurance Code, Article 1.04(b) and Article 24.09, which empower the State Board of Insurance to adopt rules and regulations pertaining to insurance premium finance.

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 7, 1984

TRD-845176      James W Norman  
Chief Clerk  
State Board of Insurance

Effective date: May 30, 1984  
Proposal publication date: November 25, 1983  
For further information, please call (512) 475-2950.

**Insurance Premium Finance  
Licensing**

**059.60.02.003**

The State Board of Insurance adopts the repeal of Rule 059.60.02.003, without changes to the proposal published in the November 18, 1983, issue of the *Texas Register* (8 TexReg 4797).

Rule 059.60.02.003 provides that any person holding a license under Chapter 3 could also become licensed with the Premium Finance Department of the State Board of Insurance by submitting a fee of \$100. This rule is unnecessary. Repeal of this rule will simplify the rules and minimize duplication of the law. This repeal will have no effect on any present practice or requirement of the board.

No comments were received regarding adoption of the repeal.

The repeal is adopted pursuant to the Insurance Code, Article 1.04(b) and Article 24.09, which grant the State Board of Insurance rule-making authority pertaining to insurance premium finance.

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 7, 1984.

TRD-845177 James W. Norman  
Chief Clerk  
State Board of Insurance

Effective date: May 30, 1984  
Proposal publication date: November 18, 1983  
For further information, please call (512) 475-2950.

**059.60.02.012**

The State Board of Insurance adopts an amendment to Rule 059.60.02.012, without changes to the proposed text published in the November 18, 1983, issue of the *Texas Register* (8 TexReg 4797).

The amendment lessens the work load in the Premium Finance Department office, allowing more time for examinations, which will better protect consumers.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Insurance Code, Article 1.04(b) and Article 24.09, which empower the State Board of Insurance to adopt rules and regulations pertaining to insurance premium finance.

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 7, 1984.

TRD-845178 James W. Norman  
Chief Clerk  
State Board of Insurance

Effective date: May 30, 1984  
Proposal publication date: November 18, 1983  
For further information, please call (512) 475-2950.

**059.60.03.002**

The State Board of Insurance adopts an amendment to Rule 059.60.03.002, without changes to the proposed text published in the November 18, 1983, issue of the *Texas Register* (8 TexReg 4798).

The amendment assures the borrower (insured) against a long period of delay between the time the application for insurance is made and the time he receives the loan payment information from a premium finance company. This will protect the borrower from cancellation due to nonpayment of the first installment.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Insurance Code, Article 1.04(b) and Article 24.09, which empower the State Board of Insurance to adopt rules and regulations pertaining to insurance premium finance.

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 7, 1984.

TRD-845179 James W. Norman  
Chief Clerk  
State Board of Insurance

Effective date: May 30, 1984  
Proposal publication date: November 18, 1983  
For further information, please call (512) 475-2950.

**059.60.05.001**

The State Board of Insurance adopts an amendment to Rule 059.60.05.001, without changes to the proposed text published in the November 18, 1983, issue of the *Texas Register* (8 TexReg 4799).

The amendment assures that the insured receives all refunds due. As presently worded, the rule is too restrictive, since an insurance policy can be cancelled for reasons other than nonpayment.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Insurance Code, Article 1.04(b) and Article 24.09, which empower the State Board of Insurance with the authority to adopt rules and regulations pertaining to insurance premium finance.

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 7, 1984.

TRD-845180 James W. Norman  
Chief Clerk  
State Board of Insurance

Effective date: May 30, 1984  
Proposal publication date: November 18, 1983  
For further information, please call (512) 475-2950.

**Power of Attorney****059.60.06.002-.004, .006**

The State Board of Insurance adopts amendments to Rules 059.60.06.002-.004, and .006, without changes to the proposed text published in the January 10, 1984, issue of the *Texas Register* (9 TexReg 274).

The amendments specify various requirements and procedures relating to the Premium Finance Division of the State Board of Insurance. Primarily, the rule changes clarify language on required forms to avoid confusion on the part of the insured, correct previous typographical errors, and conform the rules to recent statutory law changes. The amendment to Rule 059.60.06.004 is to conform to a change in the Insurance Code, Chapter 24.

One comment was received regarding adoption of the amendments. Utica National Insurance Group, Utica, New York, suggested, regarding Rule 059.60.06.004, that notice to an insurer of a premium finance agreement be by certified mail, return receipt requested. It also noted that if an insurer has not received notice of a premium finance agreement, it would not be possible for the insurer to return the unearned premium to an unknown entity within 120 days from the date of cancellation. Since Rule 059.60.06.004 reiterates existing law, the board is of the opinion that the suggestions of Utica National Insurance Group could only be implemented by legislative change.

The amendments are adopted under the Insurance Code, Article 1.04(b) and Article 24.09, which empower the State Board of Insurance to adopt rules and regulations pertaining to insurance premium finance.

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 7, 1984

TRD-845181      James W. Norman  
                         Chief Clerk  
                         State Board of Insurance

Effective date: May 30, 1984

Proposal publication date: January 10, 1984

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

**Books and Records****059.60.07.001, .005**

The State Board of Insurance adopts amendments to Rule 059.60.07.001 and Rule 059.60.07.005, without changes to the proposed text published in the November 18, 1983, issue of the *Texas Register* (8 TexReg 4799).

The amendment to Rule .001 specifies the types of information that must be in individual account records, such as the finance agreement, memorandum of agreement, notice of intent to cancel, notice of cancellation, and a complete account history. This information is needed to adequately examine insurance premium finance companies. The amendment to Rule

.005 specifies a period of four years rather than two years that insurance premium finance company records be retained for inspection, to be consistent with a change in law (House Bill 1758) made during the 1981 legislative session.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the authority of the Insurance Code, Article 1.04 (b) and Article 24.09, which empower the State Board of insurance with the authority to adopt rules and regulations pertaining to insurance premium finance.

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

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

TRD-845182      James W. Norman  
                         Chief Clerk  
                         State Board of Insurance

Effective date: May 30, 1984

Proposal publication date: November 18, 1983

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

**Annual Reports and Examinations****059.60.08.001, .003**

The State Board of Insurance adopts amendments to Rule 059.60.08.001 and Rule 059.60.08.003, without changes to the proposed text published in the January 10, 1984, issue of the *Texas Register* (9 TexReg 276).

The amendment to Rule 059.60.08.001 informs the Premium Finance Department of the activities of a premium finance company. The annual report is one document used in the examination of the premium finance company. The amendment to Rule 059.60.08.003 provides for the payment, by the premium finance companies, of all operating expenses of the Insurance Premium Finance Department of the State Board of Insurance.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Insurance Code, Article 1.04(b) and Article 24.09, which empower the State Board of Insurance to adopt rules and regulations pertaining to insurance premium finance.

This agency hereby certifies that the rules 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 7, 1984

TRD-845183      James W. Norman  
                         Chief Clerk  
                         State Board of Insurance

Effective date: May 30, 1984

Proposal publication date: January 10, 1984

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

**TITLE 40. SOCIAL SERVICES AND  
ASSISTANCE**

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

**Chapter 9. Food Stamps  
Subchapter 000. Replacement  
Procedures**

**40 TAC §9.7301**

The Texas Department of Human Resources adopts amendments to §9.7301, without changes to the proposed text published in the December 20, 1983, issue of the *Texas Register* (8 TexReg 5342). The section was amended to ensure greater clarity of policy for field staff.

No comments were received regarding the adoption of the amendments

The amendments are adopted under the Human Resources Code, Title 2, Chapter 22 and Chapter 33, which authorizes the department to administer public assistance programs

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 9, 1984

TRD-845172      Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Effective date May 31, 1984  
Proposal publication date December 20, 1983  
For further information, please call (512) 441-3355,  
ext 2037

**Chapter 69. Purchased Social  
Services**

**Subchapter J. Standards**

**40 TAC §§69.195, 69.196, 69.199,  
69.201-69.203**

The Texas Department of Human Resources adopts the repeal of §§69.195, 69.196, 69.199, and 69.201-69.203, without changes to the proposed text published in the February 14, 1984, issue of the *Texas Register* (9 TexReg 904)

The standards are either obsolete or they have been transferred to the department's community care for aged and disabled (CCAD) chapter

The repeal of the rules eliminates obsolete or duplicative material from the department's rules

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

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

Issued in Austin, Texas, on May 9, 1984

TRD-845171      Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Effective date May 31, 1984  
Proposal publication date February 14, 1984  
For further information, please call (512) 441-3355,  
ext 2037

**Chapter 79. Legal Services  
Subchapter M. Appeals Process**

**40 TAC §79.1207**

The Texas Department of Human Resources adopts an amendment to §79.1207, concerning notifying clients when assistance is terminated or reduced. The amendment is adopted based on final federal regulations.

Section 79.1207 is amended to specify that DHR may withhold assistance without a 10-day notice if a client who did not submit a status report admits to never having submitted one

The amendment is adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs. The amendment is adopted under federal requirements to be effective May 1, 1984

**§79.1207. Notice Requirement—Proposed Termination or Reduction of Assistance**

(a) (No change)

(b) Assistance or services may be withheld without the timely 10-day notice, but the department must send adequate notice not later than the date of action, if:

(1)-(8) (No change)

(9) The client fails to submit a correctly completed status report, and the household admits it did not submit the status report

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 9, 1984

TRD-845173      Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Effective date May 1, 1984  
Proposal publication date N/A  
For further information, please call (512) 441-3355  
ext. 2037



Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Although some notices may be received too late for publication before the meeting is held, all those filed are published in the *Register*. Notices concerning state agencies, colleges, and universities must contain the date, time, and location of the meeting, and an agenda or agenda summary. Published notices concerning county agencies include only the date, time, and location of the meeting. These notices are published alphabetically under the heading "Regional Agencies" according to the date on which they are filed.

Any of the governmental entities named above must have notice of an emergency meeting, or an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published. However, notices of emergency additions or revisions to a regional agency's agenda will not be published since the original agenda for the agency was not published.

All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol. These notices may contain more detailed agendas than space allows to be published in the *Register*.

# Open Meetings

## **Texas Aeronautics Commission**

**Wednesday, June 20, 1984, 10 a.m.** The Air Carrier Division of the Texas Aeronautics Commission will meet in Room 221, Anson Jones Building, 410 East Fifth Street, Austin. According to the agenda, the division will conduct a public hearing on the application of Air West Airlines, Ltd., for a Texas air carrier certificate of public convenience and necessity pursuant to Texas Civil Statutes, Article 46c-6, §3, and 43 TAC §63.1 and §63.11.

**Contact:** Thomas L. Butler, 410 East Fifth Street, Austin, Texas 78701, (512) 476-9262.

**Filed:** May 15, 1984, 9:16 a.m.  
TRD-845359

## **Texas Department of Agriculture**

**Tuesday, May 22, 1984, 10 a.m.** The Texas Department of Agriculture will meet in Room 930A, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the department will conduct a public hearing to receive comments on proposed amendments to the

Texas Administrative Code, concerning Texas weights and measures, which will adopt the National Bureau of Standards Handbook 44 (1984), titled *Specifications, Tolerances, and Other Technical Requirements for Measuring Devices*.

**Contact:** Patrick D. Redman, P.O. Box 12847, Austin, Texas 78711, (512) 475-6686.

**Filed:** May 11, 1984, 2:39 p.m.  
TRD-845315

## **Texas Commission on Alcoholism**

**Thursday and Friday, June 7 and 8, 1984, 9 a.m. daily.** The Continuation Review Committee of the Texas Commission on Alcoholism will meet in Room 1110, Joe C. Thompson Conference Center, 26th and Red River Streets, Austin. According to the agenda, the committee will consider continuation funding for projects currently funded by the commission.

**Contact:** Reta G. Bird, Sam Houston Building, Room 809, 201 East 14th Street, Austin, Texas 78701, (512) 475-2257.

**Filed:** May 11, 1984, 10:10 a.m.  
TRD-845259

## **Texas Board of Architectural Examiners**

**Monday, May 21, 1984, 9 a.m.** The Texas Board of Architectural Examiners will meet in Salon A, Wyndham Hotel, 2222 Stemmons Freeway, Dallas. Items on the agenda include approval of the minutes, reinstatements, revocation hearings, landscape architects, reciprocal licensing, examinations, alleged violations, rules and regulations, legislation, personnel, graphics, a joint policy statement, and the August 13, 1984, meeting.

**Contact:** Robert H. Norris, 8213 Shoal Creek Boulevard, #107, Austin, Texas 78758, (512) 458-1363.

**Filed:** May 11, 1984, 9:30 a.m.  
TRD-845256

## **Texas Corn Producers Board**

**Thursday, May 17, 1984, 9:30 a.m.** The Texas Corn Producers Board of the Texas Department of Agriculture met in emergency session at 218 East Bedford, Dimmitt. Items on the agenda included food grade

## Texas Register

corn contracts, funding for research, legal use of check-off funds against nuclear waste disposal, and correspondence from the Texas Pest Management Association. The emergency status was necessary because of an immediate need to determine planting acreage for food grade corn contracts.

**Contact:** Carl L. King, 218 East Bedford, Dimmitt, Texas 79027, (806) 647-4224.

**Filed:** May 14, 1984, 10:44 a.m.  
TRD-845331

### Texas Department of Corrections

**Monday, May 14, 1984, 8 a.m.** The Board of the Texas Department of Corrections made emergency additions to the agenda of a meeting held in Room 103, Administration Building, 815 11th Street, Huntsville. The additions concerned agenda Item I.E., relating to inmate affairs—funding of unit recreation areas from E&R funds, Item IX.F., relating to the legal section—a request for a utility rate schedule change; and an executive session meeting. The emergency status was necessary because the executive session originally scheduled for Sunday, May 13, 1984, was canceled due to lack of a quorum, and Item I.E. and Item IX.F. were developed by a court order subsequent to original posting.

Emergency addition to the previous agenda:

Consideration of agenda Item I.F., relating to inmate affairs—funding of Ellis I and Coffield Recreation Pilot from E&R funds. The emergency status was necessary because Item I.F. was developed subsequent to original posting of the meeting.

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

**Filed:** May 11, 1984, 10:11 a.m.  
TRD-845260, 845261

### Texas Employment Commission

**Tuesday, May 22, 1984, 9 a.m.** The Texas Employment Commission (TEC) will meet in Room 644, TEC Building, 15th Street and Congress Avenue, Austin. According to the agenda summary, the commission will consider prior meeting notes and internal procedures of the Office of Commission Appeals, consider and act on higher level appeals in unemployment compensation

cases on Docket 21, and set the date of the next meeting.

**Contact:** Courtenay Browning, TEC Building, Room 608, 15th Street and Congress Avenue, Austin, Texas, (512) 397-4415.

**Filed:** May 14, 1984, 3:44 p.m.  
TRD-845355

**Wednesday, May 23, 1984, 9 a.m.** The Texas Employment Commission (TEC) rescheduled a meeting to be held in Room 630, TEC Building, 15th Street and Congress Avenue, Austin. According to the agenda, the commission will conduct a review of quality control, forms, and standards for reviewing cases in the Office of Commission Appeals regarding higher authority appeals of claims for unemployment compensation. The meeting was originally scheduled for May 10, 1984, as published at 9 TexReg 2462.

**Contact:** Courtenay Browning, TEC Building, Room 608, 15th Street and Congress Avenue, Austin, Texas, (512) 397-4415.

**Filed:** May 10, 1984, 3:39 p.m.  
TRD-845244



### Commission on Fire Protection Personnel Standards and Education

**Thursday, May 17, 1984, 10:30 a.m.** The Committee for Aircraft Crash and Rescue Standards of the Commission on Fire Protection Personnel Standards and Education met in emergency session in the conference room, third floor, Irving Fire Department, 825 West Irving Boulevard, Irving. According to the agenda, the committee reviewed input received from public hearings on aircraft crash and rescue fire fighter certification requirements. The committee needed to draft a proposal for submission to the full commission at a special called commission meeting in the near future. The emergency status was necessary because, for the benefit of public safety, the standards are urgently needed before September 1, 1984, as mandated by House Bill 594.

**Contact:** Ray L. Goad, 510 South Congress Avenue, Austin, Texas, (512) 474-8066

**Filed:** May 14, 1984, 4:44 p.m.  
TRD-845357

### Texas Health Facilities Commission

**Thursday, May 24, 1984, 1:30 p.m.** The Texas Health Facilities Commission will meet in Suite 305, Jefferson Building, 1600 West 38th Street, Austin. According to the agenda summary, the commission will consider the following applications.

#### Certificates of Need

Garland Community Hospital, Garland  
AH83-0714-040

Forest Central Surgi-Center, Dallas  
AS83-0706-024

North Texas Day Surgery Center  
AS83-0927-180

St. David's Community Hospital, Austin  
AH84-0104-009

Columbus Community Hospital,  
Columbus  
AH84-0118-040

Amendment of Certificate of Need Order  
Northwest Texas Hospital, Amarillo  
AH76-1220-018A(111984)

Consideration of Alleged Violation  
Northwest Texas Hospital, Amarillo  
E84-0402-034

**Contact:** John R. Neel, P.O. Box 50049, Austin, Texas 78763, (512) 475-6940.

**Filed:** May 14, 1984, 9:38 a.m.  
TRD-845326

### University of Houston System

**Friday, May 11, 1984, 10:30 a.m.** The Executive Committee of the Board of Regents of the University of Houston System met in emergency session in Room 510, Enterprise Bank Building, 4600 Gulf Freeway, Houston. According to the agenda, the committee discussed and/or approved the conferring of honorary degrees prior to commencement on May 12, 1984. The emergency status was necessary to get approval of the conferring of honorary degrees prior to commencement on May 12, 1984.

**Contact:** Patricia A. Bailey, 4600 Gulf Freeway, Suite 500, Houston, Texas 77023, (713) 749-7545.

**Filed:** May 10, 1984, 10:40 a.m.  
TRD-845197

### Texas Indian Commission

**Wednesday and Thursday, June 6 and 7, 1984, 1 p.m. and 8:30 a.m. respectively.** The Texas Indian Commission will meet at the Tigua Indian Reservation Cultural Center,

El Paso. According to the agenda summary, the commission will consider the Tigua and Alabama/Coushatta Indian Reservations, commission administration, and other business.

**Contact:** Raymond D. Apodaca, 9434 Viscount, Suite 122, El Paso, Texas 79925, (915) 591-4461.

**Filed:** May 14, 1984, 11:31 a.m.  
TRD-845336

**State Board of Insurance**

**Tuesday, May 22, 1984, 9 a.m.** The Commissioner'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 in Docket 7615—whether the Group I legal reserve life insurance agent's license held by Miguel Zuniga and the local recording agent's license held by Miguel Zuniga and/or Miguel Zuniga Insurance Agency should be canceled or revoked.

**Contact:** Tom I. McFarling, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-1076.

**Filed:** May 14, 1984, 11:35 a.m.  
TRD-845341

**Tuesday, May 22, 1984, 10 a.m.** The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. According to the agenda, the board will consider the commissioner's and fire marshal's reports (both including personnel matters) and board orders on several different matters

**Contact:** Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

**Filed:** May 14, 1984, 3:54 p.m.  
TRD-845356

The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Austin. Days, times, rooms, and dockets follow

**Wednesday, May 23, 1984, 9 a.m.** In Room 342, Docket 7717—application of Fortune National Corporation to acquire control of American Capitol Insurance Company and American Underwriters Life Insurance Company, Houston

**Contact:** J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353

**Filed:** May 14, 1984, 11:36 a.m.  
TRD-845342

**Wednesday, May 23, 1984, 9 a.m.** In Room 353, Docket 7720—application of John

Michael Crawford, Brenham, for a legal reserve life insurance agent's license.

**Contact:** John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

**Filed:** May 14, 1984, 11:36 a.m.  
TRD-845343

**Thursday, May 24, 1984, 9 a.m.** In Room 342, Docket 7616—whether the certificate of authority held by the Home Insurance Company, Manchester, New Hampshire, should be canceled or revoked.

**Contact:** John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

**Filed:** May 14, 1984, 11:36 a.m.  
TRD-845344

**Thursday, May 24, 1984, 9 a.m.** In Room 353, Docket 7721—application of Timothy Ray Munn, Tyler, for a solicitor for local recording agent's license.

**Contact:** J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

**Filed:** May 14, 1984, 11:36 a.m.  
TRD-845345

**Thursday, May 24, 1984, 1:30 p.m.** In Room 342, Docket 7614—application for articles of agreement of Southwest American Lloyds Insurance Company, Dallas.

**Contact:** J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

**Filed:** May 14, 1984, 11:36 a.m.  
TRD-845346

**Friday, May 25, 1984, 9 a.m.** In Room 342, Docket 7722—approval of the articles of agreement of F&G Lloyds of Texas, San Antonio

**Contact:** J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

**Filed:** May 14, 1984, 11:36 a.m.  
TRD-845347

**Friday, May 25, 1984, 1:30 p.m.** In Room 342, Docket 7725—application of Dennis James Kavanagh, Grapevine, for a legal reserve life insurance agent's license.

**Contact:** J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

**Filed:** May 14, 1984, 11:36 a.m.  
TRD-845348

**Commission on Jail Standards**

**Wednesday, May 23, 1984, 9 a.m.** The Commission on Jail Standards will meet in Room 206, Texas Law Center, 1414 Colorado Street, Austin. According to the agen-

da summary, the commission will read and approve the March 25, 1984, minutes; hear the director's report; consider old business concerning Carson, Collingsworth, Dawson, Galveston, Hays, Hemphill, Nolan, Palo Pinto, and Waller Counties, new business concerning Blanco, Culberson, Kendall, and Randall Counties; applications for variance for Brazos and Moore Counties; other business; and inmate voting. The commission also will meet in executive session.

**Contact:** Robert O. Viterna, 411 West 13th Street, Suite 900, Austin, Texas 78701, (512) 475-2716.

**Filed:** May 11, 1984, 2:35 p.m.  
TRD-845317

**Texas Department of Labor and Standards**

**Tuesday, May 15, 1984, 9 a.m.** The Manufactured Housing Division of the Texas Department of Labor and Standards met in emergency session in Room 105, E. O. Thompson Building, 920 Colorado Street, Austin. According to the agenda, the division considered license and registration revocations, suspensions, and alleged violations of various rules and regulations of the department. The emergency status was necessary to consider the possible violation of the Texas Manufactured Housing rules, which jeopardize individual safety and the public's welfare

**Contact:** John Steele, P.O. Box 12157, Austin, Texas 78711, (512) 475-4721.

**Filed:** May 14, 1984, 9:32 a.m.  
TRD-845325

**Lamar University**

**Monday, May 14, 1984, 4 p.m.** The Board of Regents of Lamar University met at the home of W. Donham Crawford, 104 West Caldwell, Beaumont. According to the agenda, the board met in executive session to review personnel

**Contact:** Andrew J. Johnson, P.O. Box 10014, Beaumont, Texas 77710, (409) 838-8403.

**Filed:** May 11, 1984, 1:23 p.m.  
TRD-845281

**Library Systems Act Advisory Board**

**Tuesday, June 5, 1984, 10 a.m.** The Library Systems Act Advisory Board will meet in

## Texas Register

Room 202, Lorenzo de Zavala Archives and Library Building, 12th and Brazos Streets, Austin. According to the agenda, the board will consider an appeal from the Laredo Public Library concerning the loss of system membership and designating its library director as a professional librarian as defined in the Library Systems Act, an appeal from the South Texas Library System advisory board chairman concerning federated library system vote entitlement, and the criteria for a system membership of academic, special, and school libraries.

**Contact:** Patricia Smith, P.O. Box 12927, Austin, Texas 78711, (512) 475-4119.

**Filed:** May 11, 1984, 2:38 p.m.  
TRD-845316

### State Board of Morticians

**Thursday, May 17, 1984, 10 a.m.** The State Board of Morticians met in emergency session via conference call originating from 1513 IH 35 South, Austin. According to the agenda summary, the board will reconsider action taken on Robert Holt's application for reinstatement and consider the adoption of Federal Trade Commission rules as board rules. The emergency status was necessary because this meeting was requested by legal counsel for pending litigation.

**Contact:** John W. Shocklee, 1513 IH 35 South, Austin, Texas 78741, (512) 442-6721.

**Filed:** May 14, 1984, 2:10 p.m.  
TRD-845349

### Texas National Guard Armory Board

**Saturday, May 19, 1984, 1 p.m.** The Texas National Guard Armory Board will meet in the conference room, Building 64, Camp Mabry, Austin. According to the agenda summary, the board will consider administrative and fiscal matters and facility construction, remodeling, and renovation.

**Contact:** Donald J. Kerr, P.O. Box 5218, Austin, Texas 78763, (512) 451-6394

**Filed:** May 11, 1984, 10:12 a.m.  
TRD-845262

### Board of Pardons and Paroles

**Tuesday-Friday, May 29-June 1, 1984, 1:30 p.m. daily.** A three-member panel of the Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the panel

will receive, review, and consider information and reports concerning prisoner/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate action.

**Contact:** Mike Roach, 8610 Shoal Creek Boulevard, Austin, Texas, (512) 459-2713.

**Filed:** May 14, 1984, 11:26 a.m.  
TRD-845333

### State Pension Review Board

**Friday, May 25, 1984, 10 a.m.** The State Pension Review Board will meet in Room 206 and Room 207, second floor, Tex Law Center, 1414 Colorado Street, Austin. According to the agenda summary, the board will hear and discuss the consideration of the 1986-87 budget request.

**Contact:** Benette Meadows, Employees Retirement System Building, Room 501, 18th and Brazos Streets, Austin, Texas, (512) 475-8332.

**Filed:** May 14, 1984, 2:49 p.m.  
TRD-845350

### Public Utility Commission of Texas

The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. Days, times, and dockets follow.

**Wednesday, May 23, 1984, 1:30 p.m.** A prehearing in Docket 5648—petition of Doris M. Shiflet to terminate water service.

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

**Filed:** May 14, 1984, 11:32 a.m.  
TRD-845337

**Monday, June 4, 1984, 10 a.m.** A second prehearing conference in Docket 5655—application of Green Valley Water Supply Corporation for a cease and desist order against the City of Schertz

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

**Filed:** May 14, 1984, 11:31 a.m.  
TRD-845338

**Monday, July 23, 1984, 10 a.m.** A hearing on the merits in Docket 5655—application of Green Valley Water Supply Corporation for a cease and desist order against the City of Schertz

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

**Filed:** May 14, 1984, 11:31 a.m.  
TRD-845339

**Monday, July 30, 1984, 10 a.m.** A hearing in Docket 5700—application of El Paso Electric Company for authority to change rates.

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

**Filed:** May 14, 1984, 11:32 a.m.  
TRD-845340

### State Purchasing and General Services Commission

**Tuesday, May 22, 1984, 9:30 a.m.** The State Purchasing and General Services Commission will meet in Room 916, LBJ Building, 111 East 17th Street, Austin. According to the agenda, the commission will adopt new 1 TAC §115.12 regarding applicability of the National Fire Codes for all state buildings under the commission's jurisdiction and control, review multiple award term contracts, propose a start-up phase to replace DEC-10 computer equipment, consider informational items concerning status report construction projects of the William B. Travis Building and the John H. Winters Human Services Center, consider monthly reports, and set a time and date for the next meeting. The commission will also meet in executive session to consider concurrence of action taken to negotiate the purchase of Gammon Properties and consider a status report on acquisition of TEC properties.

**Contact:** Homer A. Foerster, P.O. Box 13047, Austin, Texas 78711, (512) 475-2211 or STS 822-2211

**Filed:** May 14, 1984, 2:55 p.m.  
TRD-845351

### Railroad Commission of Texas

**Monday, May 21, 1984, 9 a.m.** Divisions of the Railroad Commission of Texas will meet in Room 309, 1124 IH 35 South, Austin. Divisions and agendas follow.

The Administrative Services Division will consider and act on the division director's report on division administration, budget, procedures, and personnel matters

**Contact:** Roger Dillon, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1211

**Filed:** May 11, 1984, 2:16 p.m.  
TRD-845283

The Automatic Data Processing Division will consider and act on the division director's report on division administration, budget, procedures, equipment acquisitions, and personnel matters

**Contact:** Bob Kmetz, P O Drawer 12967, Austin, Texas 78711, (512) 445-1204

**Filed:** May 11, 1984, 2:16 p.m.  
TRD-845284

The Flight Division will consider and act on the division director's report on division administration, budget, procedures, and personnel matters

**Contact:** Ken Fossler, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1103.

**Filed:** May 11, 1984, 2:18 p.m.  
TRD-845285

The Gas Utilities Division will consider various matters falling within its regulatory jurisdiction

**Contact:** Lucia Sturdevant, P O Drawer 12967, Austin, Texas 78711, (512) 475-0461

**Filed:** May 11, 1984, 2:18 p.m.  
TRD-845286

Addition to the previous agenda.

Consideration of Gas Utilities Docket 4523—statement of intent filed by Seagull Energy Corporation to change rates to Valero Transmission Company

**Contact:** Lucia Sturdevant, P O Drawer 12967, Austin, Texas 78711, (512) 475-0461

**Filed:** May 11, 1984, 2:14 p.m.  
TRD-845287

The Office of Information Services will consider and act on the division director's report on division administration, budget, procedures, and personnel matters

**Contact:** Brian W Schaible, P O Drawer 12967, Austin, Texas 78711

**Filed:** May 11, 1984, 2:15 p.m.  
TRD-845288

The LP-Gas Division will consider and act on the division director's report on division administration, budget, procedures, and personnel matters

**Contact:** Thomas D Petru, P O Drawer 12967, Austin, Texas 78711

**Filed:** May 11, 1984, 2:17 p.m.  
TRD-845289

The Oil and Gas Division will consider various matters falling within the Railroad

Commission's oil and gas regulatory jurisdiction.

**Contact:** Liz Nauert, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1307.

**Filed:** May 11, 1984, 2:16 p.m.  
TRD-845290

Addition to the previous agenda

Consideration of category determinations under the Natural Gas Policy Act of 1978, §§102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108

**Contact:** Madalyn J Girvin, P O. Drawer 12967, Austin, Texas 78711, (512) 445-1209

**Filed:** May 11, 1984, 2:16 p.m.  
TRD-845291

The Personnel Division will consider and act on the division director's report on division administration, budget, procedures, and personnel matters

**Contact:** Herman L. Wilkins, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1120.

**Filed:** May 11, 1984, 2:17 p.m.  
TRD-845292

The Office of Research and Statistical Analysis will consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

**Contact:** Gail Gemberling, P.O. Drawer 12967, Austin, Texas 78711

**Filed:** May 11, 1984, 2:15 p.m.  
TRD-845293

The Office of the Special Counsel will consider and act on the division director's report relating to pending litigation, state and federal legislation, and other budget, administrative, and personnel matters

**Contact:** Walter Earl Lille, 1124 IH 35 South, Austin, Texas 78701, (512) 445-1186.

**Filed:** May 11, 1984, 2:18 p.m.  
TRD-845294

The Surface Mining and Reclamation Division will consider approval of the permit application revision submitted by the Lower Colorado River Authority (LCRA) for its Powell Bend Mine in Docket 16-A, protestors' request for an oral argument, the bonding requirements for the revision: by the LCRA for its Powell Bend Mine in Docket 16-A, and approval of the permit revision, and consider and act on the division director's report on division administration, budget, procedures, and personnel matters

**Contact:** J. Randel (Jerry) Hill, 105 West Riverside Drive, Austin, Texas, (512) 475-8751.

**Filed:** May 11, 1984, 2:18 p.m.  
TRD-845295

The Transportation Division will consider various matters falling within the commission's transportation regulatory jurisdiction.

**Contact:** Sandy Yates, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1330.

**Filed:** May 11, 1984, 2:42 p.m.  
TRD-845296

### **Texas Savings and Loan Department**

**Thursday, May 24, 1984, 9 a.m.** The Texas Savings and Loan Department rescheduled a meeting to be held at 1004 Lavaca Street, Austin. According to the agenda summary, the department will conduct a hearing to accumulate a record of evidence in regard to the application of Tesoro Savings and Loan Association, Laredo, for a branch office at 1100 North Main Street, San Antonio, from which record the commissioner shall determine whether to grant or deny this application. The meeting originally was scheduled for April 2, 1984, as published at 9 TexReg 1828

**Contact:** Russell R Oliver, 1004 Lavaca Street, Austin, Texas 78701, (512) 475-7991

**Filed:** May 11, 1984, 3:27 p.m.  
TRD-845311

**Friday, May 25, 1984, 9 a.m.** The Texas Savings and Loan Department will meet at 1004 Lavaca Street, Austin. According to the agenda summary, the department will conduct a hearing to accumulate a record of evidence in regard to the application of Sun Savings Association for a charter to be located at the Northwest Corner of Fannin and Old Spanish Trail, Houston, from which record the commissioner shall determine whether to grant or deny this application

**Contact:** Russell R Oliver, 1004 Lavaca Street, Austin, Texas 78701, (512) 475-7991

**Filed:** May 11, 1984, 3:26 p.m.  
TRD-845312

### **Texas State Soil and Water Conservation Board**

**Thursday, May 17, 1984, 8 a.m.** The Texas State Soil and Water Conservation Board made emergency additions to the agenda of a meeting held at 1006 First National Building, Temple. The additions concerned consideration of 1984 fiscal year matching fund

## Texas Register

allocations and personnel matters. The emergency status was necessary because immediate action was needed on these matters.

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

**Filed:** May 11, 1984, 11:37 a.m.  
TRD-845280

### Texas State Technical Institute

**Sunday and Monday, May 20 and 21, 1984, 1 p.m. and 9:15 a.m. respectively.** The Policy Committees of the Board of Regents of Texas State Technical Institute (TSTI) will meet at the Resource Center, TSTI-Amarillo, Amarillo. According to the agenda summary, the committees will sign authorizations and consider the sale of excess properties, lease agreements, new construction projects, the operating budget for fiscal year 1985, operating plans for foundations, and other business

**Contact:** Theodore A Talbot, Texas State Technical Institute, Waco, Texas 76705, (817) 799-3611, ext. 3910

**Filed:** May 14, 1984, 11.30 a.m.  
TRD-845335

### Texas Tech University

**Friday, May 11, 1984, 9 a.m.** The Campus and Building Committee of the Board of Regents of Texas Tech University made an emergency addition to the agenda of a meeting held in Room 202, Administration Building, Texas Tech University campus, Lubbock. The emergency addition concerned authorization for the president to award a construction contract to repair the brick on the architecture building. The emergency status was necessary because bricks were falling off the architecture building and needed immediate repair.

**Contact:** Freda Pierce, P O Box 4039, Lubbock, Texas 79409, (806) 742-2161.

**Filed:** May 10, 1984, 4:15 p.m.  
TRD-845245

### Texas Water Commission

**Monday, May 14, 1984, 2 p.m.** The Texas Water Commission met in emergency session in Room 118, Stephen F Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission considered a request by E I Du Pont de Nemours and Company—Sabine River

Works (Permit WDW-207 and Permit WDW-132) for emergency orders, Orange County. The emergency status was necessary because existing wells WDW-54 and WDW-55 were plugging and needed to be reworked, and the applicant indicated that this situation represented an imminent and substantial endangerment to the environment and an economic loss, and the commission agreed to consider the request as soon as possible.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** May 11, 1984, 2:26 p.m.  
TRD-845298

The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Days, times, and agendas follow.

**Tuesday, May 22, 1984, 10 a.m.** The commission will consider water district bonds, a change order, surplus funds, release from escrow, authorization to continue standby wastewater service charge, certification of water rights, water quality proposed permits, amendments and renewals, waste disposal well permits, examiner's proposals for decision, adjudication matters, contractual permits, watermaster operations, involuntary cancellation, and the filing and setting of hearing dates

**Wednesday, May 23, 1984, 2 p.m.** Application 4237 of the City of Stephenville, *et al*, for a Water Code Section 11 121 permit for the construction of a dam and reservoir on the Paluxy River, Brazos River Basin, in Somervell and Hood Counties

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** May 11, 1984, 10:23 a.m.  
TRD-845299, 845264

**Wednesday, May 30, 1984, 9:30 a.m.** The Texas Water Commission will meet in Room 124A, Stephen F Austin Building, 1700 North Congress Avenue, Austin. According to the agendas, the commission will conduct hearings on the following applications.

Application TA-4923 of Olmos Construction Company for a permit to divert and use 15 acre-feet of water for three years from Onion Creek, tributary of the Colorado River, Colorado River Basin, for industrial purposes in Travis County.

Application TA-4933 of Dan R Anderson for a permit to divert and use 90 acre-feet of water for a one-year period from the San Antonio River, San Antonio River Basin, for irrigation purposes in Karnes County.

Application TA-4919 of Louis T. Schatte for a permit to divert and use 82 acre-feet of water for a one-year period from Rabbs Creek, tributary of the Colorado River, Colorado River Basin, for irrigation purposes in Lee County.

Application TA-4920 of Louis T. Schatte for a permit to divert and use 44 acre-feet of water for one year from Rabbs Creek, tributary of the Colorado River, Colorado River Basin, for irrigation purposes in Lee County.

Application TA-4924 of Durwood Greene for a permit to divert and use 140 acre-feet of water for a one-year period from the San Marcos River, tributary of the Guadalupe River, Guadalupe River Basin, for irrigation purposes in Guadalupe County.

Application TA-4932 of Thomas Edling for a permit to divert and use 10 acre-feet of water for a one-year period from Caney Creek, tributary of Matagorda Bay, Brazos-Colorado Coastal Basin, for irrigation purposes in Matagorda County.

Application TA-4922 of Zapata Water Control and Improvement District 1 for a permit to divert and use 50 acre-feet of water for one year from the Rio Grande, Rio Grande Basin, for mining purposes in Zapata County

Application TA-4921 of Gleneagles Country Club for a permit to divert and use 498 acre-feet of water for one year from an unnamed tributary of White Rock Creek and White Rock Creek, tributary of the Trinity River, Trinity River Basin, for irrigation purposes in Collin County.

Application TA-4918 of Texoma Pipeline Company for a permit to divert and use 300 acre-feet of water for a one-year period from the Neches River, Neches River Basin, for industrial purposes in Jefferson County.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** May 11, 1984, 10:22 a.m.  
TRD-845265-845273

**Monday, June 25, 1984, 10 a.m.** The Texas Water Commission will meet in Room 124A, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agendas, the commission will conduct hearings on the following applications.

Application 4253A of the City of Fort Worth seeking an amendment to Permit 3933 to change the location of the authorized dam and reservoir on the West Fork Trinity River, tributary of the Trinity River, Trinity River Basin, with a resultant capac-

ity of 57 acre-feet of water for recreational purposes in Tarrant County.

Application 2626A of R R Sherwood and wife, Margaret S. Sherwood, J D Sherwood, and Sonya Thrasher seeking an amendment to Permit 2395 to increase the number of reservoirs authorized from two to four on an unnamed tributary of Sanders Creek, tributary of the Red River, Red River Basin, for irrigation purposes in Lamar County, and to increase the authorized diversion from Reservoir 2 and Reservoir 3 to 100 acre-feet of water per annum and to increase the acreage to be irrigated to 100 acres per annum

**Contact:** Mary Ann Hefner, P O Box 13087, Austin, Texas 78711, (512) 475-4514

**Filed:** May 11, 1984, 10:21 a m.  
TRD-845274, 845275

The Texas Water Commission will conduct hearings in the Stephen F Austin Building, 1700 North Congress Avenue, Austin Days, times, rooms, and agendas follow

**Wednesday, June 27, 1984, 10 a.m.** In Room 118, petition for the creation of Harris County Municipal Utility District 263, containing 322 175 acres of land.

**Contact:** Mary Ann Hefner, P O Box 13087, Austin, Texas 78711, (512) 475-4514

**Filed:** May 14, 1984, 10:48 a m  
TRD-845332

**Friday, June 29, 1984, 10 a.m.** In Room 124A, Application 4449 of Garrett Ranch, Inc , John Travis (Jacko) Garrett, Jr , and wife, Nancy D. Garrett, seeking a permit to divert and use 2,977 acre-feet of water per annum directly from Austin Bayou, tributary of Bastrop Bayou, tributary of Intracoastal Canal, San Jacinto-Brazos Coastal Basin, for irrigation purposes in Brazoria County

**Contact:** Mary Ann Hefner, P O Box 13087, Austin, Texas 78711, (512) 475-4514

**Filed:** May 11, 1984, 10 20 a m  
TRD-845276

**Monday, July 2, 1984, 10 a.m.** The Texas Water Commission will meet in Room 124A, Stephen F Austin Building, 1700 North Congress Avenue, Austin According to the agendas, the commission will conduct hearings on the following applications

Application 4451 of Floyd L Gun seeking a permit to divert and use 102 acre-feet of water per annum directly from the Brazos River, Brazos River Basin, for irrigation use in Brazos County.

Application 4450 of the United States Army Corps of Engineers, Fort Worth District, seeking a permit to construct and maintain a proposed dam and five acre-foot capacity reservoir in the old channel of the Lampasas River (immediately downstream of Stillhouse Hollow Dam), tributary of the Lampasas River, tributary of the Little River, tributary of the Brazos River, Brazos River Basin, for recreational purposes in Bell County

**Contact:** Mary Ann Hefner, P.O Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** May 11, 1984, 10:20 a m  
TRD-845278, 845277

### **West Texas State University**

**Wednesday, May 23, 1984, 9 a.m.** The Board of Regents of West Texas State University will meet in Room 211, Virgil Henson Physical Activities Center, West Texas University, Canyon Items on the agenda summary include an activities center name amendment, a contract with Gary Moss; assignment of judgments (defaulted federal loans), authority for the president to amend the code of student life, traffic and parking regulations, and confirmation of revisions; an amendment to the bylaws of the Board of Regents, business and finance items concerning changes to the 1983-1984 operating budget, construction contracts, contract change orders, advertisements for bids, a legislative appropriation request for 1986-1987, and adoption of the 1984-1985 operating budget, a proposal by the South Randall County Hospital District to modify an existing easement granted by the university; and faculty, staff, and curriculum items The board will also meet in executive session as authorized by Texas Civil Statutes, Article 6252-17, §2f and §2g

**Contact:** Texas Smith, West Texas State University, Canyon, Texas 79016, (806) 656-3962.

**Filed:** May 15, 1984, 9:16 a.m.  
TRD-845358

### **Regional Agencies Meetings Filed May 10**

**The Atascosa County Appraisal District,** Board of Directors, met at 1010 Zanderson, Jourdanton, on May 17, 1984, at 1:30 p m Information may be obtained from Vernon A Warren, 1010 Zanderson, Jourdanton, Texas 78026, (512) 769-2730

**The Dallas Area Rapid Transit Authority,** Service Plan/Work Program Committee, submitted a revised agenda for a meeting held at 601 Pacific Avenue, Dallas, on May 11, 1984, at 1:30 p m The Board met in Room 6ES, City Hall, 1500 Marilla, Dallas, on May 15, 1984, at 6:30 p m Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 748-3278

**The Hamilton Appraisal District** met at the Hamilton County Courthouse, Hamilton, on May 17, 1984, at 7 p m Information may be obtained from Doyle Roberts, P O Box 446, Hamilton, Texas 76531, (817) 386-8418

**The Mental Health and Mental Retardation Authority of Brazos Valley,** Board of Trustees, met at 3232 Briarcrest Drive, Bryan, on May 17, 1984, at 1 30 p.m Information may be obtained from Ann Pye-Shively, Ph D., 707 Texas Avenue South, Suite 225-C, College Station, Texas, 77840, (409) 696-8585

**The Northeast Texas Municipal Water District** Board of Directors, met at the Northeast Texas Municipal Water District Water Treatment Plant, intersection of Highway 155 and Highway 729, Marion County, on May 17, 1984, at 11 a m Information may be obtained from Homer Tanner, P O Box 680, Daingerfield, Texas 75638, (214) 645-2241

**The Tyler County Tax Appraisal District,** Board of Directors, met at 1004 West Bluff, Woodville, on May 17, 1984, at 2 p.m. Information may be obtained from Mary F Mann, 1004 West Bluff, Woodville, Texas 75979, (409) 283-3736  
TRD-845198

### **Meetings Filed May 11**

**The Bexar Appraisal District,** Appraisal Review Board, will meet at 535 South Main, San Antonio, on May 21, 23, and 25, 1984, at 8:30 a m daily Information may be obtained from Bill Burnette, 535 South Main, San Antonio, Texas 78204, (512) 224-8511.

**The Dallas Area Rapid Transit Authority,** Budget and Finance Committee met at 601 Pacific Avenue, Dallas, on May 14, 1984, at 4 p m The authority met in Room 6ES, City Hall, 1500 Marilla, Dallas, on May 15, 1984, at 4 p m Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 748-3278

**The Region III Education Service Center,** Board of Directors, will meet at 1905 Leary Lane, Victoria, on May 21, 1984, at 1 p.m. Information may be obtained from Dennis Grizzle, 1905 Leary Lane, Victoria, Texas 77901, (512) 573-0731

**The Jack County Appraisal District,** Board of Directors, met at the Los Creek Building, 258 South Main, Jacksboro, on May 15, 1984, at 7 p.m. Information may be obtained from Doris G. Ray or Linda McSpadden, 258 South Main, Jacksboro, Texas 76056, (817) 567-6301 or 567-6302.

**The Central Appraisal District of Johnson County,** Board of Directors, will meet at 109 North Main Street, Cleburne, on May 23, 1984, at 7:30 p.m. Information may be obtained from Don Gilmore, 109 North Main Street, Cleburne, Texas 76031, (817) 645-3986

**The Appraisal District of Jones County,** Board of Directors, met at 1137 East Court Plaza, Anson, on May 17, 1984, at 9 a.m. Information may be obtained from John Steele, P.O. Box 348, Anson, Texas 79501, (915) 823-2422.

**The Limestone County Appraisal District,** Board of Directors, met at the Limestone County Courthouse, Groesbeck, on May 16, 1984, at 7 p.m. Information may be obtained from Clydene Hyden, P.O. Drawer 831, Groesbeck, Texas 76642, (817) 729-3009.

**The Middle Rio Grande Development Council,** Private Industry Council, will meet in the Reading Room, Civic Center, Uvalde, on May 22, 1984, at 1 p.m. Information may be obtained from Rodolfo Tristan, 200 East Nopal, Suite 211, Uvalde, Texas 78801, (512) 278-2527

**The Nolan County Central Appraisal District,** Board of Directors, met in Suite 305B, Nolan County Courthouse, 100 East Third Street, Sweetwater, on May 16, 1984, at 1:15 p.m. The board submitted a revised

agenda for the same meeting. The board also met at the same location on the same day at 2 p.m. Information may be obtained from Patricia Davis, P.O. Box 1256, Sweetwater, Texas 79556, (915) 235-8421.

**The North Texas Municipal Water District,** Board of Directors, will meet at 505 East Brown Street, Wylie, on May 24, 1984, at 4 p.m. Information may be obtained from Carl W. Riehn, Drawer C, Wylie, Texas 75098, (214) 442-5405

**The Tyler County Tax Appraisal District,** Board of Directors, met in emergency session at 1004 West Bluff, Woodville, on May 14, 1984, at 2 p.m. Information may be obtained from Mary F. Mann, 1004 West Bluff, Woodville, Texas 75979, (409) 283-3736.

TRD-845263

#### Meetings Filed May 14

**The Austin-Travis County Mental Health and Mental Retardation Center,** Board of Trustees, Personnel Committee, met in the board room, 1430 Collier Street, Austin, on May 17, 1984, at 5:30 p.m. Information may be obtained from Gay F. Chase, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141

**The Central Texas Council of Governments,** Central Texas Private Industry Council, will meet at 302 East Central, Belton, on May 23, 1984, at 1:30 p.m. The Executive Committee will meet at the same location on May 24, 1984, at 12:45 p.m. Information may be obtained from Walton B. Reedy, P.O. Box 729, Belton, Texas 76513, (817) 939-1801

**The Region VIII Education Service Center,** Board of Directors, will meet at 100 North Riddle Street, Mount Pleasant, on May 24, 1984, at 7 p.m. Information may be ob-

tained from Scott Ferguson, 100 North Riddle Street, Mount Pleasant, Texas 75455, (214) 572-8551.

**The Henderson County Appraisal District,** Appraisal Review Board, met in emergency session at 101 East Corsicana, Athens, on May 17, 1984, at 9 a.m. Information may be obtained from Linda Hagar, 101 East Corsicana, Athens, Texas, (214) 675-9296.

**The Lampasas County Appraisal District** will meet at 403 East Second, Lampasas, on May 18, 1984, at 3 p.m., and filed an addition to the agenda. Information may be obtained from Dana Ripley, P.O. Box 175, Lampasas, Texas 76550

**The Leon County Central Appraisal District,** Board of Directors, met in emergency session at the Leon County Courtroom, Centerville, on May 14, 1984, at 7:30 p.m. Information may be obtained from Mabel Watson, P.O. Box 536, Centerville, Texas 75833, (214) 536-2252

**The Palo Pinto Appraisal District,** Board of Review, will meet at the Palo Pinto County Courtroom, Palo Pinto, on May 22, 1984, at 1:30 p.m. Information may be obtained from Edna Beaty, Palo Pinto County Courtroom, Palo Pinto, Texas, (817) 659-3651, ext 234

TRD-845330

#### Meeting Filed May 15

**The San Jacinto River Authority,** Board of Directors, will meet in the conference room, Timberlock Place, Building 1, The Woodlands, on May 22, 1984, at 1:15 p.m. Information may be obtained from Jack K. Ayer, P.O. Box 329, Conroe, Texas, (409) 588-1111.

TRD-845360



The *Register* is required by statute to publish applications to purchase control of state banks (filed by the banking commissioner); notices of rate ceilings (filed by the consumer credit commissioner); changes in interest rate and applications to install remote service units (filed by Texas Savings and Loan commissioner), and consultant proposal requests and awards (filed by state agencies, regional councils of government, and the Texas State Library and Archives Commission).

In order to aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows. This often includes applications for construction permits (filed by the Texas Air Control Board), applications for amendment, declaratory ruling, and notices of intent (filed by the Texas Health Facilities Commission), applications for waste disposal permits (filed by the Texas Water Commission), and notices of public hearing.

# In Addition

## Texas Department of Agriculture Consultant Proposal Request

In compliance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Agriculture is requesting proposals for the services of a consultant.

**Proposal Specifications.** A market news reporter is sought to direct and coordinate the seasonal reporting of market news information on the Texas fruit and vegetable industries. The position requires comprehensive data to be submitted to the agency on the demand, movement, pricing, grading quality, and other factors relevant to the Texas fruit and vegetable industries. The position also requires extensive travel in the south Texas area and general knowledge of the national and Texas fruit and vegetable industries.

**Contact.** Written proposals are to be submitted to Ben Delgado, Marketing Administrator, Texas Department of Agriculture, P. O. Box 12847, Austin, Texas 78711.

**Deadline for Proposals.** Proposals must be received at the previously specified address no later than 5 p. m. on June 29, 1984.

**Evaluation Criteria.** Proposals will be judged on the basis of a resume or vita which describes and shows evidence of professional expertise and experience in marketing, strong written and oral communications skills, prior experience in market news reporting, and a demonstrated ability to work independently and with diverse groups. Finalists will be contacted by telephone if additional information is needed to make the final evaluation, and to schedule interviews as necessary.

**Contract Award.** The contract will be awarded to the individual who best meets the qualifications.

**Notice of Contract Award.** The notice of contract award will be sent to the consultant selected and will be by letter which will be issued not later than July 13, 1984.

Issued in Austin, Texas, on May 8, 1984

TRD-845166      Patrick D. Redman  
Agency Liaison  
Texas Department of Agriculture

Filed May 9, 1984

For further information, please call (512) 475-6686

## Office of the Attorney General Request for Public Comments

The Antitrust Division of the Office of the Attorney General is currently reviewing the pending acquisition of Gulf Corporation by Standard Oil Company of California for its effects on competition in the State of Texas under the Texas Free Enterprise and Antitrust Act of 1983, Texas Business and Commercial Code, §15.01 *et seq.*, (1984).

All interested parties are invited to submit written comments on this proposed legislation to the Antitrust Division, Office of the Attorney General, P. O. Box 12548, Austin, Texas 78711-2548. Please submit comments no later than 30 days from the publishing of this notice.

Issued in Austin, Texas, on April 19, 1984

TRD-845167      Rick Gilpin  
Chairman  
Opinions Committee  
Office of the Attorney General

Filed: May 9, 1984

For further information, please call (512) 475-5445

**Banking Department of Texas  
Applications to Acquire Control of  
State Banks**

Texas Civil Statutes, Article 342-401a, require any person who intends to buy control of a state bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On April 13, 1984, the banking commissioner received an application to acquire control of the American Bank, Houston, by Joseph F. Archer, James H. Bray, DVM, Robert R. Franklin, MD, John W. Hazard, M. David Introligator, Charles M. Neff, Jr., Guy J. Robertson, Sr., J. Victor Samuels, and Richard P. Schissler, Jr., all of Houston, and Layton B. Wilson, Austin.

On May 8, 1984, notice was given that the application would not be denied.

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

Issued in Austin, Texas, on May 8, 1984  
TRD-845169 Archie P. Clayton III  
General Counsel  
Banking Department of Texas

Filed May 9, 1984  
For further information, please call (512) 475-4451

On May 8, 1984, the banking commissioner received an application to acquire control of North Texas Bank & Trust, Gainesville, by Richard C. Klement, Gainesville.

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

Issued in Austin, Texas, on May 8, 1984  
TRD-845170 Archie P. Clayton III  
General Counsel  
Banking Department of Texas

Filed May 9, 1984  
For further information, please call (512) 475-4451

**Texas Department of Community  
Affairs  
Contract Adjustment**

In the September 16, 1983, issue of the *Texas Register* (8 TexReg 3707, *et seq.*), the Texas Department of Community Affairs (TDCA) announced that the firm of Stanley, Wade, and Broome had been awarded a contract for the period of September 1, 1983-June 30, 1984, for the purpose of providing auditing/evaluation services under the Job Training Partnership Act (JTPA) Program. The business address of Stanley, Wade, and Broome is 1101 Capital of Texas Highway, Building E, Suite 100, Austin, Texas 78746.

The total cost of auditing/evaluation services to be performed under this contract was originally estimated to be \$200,000; however, in its consultant proposal request which appeared in the July 22, 1983, issue of the *Texas Register* (8 TexReg 2779, *et seq.*), the TDCA expressly reserved the right to register and execute amendments to the resulting contract to extend the period of performance or to obligate additional funds as the TDCA determined necessary to comply with United States Department of Labor (USDOL) requirements and to ensure the effective transition of administrative responsibilities to the state under the JTPA Program.

To comply with USDOL directives and complete the auditing/evaluation services necessary to ensure effective transition of administrative responsibilities to the state under the JTPA Program, the TDCA has determined that it will be necessary to obligate an additional \$60,000 under the contract. The maximum obligation of the TDCA under the previously described contract, as adjusted, shall not exceed \$260,000.

For further information, please contact Natalia Sanchez, Director, Management Audit Division, 2015 IH 35 South, Austin, Texas 78741, (512) 443-4100, ext. 350.

Issued in Austin, Texas, on May 10, 1984  
TRD-845279 Douglas C. Brown  
General Counsel  
Texas Department of Community Affairs

Filed May 11, 1984  
For further information, please call (512) 443-4100, ext. 210

**Office of Consumer Credit  
Commissioner  
Rate Ceilings**

The consumer credit commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

Type of Rate Ceilings Effective Period (Dates are Inclusive)	Consumer <sup>(1)</sup> Agricultural/Commercial <sup>(4)</sup> thru \$250,000	Commercial <sup>(4)</sup> over \$250,000
Indicated (Weekly) Rate—Article 1.04(a)(1) 05/21/84-05/27/84	20.75%	20.75%
Monthly Rate— Article 1.04(c)(1) 05/01/84-05/31/84	19.70%	19.70%
Standard Quarterly Rate—Article 1.04(a)(2) 04/01/84-06/30/84	18.27%	18.27%
Retail Credit Card Quarterly Rate— Article 1.11 <sup>(3)</sup> 04/01/84-06/30/84	18.27%	N/A

Type of Rate Ceilings Effective Period (Dates are Inclusive)	Consumer <sup>(3)</sup> Agricul- tural/Commercial <sup>(4)</sup> thru \$250,000	Commercial <sup>(4)</sup> over \$250,000
Lender Credit Card Quarterly Rate— Article 15 02(d) <sup>(1)</sup> 04/01/84-06/30/84	18.27%	N/A
Standard Annual Rate— Article 1 04(a)(2) <sup>(2)</sup> 04/01/84-06/30/84	18.27%	18.27%
Retail Credit Card Annual Rate— Article 1 11 <sup>(3)</sup> 04/01/84-06/30/84	18.27%	N/A
Annual Rate Applica- ble to Pre-July 1, 1983, Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from 04/01/84-06/30/84	18.00%	N/A
Judgment Rate— Article 1 05, §2 06/01/84-06/30/84	10.00%	10.00%

- (1) For variable rate commercial transactions only
- (2) Only for open end credit as defined in Texas Civil Statutes, Article 5069 101(f)
- (3) Credit for personal family, or household use
- (4) Credit for business, commercial investment, or other similar purpose

Issued in Austin, Texas, on May 14, 1984

TRD-845324 Sam Kelly  
Consumer Credit Commissioner

Filed May 14, 1984  
For further information, please call (512) 475-2111

## Texas Education Agency Consultant Proposal Request

This request is filed pursuant to the provisions of Texas Civil Statutes, Article 6252-11c

The Texas Education Agency (TEA) is requesting proposals to assist in the continuing development of public school finance information and analysis systems. The selected consultant will be required to design recommendations for computerized analyses of public school finance issues as specified by TEA staff, assist in the further development of public school finance models currently maintained by the TEA, provide training and support to the Division of Information Analysis of the TEA, and prepare analyses of specific public school finance issues

Selection of a consultant will be judged on the basis of the experience of the consultant in Texas public school finance analysis and the consultant's ability to perform timely work.

It is the intent of the TEA to continue using the services of the consultant who is presently being retained by the

agency, unless a better offer is received from a person possessing the necessary qualifications and experience to provide the requested services.

Additional information regarding this request for services may be obtained by calling or writing Dr. James L. Hill, Deputy Commissioner for Agency Administration, Texas Education Agency, 201 East 11th Street, Austin, Texas 78701, (512) 475-4789

Written proposals will be accepted until 5 p.m. on June 21, 1984.

The estimated time frame for the project is June 22, 1984-August 31, 1985

Issued in Austin, Texas, on May 10, 1984  
TRD-845246 Raymon L Bynum  
Commissioner of Education

Filed: May 10, 1984  
For further information, please call (512) 475-7077

## 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

South Texas Rural Health Services, Inc., and  
United Neighborhoods Organization, Carrizo  
Springs

AS83-0816-112A(050784)

CN/AMD—Request for an amendment of Certificate of Need AS83-0816-112, which authorized the certificate holder to establish a rural health initiative clinic through the completion of an existing 1,344-square foot building at the intersection of 17th and Eaton Streets in Carrizo Springs. The certificate holder proposes to relocate the project to an existing 1,500-square foot building at 504 Pena Street, Carrizo Springs. The proposed site is approximately one mile from the approved site.

Southeast Dallas Associates for Day Surgery  
Center of Southeast Dallas, Inc., Dallas

AS83-0729-069A(050484)

CN/AMD—Request for an amendment of Certificate of Need AS83-0729-069, which authorized the certificate holder to lease, equip, and operate a 9,447-square foot ambulatory surgical center. The certificate holder requests a site relocation from the originally approved site at 9202 Elam Road, Dallas, to a site located in the 9700 block of Bruton Road, Dallas; an extension of the completion deadline from July 1, 1985, to October 1, 1985; and a decrease in the total project cost from \$2,461,290 to \$2,081,576.

Harris Hospital—Methodist, Fort Worth

AH83-0518-514A(050884)

CN/AMD—Request for an amendment of Certificate of Need AH83-0518-514, which authorized the certificate holder to acquire, install, and operate a Diasonics nuclear magnetic resonance equipment system in a 5,500-square foot facility to be constructed adjacent to the hospital. The certificate holder requests a site relocation from the originally approved site at the corner of Pruitt Street and Sixth Avenue to the Harris Professional Office Building/Parking Garage located between Southlake Street and Fifth Avenue, a reduction in the total square feet from 5,500 to 3,700, and a reduction in the total project cost from \$2,558,300 to \$2,200,218.

Methodist Hospitals of Dallas for Methodist  
Central Hospital, Dallas

AH80-0115-015A(042084)

CN/AMD—Request for an extension of the completion deadline from April 30, 1984, to December 31, 1984, in Certificate of Need AH80-0115-015, which authorized the certificate holder to construct a 93,000-square foot connected structure adjacent to Methodist Central Hospital's core building to contain 108 private patient rooms, a 26-bed critical care unit, an emergency department, a cardiac catheterization lab, physicians' facilities, and administrative support areas.

Richard Coughlin, Killis Melton, and Clyde Geer,  
a to-be-formed Subchapter S corporation,  
McKinney

AN84-0507-284

NIEH—Request for a declaratory ruling that a cer-

tificate of need is not required for a to-be-formed Subchapter S corporation composed of Richard Coughlin, Killis Melton, and Clyde Geer to acquire by purchase University Nursing Center, an existing 112-bed ICF nursing facility located in McKinney, from RBL Management Company, Inc.

Centro del Barrio, Inc.—Community Health  
Center, San Antonio

AO84-0504-282

DR—Request for a declaratory ruling that a certificate of need is not required for Centro del Barrio, Inc.—Community Health Center to establish a satellite clinic which would provide the same services as those available at the main clinic to residents of Villa Coronado and the surrounding community. The satellite clinic will be located at 811 West Hutchins, San Antonio.

Issued in Austin, Texas, on May 14, 1984

TRD-845327

John R. Neel  
General Counsel  
Texas Health Facilities  
Commission

Filed: May 14, 1984

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

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

As required by Texas Civil Statutes, Article 6252-11c, the following consultant proposal request is filed:

**Notice of Invitation.** The State Department of Highways and Public Transportation (SDHPT) is seeking 1,000 man hours of computer software analysis, design, and programming from June 25, 1984-December 31, 1984, to design, develop, and document COBOL and NATURAL programs for the department's materials and supply management system. Knowledge of IBM Job Control Language, COBOL, Core Dumps, and IBM OS, plus two years NATURAL and ADABAS experience, is required. Since this is a continuation of work in progress, it is the department's intention to award this contract to Ira Dobrow, consultant, unless a better offer is submitted.

**Agency Contact.** Additional information regarding this request may be obtained by contacting Scott Burford, Automation Division, State Department of Highways and Public Transportation, (512) 465-7540.

**Response Date.** To be considered, proposals must arrive at the Automation Division office, 38th Street and Jackson Avenue, Austin, or be received at the State Department of Highways and Public Transportation, 11th and Brazos Streets, Austin, Texas 78701, on or before June 20, 1984. In mailing proposals, contractors should allow normal mail delivery time to ensure timely receipt of their proposals.

**Selection Criteria.** Proposals will be reviewed by Automation Division technical staff on the basis of the pro-

poser's demonstrated competence, technical qualifications, and fee. Final selection will be made by the director of the Automation Division.

Issued in Austin, Texas, on May 9, 1984

TRD-845258 Diane L. Northam  
Administrative Technician  
State Department of Highways  
and Public Transportation

Filed May 11, 1984

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

## State Board of Insurance Public Hearing

The State Board of Insurance gives notice of a public hearing to be held at 9 a.m. on Thursday, May 31, 1984, in the hearing room, DeWitt C. Greer Building, 11th and Brazos Streets, Austin. The hearing is to consider amendments to the *Texas Basic Manual of Rules, Classifications, and Rates for Workers' Compensation and Employers' Liability Insurance* (Rule 059 05 55 001), and the workers' compensation uniform policy, standard provisions for workers' compensation and employers' liability policies (Rule 059 05 57 001), by substituting the simplified workers' compensation and employers' liability policy information page and endorsements proposed by the National Council on Compensation Insurance and reviewed by an advisory committee appointed by the board to review and make recommendations respecting the proposal to be effective July 1, 1984.

The proposed simplified workers' compensation and employers' liability policy was specifically designed to have a more modern format, better readability, and to embrace the "new language" concept throughout. The substantive changes are elimination of exclusion (e) (injury by disease three-year limitation in the old policy), inclusion of the dual capacity rule (part two, B 1), inclusion of consequential bodily injury coverage (part two, B 4), and a Texas amendatory endorsement conforming the uniform policy to Texas usage.

The hearing will be held under the authority of the Insurance Code, Article 5 96, appropriate portions of Rules 059 01 04 001-008, the rules of practice and procedure before the State Board of Insurance and commissioner of insurance, and appropriate provisions of Rules 059 05 96 001-004, which in part implement the Insurance Code, Article 5 96.

Issued in Austin, Texas, on May 11, 1984

TRD-845321 James W. Norman  
Chief Clerk  
State Board of Insurance

Filed May 11, 1984

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

## Public Utility Commission of Texas Consultant Contract Award

This consultant contract award is filed under the provisions of Texas Civil Statutes, Article 6252-11c. The consultant proposal request was published in the February 17, 1984, issue of the *Texas Register* (9 TexReg 1303).

The project requires the selected contractors to provide technical reviews of technical assistance reports (detailed, comprehensive energy efficiency engineering studies of institutional buildings) submitted to the Energy Efficiency Division of the Public Utility Commission of Texas as part of Grant Cycle VI of the Institutional Conservation Program.

The consultants selected to perform the services are Bywaters and Associates, 8609 Northwest Plaza Drive, #436, Dallas, Texas 75225, and Energy Systems, 11901 Hamrich Court, Austin, Texas 78759.

The total value of the contracts is \$64,110, and the contract periods extend from May 7, 1984-June 30, 1984.

Final evaluation results for the technical assistance reports reviewed are due June 5, 1984. A final report on the review process is due June 30, 1984.

Issued in Austin, Texas, on May 10, 1984

TRD-845248 Rhonda Colbert Ryan  
Secretary of the Commission  
Public Utility Commission of  
Texas

Filed May 10, 1984

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

## Consultant Proposal Requests

This request for proposals is filed under the provisions of Texas Civil Statutes, Article 6252-11c.

The Public Utility Commission of Texas (PUC) is seeking a management consulting firm to conduct a management and operational audit of the fuel affiliate companies of Texas Utilities Electric Company (TUEC). The audit should focus on the management and operations of the affiliate companies, Texas Utilities Mining Company (TUMCO), and Texas Utilities Fuel Company (TUFECO). However, the scope of the audit should include all fuel and fuel supply relationships between TUEC and any of its affiliate companies. Although this is a limited scope, focused audit, it is assumed that it will be necessary to analyze the fuel affiliates in the context of their relationship with the TUEC.

On January 1, 1984, three affiliated operating utilities, Dallas Power and Light, Texas Power and Light, and Texas Electric Service Company merged into and became the operating divisions of the TUEC. The TUEC is the principal subsidiary of Texas Utilities Company.

In 1983, the total fuel consumed by the three companies for electric generation was 744,541,214 million Btu. Of this amount, 42.9% was gas, 55.4% was lignite, and 1.7% was oil. Most of this fuel was supplied by TUFECO and what is now TUMCO.

Texas Utilities Fuel Company owns a natural gas pipeline system, acquires, stores, and delivers fuel gas, and provides other fuel services for the generation of electricity by the TUEC. It has approximately 115 employees. Texas Utilities Mining Company owns and operates fuel production facilities for the surface mining and recovery of lignite at TUEC's three mine-mouth plant operations: Big Brown, Martin Lake, and Monticello. Texas Utilities Mining Company has approximately 2,600 employees.

Written acknowledgement of interest in making a proposal must be made by May 25, 1984. A proposal conference will be held on June 1, 1984. Interested consultants should contact Richard Greffe, Manager of Management Studies, Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0338 for a complete copy of the request for proposal. Proposals will be due on or before July 3, 1984.

All proposals received shall be subject to evaluation by a committee of qualified PUC personnel for the purpose of selecting the proposal which most closely meets the requirements of the RFP. The following areas of consideration will be used in making the selection.

**Understanding of the Problem.** This refers to the contractor's understanding of the commission and utility needs that generated the RFP, the agency's objective in asking for the services or undertaking the study, and the nature and scope of the work involved.

**Professional Personnel.** This refers to the competence of the professional personnel who would be assigned to the job by the contractor. Qualifications of professional personnel will be measured by education and experience, with particular reference to experience on studies similar to that described in the RFP.

**Contractor Qualifications.** This includes the ability of the contractor to meet the terms of the RFP, including the time constraint, and the quality, relevancy, and recency of studies and projects completed by the contractor. Technical expertise and management and operational auditing techniques, knowledge of the utility industry, and independence with respect to present and historical utility company relationships will be considered.

**Soundness of Approach.** Emphasis here is on the techniques for collecting and analyzing data, sequence and relationships of major steps, and methods of managing the study.

**Cost.** While this area will be weighed heavily, it will not necessarily be the deciding factor in the selection process.

Issued in Austin, Texas, on May 9, 1984

TRD-845243 Rhonda Colbert Ryan  
Secretary of the Commission  
Public Utility Commission of  
Texas

Filed: May 10, 1984

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

In accordance with the provisions of Texas Civil Statutes, Article 6252-11c, the Public Utility Commission of Texas (PUC) issues this invitation for proposals for consulting services. The commission seeks proposals from quali-

fied firms, institutions, groups, or individuals to develop programs for the Energy Resource Center for Texas schools. The Energy Resource Center was authorized by the 68th Legislature, 1983, and is operated by the Energy Efficiency Division of the commission. Programs of the center will promote wise use and efficient management of energy in Texas schools. This request for proposals seeks to identify a contractor to develop classroom materials, including energy education curricula, activities, and teacher resource materials. The materials will be tied to the essential elements of traditional disciplines as outlined by the statewide curriculum revisions. In addition, the contractor will develop workshops for teachers on energy sources, resources, and activities which are geared to the traditional disciplines. Workshops must meet all Texas Education Agency guidelines for in-service education and will be delivered on request by the contractor through established educational organizations and service centers. Contractor selection will be based on specific criteria outlined in the bid specifications; final selection will be made by a review committee.

Bid specifications and additional information regarding this request for proposals may be obtained by contacting Jane Anaejonu, Energy Efficiency Division, Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, (512) 458-0304.

To be considered, written proposals must arrive at the PUC office no later than 3 p.m. on June 15, 1984. Proposals arriving after 3 p.m. will not be accepted. Five copies of the proposal should be sent to the Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, Attention: Sandy Becker, Bid Identification #SV-4-0131. Bid identification number and the date filed should be clearly marked on the outside of the proposal package.

Issued in Austin, Texas, on May 10, 1984

TRD-845310 Rhonda Colbert Ryan  
Secretary of the Commission  
Public Utility Commission of  
Texas

Filed: May 11, 1984

For further information, please call (512) 458-0304

## Railroad Commission of Texas Public Hearing

The Railroad Commission of Texas will conduct a public hearing on the application of Energy Transportation Systems, Inc., (ETSI) Pipeline Project, for a certificate of public convenience and necessity to transport coal by pipeline through the following counties: Lipscomb, Hemphill, Wilbarger, Wichita, Archer, Young, Jack, Palo Pinto, Hood, Somervell, Bosque, McLennan, Bell, Milam, Lee, Fayette, Roberts, Hutchinson, Carson, Potter, Randall, Castro, Lamb, Gonzales, Guadalupe, Wilson, Bexar, Colorado, Austin, and Fort Bend Counties.

The public hearing will be held at 9 a m on June 5-8, 1984, at the Potter County Commissioners Courtroom, 517 South Taylor, Amarillo, Texas 79101

The hearing will begin on the date previously set forth and proceed until completion. All parties and interested persons desiring to participate in the hearing of this application should appear at the designated time and location and be prepared to go forward.

The hearing will be limited to issues pertaining to the location, physical characteristics, and effects of the proposed pipeline in Potter, Randall, Carson, and Hutchinson Counties. No other issues will be considered by this hearing, and the hearing will be limited to those affected counties.

Motions to intervene for the purpose of gaining party status will be entertained by the examiners at the start of the hearing. Persons wishing to intervene should be prepared to state the basis for their intervention.

The examiners will allow nonparty members of the public to make brief statements on the record before evidence is taken. Only parties will be allowed to present testimony, sponsor witnesses or exhibits, or cross-examine witnesses.

The application of Energy Transportation Systems, Inc., and supplemental information requested by the examiners are available for public inspection with the county judges for Potter, Randall, Carson, and Hutchinson Counties, as well as with the commission at its Austin offices.

The public hearing will be conducted in compliance with the general and special rules of practice and procedure before the Transportation Division.

For further information, please contact Stephen P Webb, Hearing Examiner, Transportation Division, Railroad Commission of Texas, P O Drawer 12967, Austin, Texas 78711, (512) 445-1336.

Issued in Austin, Texas, on May 11, 1984.

TRD-845297      Walter Earl Lille  
Special Counsel  
Railroad Commission of Texas

Filed May 11, 1984  
For further information, please call (512) 445-1186

## **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 May 9, 1984, the savings and loan commissioner received an application for approval of the acquisition of control of First Savings and Loan Association of Odessa by R O'Neal Gray, Thomas M Pauszek, and Raymond E. Francis, all of Dallas.

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 11, 1984.

TRD-845313      Russell R Oliver  
General Counsel  
Texas Savings and Loan  
Department

Filed: May 11, 1984  
For further information, please call (512) 475-7991.

## **Texas Sesquicentennial Commission Public Information**

The Texas Sesquicentennial Commission is requesting proposals from manufacturers interested in producing and distributing commemorative products for the celebration of Texas' 150th anniversary of independence in 1986.

Based upon such criteria as product quality, adherence to the theme of the Sesquicentennial, and its track record for marketing and production, a single manufacturer will be chosen for each of some 25 categories. The categories include a medallion, flag, "patriot kit" for schoolchildren, spur, belt buckle, boots, hat, ring, map, metal object, fine art print, ceramic object, pistol, rifle, knife, art poster, reproductions of early Texas currency and other artifacts, and Texana, an open category for uniquely Texan objects not fitting into another category, to be suggested by applicants.

The items will be distributed through officially-sanctioned Texas Independence Communities and Texas Independence Associations, which are allowed to sell the products to help finance their Sesquicentennial projects.

Interested manufacturers may contact the Texas Sesquicentennial Commission for a copy of the specifications for bid submittal at P O Box 1986, Austin, Texas 78767, before 5 p m. on August 31, 1984.

All proposals submitted must conform to commission specifications. Incomplete applications will not be considered.



## **Texas Surplus Property Agency Public Meeting**

The Port of Port Arthur Navigation District of Jefferson County, in cooperation with the Texas Surplus Property Agency and the General Services Administration, Federal Supply Services, will hold a public meeting at 9 a.m. on Wednesday, May 30, 1984, in the City Council Chambers, City Hall, 444 Fourth Street, Port Arthur, Texas 77640.

The purpose of the public meeting is to present for open discussion the proposed, tentatively awarded, and federally owned surplus large auxiliary floating drydock (AFDB-5) by donation from the Texas Surplus Property Agency, an agency of the State of Texas, to the Port of Port Arthur Navigation District of Jefferson County.

Prepared statements as well as questions or informal comments are welcome. To allow everyone present an opportunity to be heard, it is respectfully requested that

prepared statements be typed, and 50 copies be submitted at the public meeting, for distribution to affected agencies and the news media; and oral comments be limited to five minutes or less, if possible, to allow all to be heard, and for an adequate question-and-answer period. Prepared statements can be submitted by mail, if desired, addressed to Dow Wynn, Port Director and General Manager, Port of Port Arthur Navigation District, P O Box 1428, Port Arthur, Texas 77640, (409) 938-2011.

Final assessment of the proposal will be made by the General Services Administration in June 1984 after this public meeting. It is therefore important that interested parties be present at this public meeting to make their views known.

Issued in San Antonio, Texas, on May 10, 1984

TRD-845318      Marvin J. Titzman  
Executive Director  
Texas Surplus Property Agency

Filed: May 11, 1984

For further information, please call (512) 661-2381



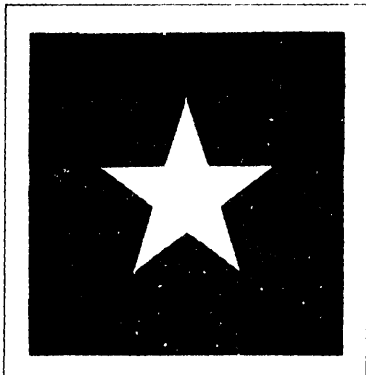
Second Class Postage

**PAID**

Austin, Texas

and additional entry offices

75365212 DATE-AGENCY  
TEXAS STATE LIBRARY  
PUBLICATIONS CLEARINGHOUSE  
LIBRARY AND ARCHIVES BLDG  
AUSTIN TX 78711  
303



Please enter my subscrip-  
tion to the *Texas Register*  
as indicated below. (I will  
look for my first issue in  
about two weeks.)

- 1 year (100 issues) \$70
- 6 months (50 issues) \$50
- Payment enclosed
- Bill me

For information concerning the  
*Texas Register*, please call (512)  
475-7886, or write to PO Box  
13824, Austin, Texas 78711-3824

Please make checks payable to  
the Secretary of State. Subscrip-  
tion fees are not refundable.

To order a new subscription, or to indicate a change  
of address, please use this form. When notifying us  
of an address change, please attach the mailing  
label from the back of a current issue. Questions  
concerning existing subscriptions should also in-  
clude the subscription number from the mailing  
label.

You may also use this form to request back issues  
of the *Texas Register*. Please specify the exact dates  
and quantities of the issues requested. Each copy of  
a back issue is \$2.00.

Change of Address  
(Please attach mailing label)

Back issues requested  
(Please specify dates)

\_\_\_\_\_  
Name

\_\_\_\_\_  
Organization

\_\_\_\_\_  
Occupation

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip Code

\_\_\_\_\_  
For office use only