

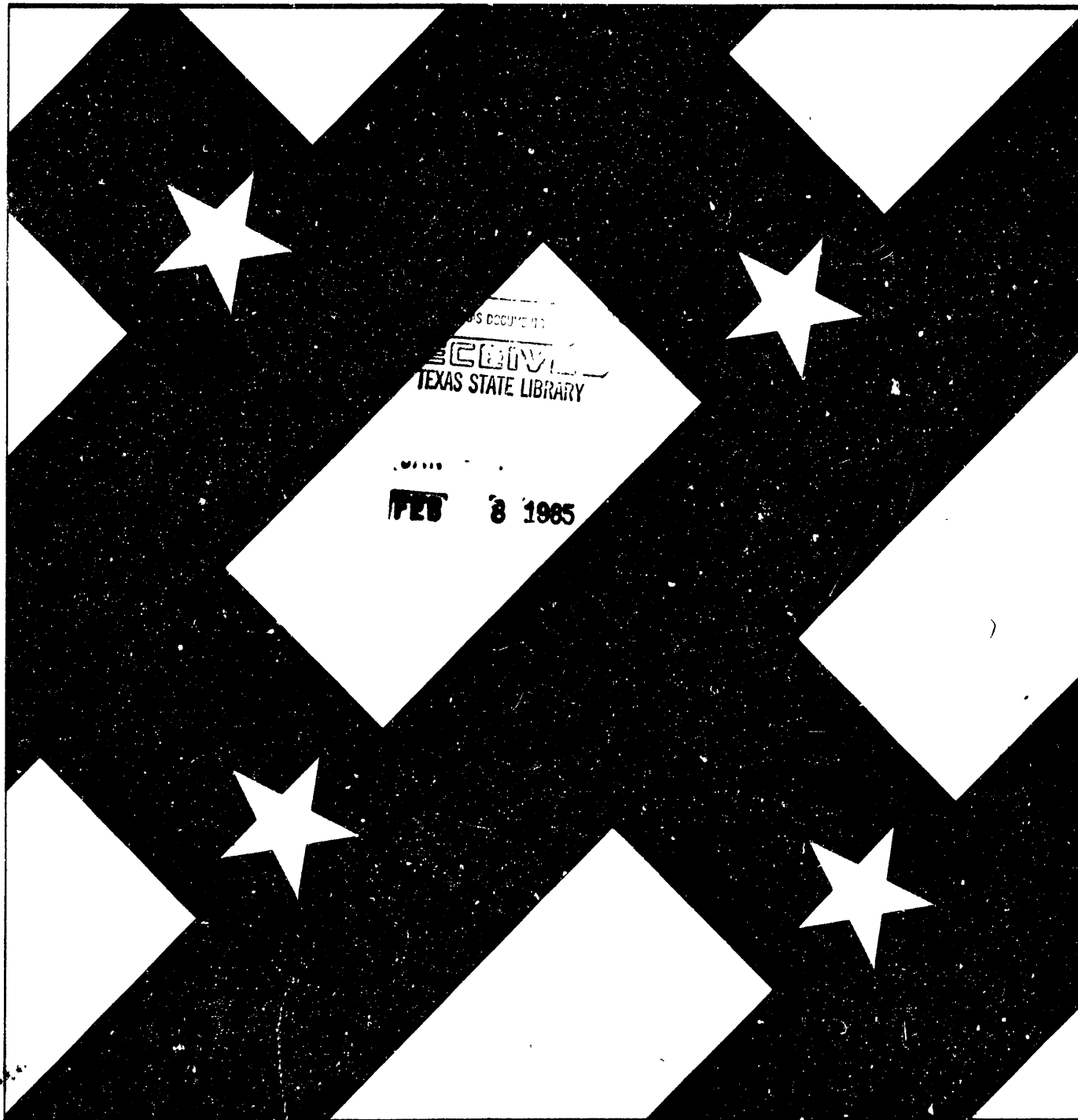
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# Texas Register

Volume 10, Number 10

Pages 355 - 440



## Highlights

The **Texas Education Agency** proposes a new section concerning the teacher career ladder  
 Proposed date of adoption - March 9 **page 361**

The **Employees Retirement System of Texas** proposes an amendment concerning eligibility

and effective dates of dependent coverage  
 Earliest possible date of adoption - March 8 **page 387**

The **State Department of Highways and Public Transportation** proposes new sections concerning road utility districts  
 Earliest possible date of adoption - March 8 **page 391**

**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 1985 with the exception of June 25, July 9, August 30, December 3, and December 31, by the Office of the Secretary of State.

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**Information Available:** The 10 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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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 "10 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 10 TexReg 3."

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

## Texas Administrative Code

The *Texas Administrative Code* (TAC) is the approved, collected volumes of Texas administrative rules.

**How To Cite:** Under the TAC scheme, each agency rule is designated by a TAC number. For example, in the citation 1 TAC §27.15:

1 indicates the title under which the agency appears in the *Texas Administrative Code*.

TAC stands for the *Texas Administrative Code*.

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



## Texas Register Publications

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**Description of attorney general submissions.** 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.

### Requests for Opinions

**RQ-475.** Request from Leonard W. Peck, Jr., Texas Department of Corrections, Huntsville, concerning whether documents relating to polygraph examinations of an inmate of the Texas Department of Corrections are excepted from disclosure under the Open Records Act, Texas Civil Statutes, Article 6252-17a.

**RQ-476.** Request from Joyce A. Hammer, executive director, Board of Vocational Nurse Examiners, Austin, concerning whether an individual who is both a registered nurse and a licensed vocational nurse is eligible for appointment to the Board of Vocational Nurse Examiners.

**RQ-477.** Request from Jerry E. Smith, Houston city attorney, concerning whether information regarding a housing rehabilitation grant program is excepted from disclosure under the Open Records Act, Texas Civil Statutes, Article 6252-17a.

**RQ-478.** Request from W. W. Thorne, executive director, Harris County Toll Road Authority, Houston, concerning whether certain records of the Harris County Toll Road Authority are excepted from disclosure.

**RQ-479.** Request from J. Bruce Aycock, Corpus Christi city attorney, concerning whether bid documents and related material are excepted from disclosure under the Open Records Act, Texas Civil Statutes, Article 6252-17a.

**RQ-480.** Request from William B. Steele III, Locke, Purnell, Boren, Laney, and Neeley, attorneys for the Texas Turnpike Authority, Dallas, concerning whether records regarding the design of a freeway interchange are excepted from disclosure under the Open Records Act, Texas Civil Statutes, Article 6252-17a.

**RQ-481.** Request from Lloyd Criss, Committee on Labor and Employment Relations, House of Representatives, Austin, concerning the validity of Texas Civil Statutes, Article 5154a, §5, which require labor union organizers to register with the Office of the Secretary of State.

**RQ-482.** Request from Dale Hanna, Johnson County attorney, Cleburne, concerning whether a city police department dispatcher is covered by civil service protection under Texas Civil Statutes, Article 1269m.

**RQ-483.** Request from Stephen C. Howard, Orange County attorney, Orange,

concerning circumstances under which a county may accept a bid with a volume discount.

**RQ-484.** Request from Henry Wade, criminal district attorney, Dallas, concerning the disposition of appeals from justice of the peace courts under Texas Civil Statutes, Article 1970-31.2.

**RQ-485.** Request from Ron Patterson, executive director, State Property Tax Board, Austin, concerning the calculation of appraised value of property under certain circumstances.

**RQ-486.** Request from T. R. Bandy, Jr., Nueces County attorney, Corpus Christi, concerning whether regulations enacted pursuant to Texas Civil Statutes, Article 1581e-1, and the Texas Water Code, §16.311, *et seq.*, constitute a taking of land.

**RQ-487.** Request from Edward H. Perry, Dallas assistant city attorney, concerning whether an investigative report prepared by a police department regarding a fatal shooting is available to the public after it has been selectively disclosed to the family of the victim.

TRD-850827

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# Proposed Rules

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

**Symbology in proposed amendments.** 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 13. CULTURAL RESOURCES

### Part I. Texas State Library and Archives Commission Chapter 1. Library Development LSCA Annual Program and Long-Range Plan

#### ★13 TAC §1.21

The Texas State Library and Archives Commission proposes amendments to §1.21, concerning the federal Library Services and Construction Act Annual Program and long-range plan. The amendments change the language of the section and adopt a new annual program to establish general criteria for federal fiscal year 1985.

Raymond Hitt, Library Development Division director, has determined that for the first five-year period the rule will be in effect there will be fiscal implications as a result of enforcing or administering the rule. The effect on local government is an estimated increase in revenue of \$5,345,807 in 1985, with no increase each year in 1986-1989. There is no anticipated effect on state government or small businesses.

Mr. Hitt also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is enhanced library services and additional materials available through the libraries which receive grants as a result of this program. 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 Raymond Hitt, Library Development Division Director, Texas State Library and Archives Commission, P.O. Box 12927, Austin, Texas 78711.

The amendments are proposed under Texas Civil Statutes, Article 5436a, which provide the Texas State Library and Archives Commission with the authority to adopt a state plan for improving public library services.

**§1.21. Adoption by Reference.** The Texas State Library and Archives Commission adopts by reference all rules contained in the LSCA Annual Program, 1985 [1984] and Long-Range Plan, 1985-1987 [1984-1986] as amended in January 1985 [April 1984]. Copies may be obtained from the Library Development Division of the Texas State Library, P.O. Box 12927, [Capitol Station,] Austin, Texas 78711.

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 January 28, 1985

TRD-850910 William D. Gooch  
Assistant State Librarian  
Texas State Library and  
Archives Commission

Earliest possible date of adoption:  
March 8, 1985

For further information, please call  
(512) 475-2166.

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#### ★13 TAC §1.23

The Texas State Library and Archives Commission proposes amendments to §1.23, concerning the federal Library Services and Construction Act Title II Program. The amendments establish revised guidelines for determining the recipients of the Title II public library construction grants for federal fiscal year 1985.

William D. Gooch, assistant state librarian, has determined that for the first five-year period the rule will be in effect there will be fiscal implications as a result of enforcing or administering the rule. The effect on local government is an estimated increase in revenue of \$1,350,242 in 1985, with no increase each year in 1986-1989. There is no anticipated effect on state government or small businesses.

Mr. Gooch also has determined that for each year of the first five years the rule

is in effect the public benefit anticipated as a result of enforcing the rule is access to more adequate and modern physical facilities in Texas' public libraries. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to William D. Gooch, Assistant State Librarian, Texas State Library and Archives Commission, P.O. Box 12927, Austin, Texas 78711.

The amendments are proposed under Texas Civil Statutes, Article 5436a, which provide the Texas State Library and Archives Commission with the authority to adopt a state plan for improving public library services.

**§1.23. Adoption by Reference of LSCA Title II.** The Texas State Library and Archives Commission adopts by reference the 1985 LSCA Title II Program. Copies may be obtained from the Texas State Library and Archives Commission, P.O. Box 12927, [Capitol Station,] Austin, Texas 78711.

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 January 28, 1985.

TRD-850911 William D. Gooch  
Assistant State Librarian  
Texas State Library and  
Archives Commission

Earliest possible date of adoption:  
March 8, 1985

For further information, please call  
(512) 475-2166.

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### Minimum Standards for Accreditation of Public Libraries in the State Library System

#### ★13 TAC §§1.71, 1.73, 1.77, 1.84, 1.85

The Texas State Library and Archives Commission proposes amendments to

§§1.71, 1.73, and 1.77 and new §1.84 and §1.85, concerning accreditation of public libraries in the state library system.

Amendments to §1.71 affirm practices which are in effect. Amendments to §1.73 are in response to an attorney general's opinion regarding a nonprofit corporation's need to have contracts with a governing authority to be considered a public library. New §1.84 has been taken from §1.47 to provide clarity. New §1.85 establishes consequences for willfully falsifying information on the annual report a public library submits to the Texas State Library and Archives Commission.

Raymond Hitt, Library Development Division director, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rules.

Mr. Hitt also has determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules is clarification of existing rules. 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 Raymond Hitt, Library Development Division Director, Texas State Library and Archives Commission, P.O. Box 12927, Austin, Texas 78711.

The amendments and new sections are proposed under Texas Civil Statutes, Article 5446a, Chapter E, §15d, which provide the Texas State Library and Archives Commission with the authority to approve rules and regulations for the Library Systems Act.

**§1.71. Definition of Population Served.** For a city, nonprofit corporation, and/or county-established library spending public monies for public library service, the population served by a public library is the population in the most recent decennial census or official population estimate of the U.S. Department of Commerce, Bureau of the Census, if available. Calculations will be based upon the following.

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

(3) In counties with more than one public library that spends both city and county funds, the libraries that spend city and county funds are credited with serving their city population plus a percentage of the population living outside the cities. This percentage is the ratio of each city's population to the total of all the populations of cities with public libraries within the county. [If a library is established by the county commissioners court, the county library serves all county residents not served by a city library.]

(4)-(5) (No change.)

(6) In counties with more than one library that spends county funds and no city funds, the county populations living outside cities with public libraries shall be prorated among the libraries in the same ratio as the county funds are expended.

(7) In school districts that fund a public library, the population served by the library shall be the population of the school district. If a census bureau population estimate is not available for a school district, a population estimate shall be computed based upon the ratio of the school district population to the county population in the most recent decennial census.

(8) Libraries that enter into agreements or contracts with counties, cities, or school districts to provide public library services will be assigned population under this section whether or not there is an exchange of funds.

**§1.73. Public Library: Legal Establishment.** A public library shall be [legally] established as a department of a city or county government by charter, resolution, or ordinance; or by contract as provided for in the Interlocal Cooperation Act, Texas Civil Statutes, Article 4413(32c); or [must be chartered] as a nonprofit corporation chartered by the Office of the Secretary of State for the purposes of providing free public library services, and having a current contract with a city, county, or school district to provide free public library services for the city, county, or school district.

**§1.77. Public Library: Local Tax Support [Per Capita Support: Local Sources.]** A public library shall file a current and complete annual report with the Texas State Library and Archives Commission by April 30. Revisions to the annual report which would affect membership status for the next fiscal year will not be accepted after July 31. Staff vacancies that occur following submission of the annual report shall not adversely affect applications for system membership in the next fiscal year. Staff vacancies that occur prior to April 30 which affect system membership must be corrected and reported prior to July 31. At least half [50%] of the annual local operating expenditures required to meet the minimum level of per capita support for accreditation must be from local tax sources. A public library that expends at least \$10 per capita is exempt from this membership criterion if it shows evidence of some library expenditures from local tax sources and is [either established by the city or county government or is under contract to the city or county as a public library freely] open to citizens under identical conditions without charge. Local tax sources are defined as money appropriated by school districts or by city or county governments from their general revenue monies.

**§1.84. Professional Librarian.** A professional librarian is defined as a person holding either a fifth year degree in librarianship from a program accredited by the American Library Association or a master's degree in library or information science from a program accredited by the American Library Association or a higher credential from a library school offering an American Library Association-approved degree in library or information science.

**§1.85. Annual Report.** A public library shall file a current and complete annual report with the Texas State Library and Archives Commission by April 30. Revisions to the annual report which would affect membership status for the next fiscal year will not be accepted after July 31. Staff vacancies that occur after April 30 shall not adversely affect applications for system membership in the next fiscal year. Staff vacancies that occur prior to April 30 which affect system membership must be filed and reported prior to July 31. Willful falsification of annual reports shall cause the library to be disqualified for one year in the first instance and disqualified for three years in the second instance.

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 January 24, 1985.

TRD-850815

William D Gooch  
Assistant State Librarian  
Texas State Library and  
Archives Commission

Earliest possible date of adoption:

March 8, 1985

For further information, please call  
(512) 475-2166.

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## TITLE 19. EDUCATION

### Part II. Texas Education Agency

#### Chapter 77. Comprehensive Instruction

##### Subchapter V. Adoptions by Reference

★19 TAC §77.453

The Texas Education Agency proposes amendments to §77.453, concerning the adoption by reference of the Texas state plan for vocational education. The change from a five-year plan to a three-year plan is necessary under the new provisions of Public Law 98-524. Changes in federal law which are reflected in the assurances included in the new state plan

include revised distribution of assistance requirements; strengthened requirements concerning services to handicapped students, including requirements for coordination and information about opportunities; and requirements for personnel development and curriculum development to further goals in the state plan.

Richard Bennett, associate commissioner for finance, 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.

Dr. Beverly J. Bardsley, director for policy development, and Mr. Bennett have 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 improvement in the quality of vocational education planning and services in the state. 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 Dr. Beverly J. Bardsley, Director for Policy Development, 201 East 11th Street, Austin, Texas 78701, (512) 475-7077. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

The amendments are proposed under the Texas Education Code, §11.02(c), which authorizes the Central Education Agency to enter into agreements with respect to educational undertakings with an agency of the federal government, the Texas Education Code, §11.24(a), which designates the State Board of Education as the State Board of Vocational Education; and Public Law 98-524, which requires states receiving funding for vocational education to develop a three-year state plan and annual program plans for vocational education.

§77.453. *Texas State Plan for Vocational Education.* The administrative provisions [rules] for occupational education and technology are described in [Part I of] the three-year state plan for vocational education for fiscal years 1986-1988, adopted April 1985 [Five-Year State Plan and Annual Program Plans for Vocational Education for Fiscal Years 1983-1987, as amended June 1983], which was developed as a requirement under Public Law 98-524 [94-482]. The plan is adopted by this reference as the Central [Texas] Education Agency's official rule. A copy is available for examination during regular office hours, 8

a.m. to 5 p.m., except holidays, Saturdays, and Sundays, at the Central [Texas] Education Agency. On the effective date of this section, the agency is located at 201 East 11th Street, Austin, Texas 78701. During the summer of 1985, the agency will move to 1701 Congress Avenue, Austin, Texas 78701. After the agency's move, the section will be available for inspection at that location [(headquarters) Building, 201 East 11th Street, Austin, 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 January 30, 1985.

TRD-850963 W. N. Kirby  
Interim Commissioner of  
Education

Proposed date of adoption:  
April 13, 1985  
For further information, please call  
(512) 475-7077.

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## Chapter 89. Adaptations for Special Populations Subchapter H. Adoptions by Reference

### §19 TAC §89.291

The Texas Education Agency proposes amendments to §89.291, concerning the adoption by reference of the Texas state plan for adult education. The proposed amendments make the necessary technical corrections for compliance with Public Law 91-230 and subsequent amendments. The major substantive difference between the current plan and the proposed plan is in the revision of objectives for adult education programs. The new plan places greater emphasis on basic adult literacy, through programs aimed at adults who are least educated and most in need. There is increased emphasis on individualization of instruction as well as increased emphasis on the use of volunteers in adult education programs. Staff development continues to be emphasized, with increased emphasis on individualization there as well. The plan also encourages increased cooperation between adult education programs and other community agencies.

Richard Bennett, associate commissioner for finance, 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.

Dr. Beverly J. Bardsley, director for policy development, and Mr. Bennett have determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is greater emphasis on adult basic literacy training through adult education programs, improved planning of adult education, and greater coordination between adult education programs and other community agencies. 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 Dr. Beverly J. Bardsley, Director for Policy Development, 201 East 11th Street, Austin, Texas, 78701, (512) 475-7077. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

The amendments are proposed under the Texas Education Code, §11.02, which provides that, except for agreements entered into by state colleges or universities, the Central Education Agency shall be the sole agency of the State of Texas empowered to enter into agreements with the federal government with respect to educational undertakings; and the Texas Education Code, §11.18, which directs the Central Education Agency to develop, administer, and support a comprehensive statewide adult education program and to coordinate related federal and state programs for education and training of adults.

§89.291. *The [State of] Texas State [Annual Program] Plan for Adult Education [Programs].* The federal administrative provisions [rules] for adult education are described in the [State of] Texas state [Annual Program] plan for adult education [Programs], as amended April 1985 [1979], which is adopted by reference as the Central [Texas] Education Agency's official rule. This plan was developed as a requirement under Public Law 91-230, as amended by Public Law 91-600, 92-318, 93-29, 93-380, 94-23, and 95-561. A copy is available for examination during regular office hours, 8 a.m. to 5 p.m., except holidays, Saturdays, and Sundays, at the Central [Texas] Education Agency. On the effective date of this section, the agency is located at 201 East 11th Street, Austin, Texas 78701. During the summer of 1985, the agency will move to 1701 Congress Avenue, Austin, Texas 78701. After the agency's move, the section will be available for inspection at that location [(headquarters) Building, 201 East 11th Street, Austin, 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 January 30, 1985.

TRD-850964 W N Kirby  
Interim Commissioner of  
Education

Proposed date of adoption:

April 13, 1985

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

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## Chapter 149. Education

### Personnel Development

#### Subchapter D. Teacher Career Ladder

##### ★ 19 TAC §149.71

The Texas Education Agency (TEA) proposes new §149.71, concerning the teacher career ladder. The proposed new section addresses the requirements for the teacher career ladder as mandated by House Bill 72, 68th Legislature, 2nd Called Session, 1984.

The new section is intended to provide additional clarification and direction for the local school districts as they further implement the teacher career ladder in the 1985-1986 school year and subsequent years. The new section indicates that the planning and decisions on teacher career ladder assignments made by local school districts and/or selection committees for the 1984-1985 school year in accordance with guidelines issued by the State Board of Education in July 1984 are not to be rendered invalid by this section.

The new section also establishes requirements for eligibility by job assignment, the selection process, higher education course work and advanced academic training, the use of stricter performance criteria, criteria for selection and maintenance on the career ladder, and the funding of allotments, and requires the placement of all nondegreed teachers on the teacher career ladder at level one with no provision to attain level two advancement without the baccalaureate degree. However, there is no intent to make nondegreed teachers ineligible for employment after six years at level one placement.

Subsection (a) requires each teacher to be assigned to a position on the career ladder. Assignment is to be based on performance, experience, job-related education and/or advanced academic training,

job assignments, and other requirements as specified in subsection (a).

Subsection (b) concerns eligibility for assignment to the teacher career ladder. Certified persons shall be eligible if they teach or provide instructionally related services to students at least four hours each day or not less than 60% of the school day. Specifications for determining instructionally related services are included.

Subsection (c) concerns the selection process for assignment to the teacher career ladder. For the 1984-1985 school year, a teacher may be assigned to level two if the teacher has the years of experience (without regard to experience at a particular career ladder level) and job-related education (including higher education courses and/or advanced academic training for which the teacher retains credit under the Texas Education Code, §13.322) required to enter level two. A teacher may enter level two in the 1985-1986 school year or the 1986-1987 school year if the teacher has the years of experience (without regard to experience at a particular career ladder level), the education (including higher education courses and/or advanced academic training for which the teacher retains credit under the Texas Education Code, §13.322), and the performance appraisals required to enter level two.

Subsection (d) concerns higher education course work and advanced academic training. The local school district shall determine in accordance with the provisions of this subsection whether courses taken for credit at accredited institutions of higher education or work obtained through programs of advanced academic training may be applied toward requirements for level placement and maintenance on the teacher career ladder. This subsection describes (effective September 1, 1985) how the higher education course work or advanced academic training must be related to the job assignment.

Subsection (e) concerns the use of stricter performance criteria when funds available for the support of the teacher career ladder are insufficient to fund the supplements as provided in the Texas Education Code, §16.058. A local school district may require stricter performance criteria for placing teachers on career ladder levels and for maintaining teachers on previously assigned levels.

Subsection (f) concerns the criteria for selection. This subsection describes the requirements which must be satisfied for career ladder level assignment or advancement for level one, level two, level three, and level four. For the 1984-1985 school year, all teachers classified in ac-

cordance with the Texas Education Code, §16.058, including nondegreed teachers, must be assigned to level one or level two on the teacher career ladder except for positions in subsection (b).

Subsection (b) concerns the maintenance or reassignment of career ladder level.

Subsection (h) concerns out-of-state teachers entering the career ladder. A teacher who possesses a valid classroom teaching certificate issued by another state department of education or foreign country may enter the career ladder at any level assigned by the employing school district, at the commensurate salary step, under a probationary contract. At the end of the first year of teaching in Texas, the teacher must meet the requirements established in subsection (f) with the exception of the requirement for the prior certificate held. Upon satisfactory achievement of certification requirements, the district may recommend certification at the appropriate level as established in Chapter 141, concerning teacher certification. The employing school district shall have the authority to accept or reject the performance appraisal or appraisals based on service completed in other districts.

Subsection (i) provides for a teacher to transfer a career ladder level assignment between districts. A teacher may waive entitlement to a particular career ladder level assignment when changing employment from one district to another. The employing district may recognize the performance appraisal of a district previously employing the teacher in determining a career ladder level assignment.

Subsection (j) concerns the finality of a school district decision for the placement or reassignment to a career ladder level. A decision of the district which is alleged to be arbitrary or made in bad faith may be appealed to the commissioner of education.

Subsection (k) provides that a teacher who has earned a level one, level two, level three, or master teacher certificate in accordance with Chapter 141 of this title relating to teacher certification, has a right to retain that certificate until it has expired or is duly suspended, revoked, or otherwise removed in accordance with law. Assignment to career ladder level one, level two, level three, or level four is neither a property right nor the equivalent of tenure.

Subsection (l) concerns the career ladder salary supplement. The career ladder salary supplement shall be paid during the school year at a time and in a manner to be determined by the local school district in accordance with law and this section.

Richard Bennett, associate commissioner for finance, has determined that for the

first five-year period the rule will be in effect there will be fiscal implications as a result of enforcing or administering the rule. The effect on state government is an estimated additional cost of \$119,284,160 in 1985; \$87,365,550 in 1986; \$153,065,950 in 1987; \$191,332,437 in 1988; and \$239,165,547 in 1989. The estimated state costs represent a portion of those funds appropriated for educational improvement which includes both salary enrichment and "other legal purposes." The figures for 1988 and 1989 are estimates based on a 25% increase. Local districts may expend additional funds, but no local expenditures are required by the section. There is no anticipated effect on local government or small businesses.

Dr. Beverly J. Bardsley, policy development director, and Mr. Bennett, have determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is additional clarification and direction for the local school districts as they further implement the teacher career ladder in the 1985-1986 school year and subsequent years. 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 Dr. Beverly J. Bardsley, Director for Policy Development, 201 East 11th Street, Austin, Texas 78701, (512) 475-7077. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

The new section is proposed under the Texas Education Code, §16.057, which provides for career ladder salary supplements; the Texas Education Code, §§13.301-13.322, which establishes the teacher career ladder, and the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for the implementation of the Foundation School Program.

**§149.71. Assignment to the Teacher Career Ladder.**

(a) General provisions. Each teacher shall be assigned to a position on the career ladder unless excluded under other provisions of this section. Assignment shall be based on performance, experience, job-related education, and/or advanced academic training, job assignments, and other requirements as specified in subsection (e) of this section. For the 1984-1985 school year, all teacher career ladder assignments and salary allotments shall be made in ac-

cordance with the guidelines for the teacher career ladder authorized by the State Board of Education and issued by the Central Education Agency in July 1984. Effective with the 1985-1986 school year, each teacher as defined in subsection (b) of this section shall be assigned to an appropriate level, maintained at an assigned level, and provided salary allotments for the teacher career ladder in accordance with the provisions of this section.

(b) Eligibility by job assignment. Eligibility for assignment to the teacher career ladder shall include a certified person who teaches or provides instructionally related services to students at least four hours each day or not less than 60% of the school day.

(1) Classroom teaching is defined as teaching in the regular classroom, the resource classroom, or other instructional settings (which include, but would not be limited to, those for itinerant teachers such as the home-bound, the hospitalized, or in cooperatives) where the teacher is primarily responsible for planning, delivering, evaluating, and reporting of student learning of the essential elements as required in Chapter 75 of this title (relating to Curriculum).

(2) Classroom teaching shall include teaching in any class, including physical education, scheduled during the regular school day for which credit is awarded to students.

(3) Hours are defined for purposes of this subsection as regular class periods meeting the minimum time requirements of Chapter 75 of this title (relating to Curriculum).

(4) At the option of the local school district, the following instructionally related services may be counted as classroom teaching to meet the minimum teaching requirement for career ladder purposes:

(A) up to two hours of on-the-job supervision per day for the degreed vocational cooperative education teacher;

(B) one hour per day of supervising the occupational experience for the vocational agriculture/horticulture teacher or for the extended learning experience program for the consumer and homemaking teacher;

(C) one hour per day for purposes of traveling to the various teaching sites for the itinerant teacher;

(D) up to four hours per day or 20 hours per week for the placement of students in occupational settings, on-the-job supervision, and/or travel to occupational teaching sites for the vocational adjustment coordinator who works with a minimum of three students per day or 15 students per week; or

(E) one hour per day for purposes of serving as an instructional department head/chairperson or grade level chairperson/coordinator provided that the

teacher teaches a minimum of three hours per day.

(5) At the option of the local school district, a teacher may be considered for the teacher career ladder who is employed for only half time provided that a minimum of at least two hours each day is taught.

(6) A person who is employed full time but who does not teach in the classroom at least four hours or 60% of the regular school day as defined in paragraph (1) and paragraph (4) of this subsection shall not be assigned to the teacher career ladder.

(7) Effective with the 1985-1986 school year, a person shall not be assigned to the teacher career ladder who is serving as:

- (A) a school nurse;
- (B) a vocational teacher, non-degreed;
- (C) an R.O.T.C. teacher, non-degreed;
- (D) a librarian;
- (E) a visiting teacher;
- (F) a psychological associate;
- (G) a physician;
- (H) an occupational or physical therapist;

(I) a guidance associate who teaches less than four hours per day or less than 60% of the school day in the classroom as defined in paragraph (1) of this subsection; or

(J) any other special service assignment such as, but not limited to, counselor or educational diagnosticians and administrative/supervisory assignments such as, but not limited to, supervisors, principals, or superintendents.

(c) The selection process.

(1) For the 1984-1985 school year, a teacher may be assigned to level two if the teacher has the years of experience (without regard to experience at a particular career ladder level) and job-related education (including higher education courses and/or advanced academic training for which the teacher retains credit under the Texas Education Code, §13.322) required to enter level two.

(A) The selection of eligible teachers to be placed on level two for the 1984-1985 school year shall be made by a committee or committees appointed by the school district. The selection shall be made in accordance with criteria described in subsection (f) of this section. This committee system is mandatory only for the 1984-1985 school year.

(B) Each committee appointed by the local school board shall include one principal, one central office personnel administrator or the superintendent, and one other administrator who may be a principal.

(C) The three-member committee or committees of administrators shall designate two eligible teachers as level two teachers who shall then become members

of the committee or committees for purposes of review of all remaining teachers.

(D) From the group of teachers who meet the minimum criteria for eligibility as described in subsection (f) of this section, the committee or committees shall select level two teachers by using past performance as a criterion.

(E) In school districts that do not employ three administrators, the superintendent and any other administrator, if any, shall select at least one but not more than two level two teachers to serve on the selection committee. The committee shall consider all remaining teachers for placement on level two.

(F) For the 1984-1985 year only, during which the committee system is specified, committee decisions are final and are not subject to appeal.

(2) A teacher may enter level two in the 1985-1986 or the 1986-1987 school year if the teacher has the years of experience (without regard to experience at a particular career ladder level), the education (including higher education courses and/or advanced academic training for which the teacher retains credit under the Texas Education Code, §13.322), and the performance appraisals required to enter level two. Assignments to level two in the 1985-1986 or the 1986-1987 school year shall be made in accordance with policies established by the local school board and may be (but are not required to be) recommended to the local board by the committee process as described in the selection process in paragraph (1) of this subsection.

(3) Texas Civil Statutes, Article 5996a and Article 5996d, concerning nepotism, do not apply to the selection of level two, three, and four teachers pursuant to the Texas Education Code, Chapter 3, Subchapter E, added by House Bill 72, 68th Legislature, 2nd Called Session, 1984.

(d) Higher education course work and advanced academic training.

(1) The local school district shall determine in accordance with the provisions of this subsection whether courses taken for credit at accredited institutions of higher education or work obtained through programs of advanced academic training may be applied toward requirements for level placement and maintenance on the teacher career ladder. Effective September 1, 1985, higher education course work or advanced academic training must be related to the job assignment in one of the following ways:

(A) as instruction in the subject taught, a subject for which certification is held that is one of the elementary or secondary curriculum areas identified in Chapter 75 of this title (relating to Curriculum), a subject or area to be taught that has been designated by the State Board of Education or a local school district as an area or field of acute teacher shortage and for which the teacher has on file with the district a college/university plan for certification, or a

teaching endorsement or delivery system approved by the State Board of Education in Chapter 137 of this title (relating to Teacher Education) such as kindergarten or other teaching endorsements and bilingual education or other delivery systems, which category must account for at least 50% of the course work or training unless specified otherwise in paragraph (2) of this subsection;

(B) as instruction for the student taught such as specialized instruction for the gifted and talented student, the handicapped student, the culturally different student, teaching-learning theories and strategies, and the evaluation and reporting of student achievement; or

(C) as instruction in specific classroom management, knowledge, skills, and applications such as discipline, individualized instruction, teacher excellence training, and the utilization of media and high technology in the classroom.

(2) A portion, the amount to be specified by the local district, of the higher education course work and/or advanced academic training must relate directly to the remediation of weaknesses or areas in need of improvement if identified in the teacher's appraisal for the preceding year or years. In the absence of needs identified through appraisal, career goals of the individual teacher and/or staff development goals of the local school district should be addressed with flexibility for emphasizing the need for depth and/or currency of both subject knowledge and teaching methods.

(3) Higher education course work and advanced academic training earned after initial certification and prior to September 1 of each year shall be creditable toward requirements for level placement and maintenance on the teacher career ladder for the subsequent year.

(4) Education earned during a state-required inservice day for which the teacher is salaried may not be creditable as higher education course work or advanced academic training for career ladder purposes.

(5) Higher education course work used for level placement or maintenance on the teacher career ladder must satisfy the requirements stated in paragraph (1) and paragraph (2) of this subsection and may carry lower division, upper division, or graduate level credit. No more than one-third of the course work may be in lower division courses unless the work is being taken in a subject or area that has been designated by the State Board of Education or a local school district as an area or field of acute teacher shortage as specified in subsection (d)(1)(A) of this section.

(6) All higher education course work creditable toward level placement or maintenance on the teacher career ladder must be awarded by a college or university that is accredited by a recognized accrediting agency.

(7) Credits for higher education course work or advanced academic training shall be creditable no more than once toward requirements for level advancement or placement on the teacher career ladder.

(8) It is the responsibility of each teacher to provide the local school district with official transcripts for higher education course work completed and written documentation acceptable to the local school district for advanced academic training which includes, but is not limited to, the name of the work, the date, and the number of clock hours for the work completed. It is the responsibility of the local school district to maintain documentation in support of career ladder level decisions made by the local school district.

(e) Use of stricter performance criteria. If the funds available for the support of the teacher career ladder are insufficient to fund the supplements as provided in the Texas Education Code, §16.057, a local school district may require stricter performance criteria for placing teachers on career ladder levels and for maintaining teachers on previously assigned levels.

(1) Local districts must specify in written policy the requirements for stricter performance.

(2) Criteria for stricter performance may be required in one or more of the following areas:

(A) a higher category of performance may be required for each of the years for placement on or maintenance of a career ladder level;

(B) a greater number of years with specified high performance may be required such as "exceeding expectations" may be required for all of the years required for experience rather than just a portion; or

(C) a higher level of performance may be required within a category; for example, performance that needs improvement in only one major area rather than some major areas could be designated as "below expectation."

(f) Criteria for selection. For the 1984-1985 school year, all teachers classified in accordance with the Texas Education Code, §16.056, including nondegree teachers, shall be assigned to level one or level two on the teacher career ladder except for positions listed in subsection (b)(7) of this section. An individual being considered for career ladder level assignment or advancement shall satisfy the following requirements for the respective level.

(1) Level one placement shall require that a teacher:

(A) possess a provisional or professional teaching certificate as defined in §141.2(a) of this title (relating to Classes of Certificates) or a level one certificate or its equivalent as determined by the State Board of Education; and

(B) demonstrate at least "satisfactory" performance in every appraisal

category for the year immediately preceding placement.

(2) Level two placement shall require that a teacher:

(A) possess a provisional or professional teaching certificate as defined in §141.2(a) of this title (relating to Classes of Certificates) or a level two certificate or its equivalent as determined by the State Board of Education;

(B) receive performance evaluations which reflect at least performance "exceeding expectations" during the year immediately preceding consideration for placement at level two and "satisfactory" performance during the other year or years, or performance evaluations as specified by the local district in accordance with subsection (e) of this section; and

(C) possess one of the following combinations of education and experience:

(i) Option I:

(I) a baccalaureate degree;

(II) three years of classroom teaching experience; and

(III) nine semester hours of higher education course work, or 135 hours of advanced academic training (at least 45 hours of which must emphasize classroom management training if classroom management or discipline is identified as an area that needs improvement on the teacher's performance appraisal for the preceding year), or an equivalent combination so that one semester hour of higher education course work is equivalent to 15 hours of advanced academic training;

(ii) Option II:

(I) a master's degree in:

(-a-) a subject listed in Chapter 75 of this title (relating to Curriculum) as an elementary, secondary, or all-level subject to be taught;

(-b-) education (excluding degrees specifically designed for preparation for special service positions such as administrator, counselor, supervisor, etc.) with a concentration of at least 12 semester hours in a subject or combination of subjects to be taught in the public schools; or

(-c-) an endorsement area or delivery system approved by the State Board of Education in Chapter 137 of this title (relating to Teacher Education) such as kindergarten or other endorsements and bilingual and special education delivery systems; and

(II) two years of classroom teaching experience.

(3) Level three placement shall require that a teacher:

(A) possess a level three certificate or its equivalent as approved by the State Board of Education;

(B) possess a baccalaureate degree and one of the following combinations of education, experience, and evaluation:

(i) Option I:

(I) five years of classroom teaching at level two;

(II) six semester hours of higher education course work, or 90 hours of advanced academic training (a portion of which must emphasize classroom management training only if classroom management or discipline is identified as an area that needs improvement on the teacher's performance appraisal for the preceding year), or an equivalent combination so that one semester hour of higher education course work is equivalent to 15 hours of advanced academic training; and

(III) performance evaluations during three of the four years immediately preceding consideration for placement at level three indicating performance "exceeding expectations" and at least "satisfactory" performance during the other year, or performance evaluations as specified by the local district in accordance with subsection (e) of this section; or

(ii) Option II:

(I) three years of classroom teaching at level two;

(II) three semester hours of higher education course work or 45 hours of advanced academic training (a portion of which must emphasize classroom management training only if classroom management or discipline is identified as an area that needs improvement on the teacher's performance appraisal for the preceding year), or an equivalent combination so that one semester hour of higher education course work is equivalent to 15 hours of advanced academic training; and

(III) performance evaluations during two of the three years immediately preceding consideration for placement at level three indicating "clearly outstanding" and at least "satisfactory" performance during the other year, or performance evaluations as specified by the local district in accordance with subsection (e) of this section.

(4) Level four placement shall require that a teacher:

(A) possess a master teacher certificate;

(B) demonstrate satisfactory performance on the master teacher examination; and

(C) possess a baccalaureate degree and one of the following combinations of education, experience, and evaluation:

(i) Option I:

(I) three years of classroom teaching experience at or above level three;

(II) complete six semester hours of higher education course work; or complete 90 hours of advanced academic training (a portion of which must emphasize classroom management training only if classroom management or discipline is identified as an area that needs improvement on the teacher's performance appraisal for the preceding year), or an equivalent combination so that one semester hour of higher education course work is equivalent to 15 hours of advanced academic training; and

(III) receive performance evaluations during two of the three years immediately preceding consideration for placement at level four indicating "clearly outstanding" performance and at least "satisfactory" performance during the other year; or performance evaluations as specified by the local district in accordance with subsection (e) of this section; or

(ii) Option II:

(I) two years of classroom teaching at or above level three;

(II) three semester hours of higher education course work, or 45 hours of advanced academic training (a portion of which must emphasize classroom management training only if classroom management or discipline is identified as an area that needs improvement on the teacher's performance appraisal for the preceding year), or an equivalent combination so that one semester hour of higher education course work is equivalent to 15 hours of advanced academic training; and

(III) receive performance evaluations during the three years immediately preceding consideration for placement at level four indicating "clearly outstanding" performance, or performance evaluations as specified by the local district in accordance with subsection (e) of this section.

(g) Maintenance or reassignment of career ladder level.

(1) A teacher shall remain at career ladder level one until full eligibility requirements for a level two, level three, or master teacher certificate as described in Chapter 141 of this title (relating to Teacher Certification) have been met and the teacher has been assigned to career ladder level two. A district may not renew the contract of a teacher who fails to achieve at least "satisfactory" performance during either of the first two years of experience at level one.

(2) A teacher shall remain at career ladder level two until full eligibility requirements for a level three or master teacher certificate as described in Chapter 141 of this title (relating to Teacher Certification) and level three entry requirements have been met. A teacher shall be reassigned from career ladder level two to career ladder level one if the teacher's performance is "below expectations" during the preceding year, or fails to achieve performance evaluations as specified by the local district in accordance with subsection (e) of this section.

(3) A teacher shall remain at career ladder level three until full eligibility requirements for a master teacher certificate as described in Chapter 141 of this title (relating to Teacher Certification) and level four entry requirements have been met.

(A) A teacher shall be reassigned from career ladder level three to career ladder level two if the teacher demonstrates less than "exceeding expectations" performance at level three for two consecutive years, or fails to achieve performance evaluations as

specified by the local district in accordance with subsection (e) of this section.

(B) A teacher shall be reassigned from career ladder level three to career ladder level one if the teacher demonstrates performance which is "below expectations" during the preceding year, or fails to achieve performance evaluations as specified by the local district in accordance with subsection (e) of this section.

(4) A teacher shall remain at career ladder level four unless the requirements stated in this subsection are no longer satisfied.

(A) A teacher shall be required:

(i) to demonstrate "clearly outstanding" performance during two of every three years and at least "satisfactory" performance during the other year and complete three semester hours of higher education course work or 45 hours of advanced academic training or an equivalent combination so that one semester hour of higher education course work is equivalent to 15 hours of advanced academic training, to demonstrate "clearly outstanding" performance during each of the three years, or to achieve performance evaluations as specified by the local district in accordance with subsection (e) of this section;

(ii) to teach in a classroom for not less than four hours or 60% of the school day; and

(iii) to perform at least two master teacher duties every three years.

(B) A teacher shall be reassigned from career ladder level four to career ladder level three if the teacher does not meet the requirements stated in this paragraph, or fails to achieve performance evaluations as specified by the local district in accordance with subsection (e) of this section.

(h) Out-of-state teachers entering the career ladder.

(1) A teacher who possesses a valid classroom teaching certificate issued by another state department of education or foreign country may enter the career ladder at any level assigned by the employing school district, at the commensurate salary step, under a probationary contract.

(2) At the end of the first year of teaching in Texas, the teacher must meet the requirements established in subsection (f) of this section with the exception of the requirement for the prior certificate held.

(A) In the event that such requirements are not met satisfactorily, the teacher shall be maintained at the level below assignment with no salary step increase.

(B) Failure to satisfactorily meet such requirements during the second year of teaching shall result in termination of contract.

(3) Upon satisfactory achievement of certification requirements, the district may recommend certification at the appropriate level as established in Chapter 141 of this title (relating to Teacher Certification).

(4) The employing school district shall have the authority to accept or reject the performance appraisal or appraisals based on service completed in other districts.

(i) Transfer between districts.

(1) A teacher is entitled to transfer a career ladder level assignment between districts.

(2) A teacher may waive entitlement to a particular career ladder level assignment when changing employment from one district to another.

(3) The employing district may recognize the performance appraisal of a district previously employing the teacher in determining a career ladder level assignment. Employing districts which choose not to recognize the performance evaluation of another district may establish by local policy a procedure for placing the teacher on the career ladder at a level not to exceed that previously held by the teacher in another district without regard to experience at a particular career ladder level.

(j) Finality of district decision.

(1) A decision of the district relating to placement or reassignment to a career ladder level shall be final.

(2) A decision of the district which is alleged to be arbitrary or made in bad faith may be appealed to the commissioner of education.

(k) Property right of teacher.

(1) A teacher who has earned a level one, level two, level three, or master teacher certificate in accordance with Chapter 141 of this title (relating to Teacher Certification) has a right to retain that certificate until it has expired or is duly suspended, revoked, or otherwise removed in accordance with law.

(2) Assignment to career ladder level one, level two, level three, or level four is neither a property right nor the equivalent of tenure.

(l) Career ladder salary supplement. The career ladder salary supplement shall be paid during the school year at a time and in a manner to be determined by the local school district in accordance with law and this section.

(1) Each teacher placed on level two, three, or four of a career ladder is entitled to the following annual supplement in addition to the minimum salary set by law:

- (A) level two—\$2,000;
- (B) level three—\$4,000; and
- (C) level four—\$6,000.

(2) If the district pays more than the state minimum salary prescribed by law, the teacher is entitled to the career ladder supplement in addition to the amount otherwise paid by the district for the teacher's step.

(3) If the allotment to the district that is designated for support of the career ladder will not fully fund the supplements

for the teachers meeting the requirements, the district may:

(A) reduce the supplements to not less than the following:

- (i) level two—\$1,500;
- (ii) level three—\$3,000;
- (iii) level four—\$4,500;

(B) provide for stricter performance criteria than that provided in law as a basis for career ladder level assignments in accordance with subsection (e) of this section; or

(C) take action under both subparagraph (A) and subparagraph (B) of this paragraph.

(4) In the event that funds designated as the allotment for career ladder salary supplements are deemed insufficient for placement and/or maintenance of all teachers meeting the state-mandated minimum criteria for selection and/or maintenance on the teacher career ladder, the local district may fund additional career ladder salary supplements from local or other funds permitted by law and State Board of Education rules effective with the 1985-1986 school year, provided that the following requirements have been met:

(A) that funds available for any legal purpose in accordance with the Texas Education Code, §16.158(b), have been fully exhausted in the payment of teacher career ladder salary supplements; and

(B) that the local school district demonstrates its intent to utilize career ladder supplements as a means of identifying and rewarding excellence in teacher performance as opposed to a salary supplement for all teachers meeting the minimum requirements by establishing in written policy one or more requirements for stricter performance as specified in subsection (e) of this section.

(5) Monies received by the district from the state as the allotment for career ladder salary supplements may not be used to supplement the salary of an employee for directing cocurricular or extracurricular activities.

(6) The district must pay each teacher selected for a specific career ladder level the same amount of supplement for a particular career ladder level during that particular school year.

(7) Districts may reduce the amount of the career ladder supplement on a pro rata basis utilizing the number of days of employment, not the date when the award is made, when the teacher is employed for fewer than 183 days

(8) Teachers employed for no less than half time as defined in subsection (b)(5) of this section shall be paid no less than one-half of the designated salary supplement awarded by the local school district for that particular level for the specific school year or a proportionate amount consistent with the portion of the school day served.

This agency hereby certifies that the proposal has been reviewed by legal coun-

sel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 25, 1985.

TRD-850857

W. N. Kirby  
Interim Commissioner of  
Education

Proposed date of adoption:

March 9, 1985

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

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## TITLE 22. EXAMINING BOARDS

### Part IX. Texas State Board of Medical Examiners

#### Chapter 186. Supervision of Physician Assistant Students

★22 TAC §§186.1-186.3

The Texas State Board of Medical Examiners proposes new §§186.1-186.3, concerning supervision of physician assistant students. The new sections outline how a physician may register as a preceptor in a student physician assistant program and the certifications which are necessary from the physician. The sections further state the supervisory duties the physician must exercise. Finally, the sections set out the exemption for certain types of programs.

Florence Allen, accountant, and Jean Davis, program administrator, have 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.

Ms. Davis also has determined that for each year of the first five years the rules is in effect there is no public benefit anticipated as a result of enforcing the rules, because the proposed new chapter pertains only to physicians' supervision of physician assistant students. 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 Jean Davis, P.O. Box 13562, Austin, Texas 78711. Although no date has been set, a public hearing is expected the latter part of February.

The new sections are proposed under the Medical Practice Act, Article 4495b, which provides the Texas State Board of Medical Examiners with the authority to make rules, regulations, and bylaws not inconsistent with this Act as may be

necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

**§186.1. Registration.** Except as provided in §186.3 of this title (relating to Exemption), a physician who is serving as a preceptor in a student physician assistant program must register with the board prior to supervising a student physician assistant while that student receives training and performs duties involved in a physician assistant program course or curriculum. To register to supervise a student physician assistant in training, a licensed physician must certify to the board that:

(1) he or she has a valid written agreement with the physician assistant program to supervise its students in training, a copy of which must be provided to the board;

(2) he or she has read and understands the physician assistant guidelines;

(3) he or she will not violate the Medical Practice Act; and

(4) physicians supervising a student during a preceptorship will notify the board of this in writing. This letter will include the physician's and student's names, as well as the dates of the preceptorship

**§186.2. Supervision.** A physician who is serving as a preceptor in a student physician assistant program and registering to supervise a student physician assistant in training must certify to the board that:

(1) the student will not perform any task or function without the supervising physician being either physically present or immediately available to provide guidance;

(2) the student under no circumstances will be assigned duties which are in violation of the graduate physician assistant guidelines;

(3) he or she will not supervise more than one student physician assistant at a time; and

(4) he or she will not supervise any one student physician assistant for more than four months.

**§186.3. Exemption.** A physician who is serving as a preceptor in a student physician assistant program is not required to register with or provide certification to the board if he or she supervises a physician assistant student who is in training at an approved physician assistant program. An approved physician assistant training program is one that has been accredited by the Committee on Health and Education and Accreditation of the American Medical Association and subsequently approved by the board. However, all physicians supervising a student during a preceptorship must notify the board of this in writing. This letter must include the physician's and student's names, as well as the dates of the preceptorship.

This agency hereby certifies that the pro-

posal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 25, 1985.

TRD-850895

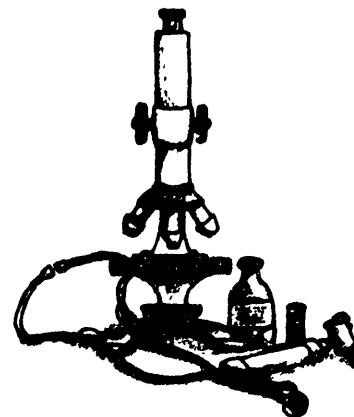
G. V. Brindley, Jr.  
Executive Director  
Texas State Board of  
Medical Examiners

Earliest possible date of adoption:

March 8, 1985

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

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## TITLE 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 325. Solid Waste Management

The Texas Department of Health proposes amendments to §§325.5, 325.42, 325.51, 325.52, 325.55, 325.60-325.62, 325.71-325.75, 325.91-325.95, 325.121-325.124, 325.133, 325.136, 325.140, 325.150, 325.152, 325.154, 325.183, 325.442, 325.443, 325.445, 325.462, 325.463, 325.533, and 325.534, new §325.114, and the repeal of and new §325.901 and §325.906, concerning solid waste management.

New §325.114, concerning evidence of financial responsibility for sites operating as solid waste land disposal facilities, incorporates language which is also proposed to be made a part of the application for a facility permit.

The repeal of the forms adopted by §325.901 and §325.906 and adoption of new forms under §325.901 and §325.906 concern Part A of the application for a permit/registration to operate a municipal solid waste site and the form for a vacuum truck trip ticket. The proposed forms incorporate recent changes

to the rules governing sludge management. New §325.901 provides clarification on documentation required from property owners.

Stephen Seale, chief accountant III, has determined there will be fiscal implications as a result of enforcing or administering the rules.

Small businesses engaged in the operation of landfill sites will experience some initial costs, possibly up to \$1,000, due to the new requirement to place a one-foot protective soil cover over constructed liners consisting of three feet of clay. Those currently using liners of less than three feet of clay are already required to provide a one-foot protective cover and others are doing this as a good construction practice.

Although this translates into an immediate cost, more often than not that cost is offset by elimination of liner maintenance prior to the disposal of waste on it and reduction in transportation costs for removal of excess soil from the site. To comply with groundwater protection requirements, the operator presently is required to maintain the integrity of the liner by repairing ruts caused by vehicles or landfill equipment; erosion from runoff; gouges in the liner caused by pushing debris or by equipment operations; and cracks in the liner caused by desiccation.

One other proposed amendment that appears to result in a cost to small businesses is the change in the frequency that processing facilities are washed down. The proposed amendment clarifies the rule's present use of the term biweekly, which the department interprets as synonymous with semiweekly—according to the dictionary—and uses to currently require washdown of facilities twice per week. The proposed amendment would now require only weekly washdown—instead of twice per week—of facilities that have normal operating hours. For those operating on a continuous basis, the frequency will remain unchanged but specified as semiweekly rather than biweekly. Therefore, there may be a cost reduction of as much as \$1,000 per year for some; however, the amount cannot be estimated more accurately because of the variables involved, such as size of the facility, type of construction and design, volume of waste processed, and the efficiency of the washdown system.

The increase or decrease in costs for small businesses versus large businesses is relative, depending on the type and size of the operation or facility, present operating practices or permit requirements, and other variables.

There is no anticipated economic effect on state or local government for the first five-year period the rules will be in effect.

Mr. Seale 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 more prompt compliance with department requirements by the regulated community as a result of clarification of ambiguities in the current rules.

The anticipated economic cost to individuals who are required to comply with the rules as proposed is \$500 each year for 1985-1989 for the cost for solid waste facilities installing constructed liners on the average; and \$500 each year for 1985-1989 for the cost for processing facilities allowed weekly washdown on the average.

The cost or savings to individuals required to comply with the rules as proposed are only estimates and will vary greatly with the size of the facility and the waste stream.

Comments on the proposal may be submitted to Jack C. Carmichael, P.E., Chief, Bureau of Solid Waste Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199, (512) 458-7271. Comments will be accepted until 5 p.m. on March 8, 1985. In addition, a public hearing has been scheduled to offer the public an opportunity to submit oral comments and questions. The public hearing is set for February 22, 1985, at 10 a.m. in the Texas Department of Health Auditorium, 1100 West 49th Street, Austin. Copies of the proposed amendments are available for review at department regional offices in Canyon, Lubbock, El Paso, Abilene, Arlington, Temple, Tyler, Beaumont, Corpus Christi, Harlingen, Uvalde, and Rosenberg.

#### Subchapter A. General Information ★25 TAC §325.5

The amendment is proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of municipal solid waste.

§325.5. *Definitions of Terms and Abbreviations.* The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Other definitions, pertinent to specific sections, are contained within the appropriate sections.

Citizens' collection station—A facility established [by a county or municipal government] for the convenience and exclu-

sive use of residents (not commercial or industrial users or collection vehicles). The facility may consist of one or more storage containers, bins, or trailers.

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 January 21, 1985.

TRD-850631      Robert A. MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of  
Health

Proposed date of adoption:  
April 27, 1985

For further information, please call  
(512) 458-7271.

★                    ★                    ★

#### Subchapter D. Classification of Municipal Solid Waste Sites

##### ★25 TAC §325.42

The amendments are proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of municipal solid waste.

§325.42. *Types of Municipal Solid Waste Sites.* The department has classified all solid waste sites and facilities according to function and/or population equivalency served. Subject to the limitations in §325.135 of this title (relating to Industrial Wastes) and §325.136 of this title (relating to Disposal of Special Wastes), a municipal solid waste landfill site may also receive mixed wastes, and with the written approval of the department may also receive special wastes, including Class I nonhazardous solid waste and hazardous waste from small quantity generators, if properly handled and safeguarded in the landfill site.

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

(3) Municipal solid waste site—  
Type III. A Type III site or operation may be authorized by the department for a site serving less than 1,500 persons or the [same] population equivalent. A Type III site shall not be operated within 300 yards of a public road unless the department, after a site evaluation, determines [that] the proposed operation in the proposed location will be acceptable. The operational standards prescribed in §§325.111-325.154 of this title (relating to Operational Standards for Solid Waste Land Disposal Sites) shall be followed [except that the frequency of com-

paction and covering will be specified by the department]. Waste shall be compacted and covered monthly unless another schedule is approved or required by the department.

(4) Municipal solid waste site— Type IV. A Type IV site or operation may be authorized by the department for the disposal of brush and construction-demolition waste [and/or rubbish (trash)] that are free of other solid wastes. A Type IV operation shall not be operated within 300 yards of a public road unless the department, after a site evaluation, determines [that] the proposed operation in the proposed location will be acceptable. The minimum operational standards are prescribed in §§325.111-325.154 of this title (relating to Operational Standards for Solid Waste Land Disposal Sites). Waste shall be compacted and covered monthly unless another schedule is approved or required by the department.

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

(7) Municipal solid waste site— Type VII. A Type VII site or operation may be authorized by the department for the land management of sludges and/or similar wastes. Operational standards, depending on the particular waste, site purpose, and method of operation (land application for beneficial use, land disposal to include landfilling and land treatment, etc.) are contained in §§325.411-325.534 of this title (relating to Management of Sludges and Similar Wastes) [treatment of sludge. The operational standards for Type VII sites are prescribed in §325.484 of this title (relating to Operational Requirements)].

(8)-(9) (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 January 21, 1985.

TRD-850632      Robert A. MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of  
Health

Proposed date of adoption  
April 27, 1985

For further information, please call  
(512) 458-7271.

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## Subchapter E. Permit Procedures and Design Criteria Permits

★ 25 TAC §§325.51, 325.52, 325.55, 325.60-325.62

The amendments are proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health,

with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of municipal solid waste.

§325.51. *General.* No municipal solid waste site shall be operated without a permit from the department or a license from a county exercising licensing authority, except as authorized herein and in §325.52 of this title (relating to Permit Exemptions). Sites in operation prior to October 16, 1974, or previously licensed may remain in operation pending completion of processing of the application, providing the site is otherwise in full compliance with these rules. A separate permit or license shall be required for each site or facility, and the department, at its discretion, may include one or more different types of facilities in a single permit if the facilities are collocated on the same site. A permit or license may be issued by the department or a county, respectively, only after an opportunity for a hearing has been provided to the applicant and persons affected. See §§325.71-325.75 of this title (relating to Application and Data Requirements) and §§325.91-325.95 of this title (relating to Application Review Process) for departmental procedures and §§325.241-325.243 of this title (relating to County Governments with Licensing Authority) for minimum requirements for a county licensing program. The permitting of low-level radioactive waste processing, storage, and disposal facilities is not covered by these rules [regulations]. The chief, Bureau of Radiation Control, Texas Department of Health, should be contacted for permit requirements and operational standards for these types of facilities. Materials extraction or gas recovery operations shall not be conducted unless a permit for such purpose has been obtained from the department. However, exploratory and test operations for feasibility purposes may be conducted if a registration is obtained from the department. Inasmuch as design and operational requirements for these types [type] of operations may be site-specific and may involve proprietary design and process data, registration/application and operational requirements shall be determined through consultation with the department.

### §325.52. *Permit Exemptions.*

(a) A permit is not required for a site where the only operation is the beneficial use of [a] municipal wastewater treatment plant sludge, septage, or water supply treatment plant sludge by applying it to the land as provided for in §325.462 of this title (relating to Basic Requirements for Land Application), §325.533 of this title (relating to Septage), and §325.534 of this title (relating to Water Supply Treatment Plant Sludge), respectively [§§325.461-325.465 of this title (relating to Land Application for Beneficial Use)]. Sites exempted from a per-

mit under this subsection shall be registered with the department in accordance with §325.462 of this title (relating to Basic Requirements for Land Application) [and registration acknowledged by letter prior to operation].

(b)-(d) (No change.)

### §325.55. *Transfer of Permits/Applications/Property Ownership and Name Changes.*

(a) Within 30 days after a change in the corporate designation of the permittee or permit applicant, the sale of a partner's interest in a partnership, the transfer of title to the land whether or not the permittee is the land owner, or more than 50% of the corporate stock or assets are controlled by someone other than the permit holder or permit applicant, the permittee or applicant of record and the person now having the controlling interest shall file an application with the department for transfer of the permit or permit application. Failure to obtain a transfer may cause the department to close the site. Also, failure to give complete information or the submission of false information in the application shall constitute grounds for disapproval of the application or subsequent revocation of the permit. The application shall include such information as is applicable in subsection (b) of this section.

(b) The applicant should consult with the department prior to completion of the transfer application to determine specific requirements for information which must accompany the application. The transfer of the permit shall be for the remaining life of the permit. Upon submission of required information to the satisfaction of the department, the decision will be made concerning the transfer. Pending a decision on the transfer, the department will hold the current permittee or applicant of record for an operating site responsible for the proper operation of the site. [Failure to initiate a transfer will cause the department to close the site for operating without a permit. Also, failure to give complete information or the submission of false information in the application shall constitute grounds for rejection of the application.] The application shall be submitted in the form of a letter and shall normally provide the following information, as applicable, except when determined otherwise in consultation with the department.

(1) Evidence [A statement from the present permit holder or applicant that it is his desire that the permit or application be transferred and] that the new operator has the authority necessary to operate a municipal solid waste site within the boundaries of the site as described in the legal description included in the permit or application. If a change in property ownership is involved, the name and mailing address of the new property owner shall be provided.



(2) (No change.)

(3) Evidence of financial responsibility which assures the department that the applicant has sufficient assets to properly operate the site and to provide proper closure. A firm commitment to provide back-up equipment by lease, purchase, or diversion from other activities is part of this responsibility. This assurance may be in the form of performance bonds, letters of credit from recognized financial institutions, company stockholder reports, trust funds, or insurance [etc.,] in the case of privately owned facilities and by commissioners' court or city council resolution in the case of publicly owned facilities. The department shall have the authority to require such financial responsibility as it deems appropriate.

(4) Evidence of competency to operate the site, including [to include] land-filling and earthmoving experience, [or such] other pertinent experience, or department letters of competency possessed by [of] key personnel and the number and size of each type of [numbers, makes, models, and condition of all] equipment to be dedicated to site operation. The applicant shall submit a list [record] of all solid waste sites operated [his activities involving solid waste management] in Texas within the last 10 years as well as in all other states, territories, or countries. The type of site operated in each state, territory, or country shall be identified by location, operating dates, name and address of regulatory agency, and the name under which the site was operated. If the applicant does not have a prior site operating record, he must possess a department letter of competency as described in §§325.381-325.391 of this title (relating to Solid Waste Technician Training and Certification Program) for the type of facility involved, evidence of equivalent qualification, or evidence that the proposed site supervisor has such qualification. The department may require that an appropriately qualified site supervisor be employed before commencing site operation. The names of the principals and supervisors of the applicant's organization shall be provided, together with previous affiliations with other organizations engaged in solid waste activities.

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

(7) A statement from the owner of the land described in the application, witnessed and notarized, in two copies, substantially equivalent to §325.905 of this title (relating to Appendix E—Form for Property Owner Affidavit), when the applicant is not a city, county, state agency, or federal agency [the owner of the land].

#### §325.60. Preparation of Application.

(a) The application for a permit shall be prepared and signed by the applicant on a form to be provided by the department or in a format specified by sections in this subchapter for specific types of sites. In general, the application shall include infor-

mation necessary to make an evaluation of the proposed operation to ensure that the facility is located, designed, and operated so that the health, welfare, and physical property of the public as well as the environment and endangered species are protected. Failure to give complete information as required by these rules [requested on the application form, or the submission of false information,] may constitute grounds for the department's return [rejection] of the application without further action. Likewise, the submission of false information shall constitute grounds for disapproval of the application or subsequent revocation of the permit. See §§325.71-325.75 of this title (relating to Application and Data Requirements) [and §325.443 of this title (relating to Dedicated Land Disposal Sites)] for specific requirements for the type of facility for which a permit is desired.

(b)-(d) (No change.)

§325.61. Submission of Application. The application for a permit shall be submitted to the department with all the supporting data in the number of copies prescribed in the instructions on the application form, unless otherwise advised. Following [Upon] receipt of the application, the department will forward to the applicant a notice of filing of application which the applicant, at his own expense, shall [will] cause to be published one time in a newspaper of general circulation in the county in which the solid waste site is located. Such publication shall be accomplished [within 15 days after receipt of such notice] by the applicant, and a publisher's affidavit relative to such publication shall be forwarded to the department immediately thereafter. Processing of the application by bureau staff will not commence until the publisher's affidavit has been received. The publication of this notice of filing of application shall be in addition to the publication of the notice of opportunity for a public hearing and/or the notice of public hearing required by §325.93 of this title (relating to Scheduling and Preparation for a Public Hearing). For a facility to be located within a county which exercises licensing authority but not within the territorial or extraterritorial jurisdiction of a city or town, the prospective applicant should consult with the appropriate county for any special application requirements.

§325.62. Land Use Public Hearing. The department [, upon its own motion or upon the request of a permit applicant,] may process a permit application or partial application to the extent necessary to determine land use compatibility alone. If the site is determined to be acceptable on the basis of land use, the department will consider technical matters related to the application at a later time. When this procedure is followed, an opportunity for a public hearing will be offered [held] for each determination in accordance with §§325.91-325.95 of this title (relating to Application Review

Process). For the purposes of the land use determination [public hearing], the applicant shall [will] be required to submit, as a minimum, Part A of the permit application and all data required by subsections §325.74(b)(5)(A) and (b)(6)(A)-(D) of this title (relating to Technical Information Required for Landfill Sites Serving 5,000 Persons or More—Site Development Plan) or §325.75(b)(5)(A) and (b)(6)(A)-(D) of this title (relating to Technical Information Required for Solid Waste Processing and Experimental Sites), as appropriate.

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 January 21, 1985.

TRD-850633

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

Proposed date of adoption:  
April 27, 1985

For further information, please call  
(512) 458-7271.

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### Application and Data Requirements

★25 TAC §§325.71-325.75

The amendments are proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of municipal solid waste.

#### §325.71. General.

(a) (No change.)

(b) All of the application and data requirements indicated in §§325.51-325.95 of this title (relating to Permit Procedures and Design Criteria) and §§325.271-325.350 of this title (relating to Hazardous Waste Management), as applicable, shall be submitted by a permit applicant prior to a public hearing on the application; except that the chief of the bureau, or his designated representative, may temporarily waive any requirement which he considers not essential to the evaluation of the application or for holding a public hearing. A temporary waiver/variance shall be affirmed, modified, or set aside at the public hearing or during the final decision-making process. The applicant is responsible for presenting justification at the public hearing for the

waiver/variance temporarily granted by the chief of the bureau. The department strongly recommends that the prospective applicant confer as early as possible with appropriate representatives of the bureau to discuss the information contained in Part A and to obtain guidance for conducting the soils investigation and preparation of the design for the proposed facility. Discussions at such a conference can result in determining the degree of detail required in the preparation of supporting data or in the identification of data that may not be required for the particular facility. Except as may be otherwise determined as unnecessary for a specific site by the chief of the bureau in accordance with this subsection, the information required by the rules [regulations] is the minimum required to process an application. All aspects of the application and design requirements must be addressed by the applicant, even if only to show why they are not applicable for the particular site. It is the responsibility of the applicant to provide the department technical data of sufficient completeness, accuracy, and clarity to provide assurance that the operation of the site will pose no reasonable probability of adverse effects on the health, welfare, environment, or physical property of nearby residents or property owners. The applicant is also responsible for determining any site-specific conditions which require special design considerations that may exceed the minimum criteria contained in these rules [regulations]. **The Part B or Site Development Plan shall become a part of the permit, if issued, and the permittee shall be required to comply with the design and the construction and operating procedures.**

**§325.72. General Information Required for All Sites—Permit/Registration Application, Part A.**

(a) (No change.)

(b) The following shall [will] be submitted, in the number of copies indicated, with Part A of the permit application unless otherwise advised:

(1) (No change.)

(2) When the applicant is not a city, county, state agency, or federal agency and is not the owner of record of the land described in the application or does not have an option to buy the land, the applicant shall secure and submit with the application, except as provided in this paragraph, a statement from the owner substantially equivalent to §325.905 of this title (relating to Appendix E—Form For Property Owner Affidavit). The owner-signed statement shall be witnessed and notarized. If the owner does not sign this affidavit, the applicant shall provide the department with reasonable evidence that the property owner has been properly notified and advised of his responsibilities and potential liabilities [will include the owner's name and mailing address in Part A of the application. In this

latter case, within approximately 10 working days of receipt by the department of Part A of the application, the Bureau of Solid Waste Management will notify the owner of record by certified mail that an application for a solid waste facility to be located on his land has been submitted to the department].

(3) For Type II sites and Type IV sites serving less than 5,000 persons or the population equivalent, the applicant shall submit a brief description of the general sources and generation areas contributing wastes to the site. This shall include an estimate of the initial population or population equivalent to be served by the site and the projected rate of growth in population or population equivalent.

**§325.73. Technical Information Required for Landfill Sites Serving Less Than 5,000 Persons—Permit Application, Part B.**

(a) (No change.)

(b) Unless otherwise excepted by the chief of the bureau or his designated representative in subsection (b) of §325.71 of this title (relating to General), Part B shall be supported by the following.

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

(4) Evidence of financial responsibility which assures the department that the applicant has sufficient assets to properly operate the site and to provide proper closure. A firm commitment to provide backup equipment by lease, purchase, or diversion from other activities is part of this responsibility. This assurance may be in the form of performance bonds, letters of credit from recognized financial institutions, company stock-holder reports, trust funds, or insurance [etc.] in the case of privately owned facilities and by commissioners' court or city council resolution in the case of publicly owned facilities. **The department shall have the authority to require such financial responsibility as it deems appropriate.**

(5) Evidence of competency to operate the site, including [to include] landfilling and earthmoving experience, other pertinent experience, or department letters of competency possessed by [of] key personnel and the [size, types, and] number and size of each type of equipment to be dedicated to site operation. The applicant shall submit a list [record] of all solid waste sites operated [his activities involving solid waste management] in Texas within the past 10 years as well as in all other states, territories, or countries. The type of site operated in each state, territory, or country shall be identified by location, operating dates, name and address of the regulatory agency, and the name under which the site was operated. If the applicant does not have a prior site operating record, he must possess a department letter of competency as described in §§325.381-325.391 of this title (relating to Solid Waste Technician Training and Certification Program) for the type

of facility involved, evidence of equivalent qualification, or evidence that the proposed site supervisor has such qualification. The department may require that an appropriately qualified site supervisor be employed before commencing site operation. The names of the principals and supervisors of the applicant's organization shall be provided, together with previous affiliations with other organizations engaged in solid waste activities.

**§325.74. Technical Information Required for Landfill Sites Serving 5,000 Persons or More—Site Development Plan.**

(a) (No change.)

(b) The site development plan shall be prepared in the format and content described as follows, except as may be otherwise determined for a specific site by the chief of the bureau in accordance with §325.71(b) of this title (relating to General).

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

(5) Design data shall [will] be reflected to the maximum extent possible on the set of attachments described in paragraph (6) of this subsection. Applicants shall [will] consider criteria that in the selection of a site and design of a facility will provide for the safeguarding of the health, welfare, and physical property of the people and the environment through consideration of geology, soil conditions, drainage, land use, zoning, adequacy of access roads and highways, and other considerations as the specific site dictates. Applicants shall include in the support data for their permit applications information as specified in the design criteria indicated in this paragraph. It is recommended that the applicant review the operational standards for the specific type of site before completing the application. Additional information may be required of the applicant when deemed necessary by the department.

(A) (No change.)

(B) Access. [Proper access to and within the land disposal site shall be provided.] The following information [data] shall be submitted with a permit application.

[(i) Data to substantiate adequacy of public access roadways, including types of surfacing, pavement widths, complete details of upgrading required, and recent average daily traffic counts (estimated, when counts are not available). A statement must also be included stating if any significant roadway limitations (structures, surfacing, sight distances, alignment, dust hazards, weight limits, etc.) exist on these public access routes. An estimate shall be provided of the number, sizes, and maximum weight of vehicles expected to use the site daily.]

(i) [(ii) Provisions for all-weather access from publicly owned [access] routes to the disposal site and from the entrance of the site to unloading areas used during wet weather. Interior access road lo-

cations and the type of surfacing shall be indicated on a site plan. The roads within [access road into] the site shall be designed so as to minimize the tracking of mud onto the public access road. Maintenance and dust control procedures including all-weather serviceability of interior roads shall also be addressed in the overall site design and operating plan. [A design of the intersection of the public access road with the site entrance road shall be included with the overall site design. The intersection design should address turning radii, pavement widths, traffic storage lanes, gates, signalization, and landscaping as appropriate.]

(ii) [(iii)] Type and location of fences or other suitable means of access control to prevent the entry of livestock; to protect the public from exposure to potential health and safety hazards; and to discourage unauthorized entry or uncontrolled disposal of hazardous materials.

(C) (No change.)

(D) Groundwater protection.

(i) (No change.)

(ii) A facility shall be designed so as not to contaminate the groundwater beyond the boundaries of the site. As a general rule, the main concern is to protect the existing water quality from deterioration. Depth of groundwater in the area shall be indicated. For the purposes of these rules [regulations], the protection of groundwater includes the protection of perched water or shallow surface infiltration [which may now or in the future have value in low-volume, low-demand water wells]. Except as required by clause (iii)/(IV) of this subparagraph [when groundwater is encountered], the minimum acceptable protection separating solid waste from groundwater or perched water shall be a naturally occurring barrier of *in situ* soil or a man-made liner which provides the equivalent protection of three feet of soil with a coefficient of permeability of no [not] more than  $1.0 \times 10^{-7}$  centimeters per second, a liquid limit of no [not] less than 30, a plasticity index of no [not] less than 15, and percent passing No. 200 sieve no [not] less than 30. These soil-parameters shall be determined by ASTM test procedures or those tests which have been discussed with and approved by the department. When soils with a coefficient of permeability of less than  $1.0 \times 10^{-7}$  [ $1 \times 10^{-8}$ ] centimeters per second [or less] are used, the liner thickness may be reduced to no [not] less than one foot [, provided]. A protective cover of at least one [additional] foot of other soil shall be provided for all constructed liners [is used]. Requests to use soil liner thicknesses of less than three feet when soils with a coefficient of permeability of less than  $1.0 \times 10^{-7}$  centimeters per second are to be used will be considered by the department on a case-by-case basis. Such requests shall be accompanied by a soil and liner quality control plan as described in clause (iii) of this subparagraph. The plan shall also specify the types of spreading and

compaction equipment that will be used to construct the liner.

(iii)-(vi) (No change.)

(vii) Except as may be authorized by subclause (VIII) of this clause, groundwater monitor wells shall be installed for surface impoundments, landfills, and land treatment sites. A groundwater monitoring system shall [will] consist of at least one monitor well hydraulically upgradient of the site to obtain representative background groundwater samples and at least two monitor wells hydraulically downgradient of the site to obtain representative groundwater samples that may contain contaminants from leachate. The department may require additional monitor wells when conditions warrant, particularly for large sites. The design engineer shall determine the number, location, and depth of monitor wells based on such groundwater information as depth to the water table, direction and rate of groundwater flow, recharge area in relation to the site, static water elevation with dynamic head characteristics, and depth to the first potable aquifer.

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

(IV) Except as provided for in subclause (VIII) of this clause, a groundwater sampling program shall provide for obtaining four background groundwater samples of all monitor wells within 24 months from the date of the issuance of the permit. The background levels shall be established from samples collected from each well at least once during each of the four calendar quarters: January-March; April-June; July-September; and October-December. Samples from any monitor well shall not be collected for at least 45 days following collection of a previous sample, unless a replacement sample is necessary. At least one sample per well shall [must] be collected and submitted to a laboratory for analysis prior to the deposition of any solid waste on site. Background samples shall be analyzed for [In addition to] the two groups of parameters listed in items (-a-) and (-b-) of this subclause [, each well sample analysis shall include four replicate determinations for total organic carbon (TOC) content and the groundwater elevation (MSL) at the time the sample was collected].

(-a-) Heavy metals: arsenic, copper, mercury, barium, iron, selenium, cadmium, lead, silver, chromium, manganese, and zinc.

(-b-) Other parameters [nonheavy metals]:

calcium	total dissolved solids
magnesium	phenolphthalein alkalinity as $\text{CaCO}_3$
sodium carbonate	alkalinity as $\text{CaCO}_3$
bicarbonate	hardness as $\text{CaCO}_3$
sulphate	pH
chloride	specific conductance
	groundwater elevation (MSL)
fluoride	nitrate (as N)

total organic carbon (TOC) (four replicates/sample)

(V) (No change.)

(VI) Once every fourth year following the establishment of background values, the parameters [nonheavy metals group] specified in subclause (IV)(-b-) [(IV)] of this clause shall be determined plus manganese and iron [in addition to the indicator parameters specified in subclause (V) of this clause].

(VII)-(VIII) (No change.)

(E)-(H) (No change.)

(I) Soil data.

(i) (No change.)

(ii) A report of each columnar section obtained by borings shall be submitted along with a site map showing the location and elevation of each boring. Each boring log shall [should] report the elevation and the soil layers present, describing the soil or rock constituents, color, degree of compaction, and amount of moisture present plus any additional information necessary for an adequate description. A total thickness of each soil or rock layer shall [should] be represented on the boring log and enough information shall [should] be obtained to classify each soil stratum based on the Unified Soils Classification System. If subsurface water is encountered, the test hole shall [should] be bailed of all drilling fluids for its entire depth and the initial depth that water was encountered shall [should] be noted on the boring log. Also, the static water level shall be obtained by measuring the depth to the water level daily until it has remained stable for a period of 24 hours or longer and noted on the boring log indicating the time required for the water level to stabilize. If drilling within 200 feet [in the vicinity] of an existing disposal site and water is encountered, and a groundwater monitoring program is not being conducted for the existing site, the hole shall be bailed of all drilling fluids and a sample of the subsurface water shall be taken after the static water level has stabilized and it shall be analyzed to determine the existence of any contaminants. Consideration should be given to the conversion of bore holes into piezometers to establish groundwater gradient and then monitor wells; however, conversion to monitor wells shall not be accomplished without prior approval by the department. All test holes drilled in conjunction with soil testing and evaluation shall be bailed and, once groundwater data is obtained, adequately plugged to preclude surface contamination from entering unless the holes are to be used for piezometers or monitor wells. [The plugging shall consist of a 10-foot thick cement pressure grout placed from a depth of three feet to 13 feet from the surface. The top three feet may be backfilled with on-site soils displaced during drilling.] All test holes shall be pressure plugged [which penetrate any buried waste shall be plugged from three below the surface] to their entire depth. This plug shall

be a bentonite mud [with a minimum of one sack of cement grout per 15 feet of test hole depth].

(iii)-(v) (No change.)

(J) (No change.)

(6) Attachments.

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

(D) Attachment 4—**aerial photograph.** This should be an aerial photograph approximately nine inches by nine inches with a scale within a range of one inch equals 1,667 feet to one inch equals 3,334 feet and showing the area within at least a one-mile radius of the site boundaries. The site boundaries or actual fill areas shall [should] be marked. Aerial photographs are usually available at a nominal fee from the Aerial Photography Field Office, 2222 West, 2300 South, P.O. Box 30910, Salt Lake City, Utah 84130 [Administrative Services Division, ASCS—USDA, 2505 Parley's Way, Salt Lake City, Utah 84109]. The Agricultural Stabilization and Conservation Office in the county where the site is located should be contacted prior to ordering to determine identifying data for the coverage desired and cost.

(E) (No change.)

(F) Attachment 6—**sectorized fill layout.** This is the basic element of the site development plan consisting of a site layout on a constructed map showing the outline of the fill sectors with appropriate notations thereon to communicate the types of wastes to be disposed of in individual sectors, the general sequence of filling operations, locations of all interior site roadways to provide access to all fill areas, locations of monitor wells, dimensions of trenches, locations of buildings, and any other graphic representations or marginal explanatory notes necessary to communicate the proposed step-by-step construction of the site. The layout shall [should] include fencing; sequence of excavations, filling, and final cover; provisions for the maintenance of natural windbreaks, such as greenbelts, where they will improve the appearance and operation of the site; and, when appropriate, plans for screening the site from public view. A generalized design of all site entrance roads from public access roads shall be included. All designs of proposed public roadway improvements, such as turning lanes, storage lanes, etc., associated with site entrances should be coordinated with the agency exercising maintenance responsibility of the public roadway involved. This plan is the basis for operational planning and budgeting and therefore shall [should] contain sufficient detail to provide an effective site management tool. [If a phased site development is proposed in accordance with this section, detailed working drawings for only the Phase I portion of the site, generally for five to eight years of estimated life, are required; however, the phased development does not waive the need for initial and final contours and an

overall concept of development for the entire site.]

(G)-(K) (No change.)

(L) Attachment 12—**site operating plan.** This document is to provide guidance from the design engineer to site management and operating personnel in sufficient detail to enable them to conduct day-to-day operations in a manner consistent with the engineer's design through the life of the site. As a minimum, the site operating plan shall include specific guidance or instructions on the following.

(i) The minimum number of personnel, and their functions, [and the size, types, and number of equipment] to be provided by the site operator in order to have adequate capability to conduct the operation in conformance with the design and operational standards. A supervisory position shall be designated to be in charge with a designated alternate and, one or the other shall be on site at least 75% of the time.

(ii) The minimum number and size of each type of equipment to be provided by the site operator in order to have adequate capability to conduct the operation in conformance with the design and operational standards.

(iii) [(ii)] Security, site access control, screening, traffic control, and safety.

(iv) [(iii)] Sequence of site development such as roads, ditches, berms, retaining ponds, trenches, and buildings.

(v) [(iv)] Control of dumping within designated areas so as to minimize the width of the working face of the disposal area.

(vi) [(v)] Fire prevention and control, stockpiling of fire-fighting materials, and special training requirements for fire-fighting personnel that may be called on for assistance.

(vii) [(vi)] Control of special wastes, Class I wastes, hazardous wastes, management of manifested wastes, record-keeping, and procedures to ensure that unauthorized wastes are not accepted for disposal.

(viii) [(vii)] Control of wind-blown material.

(ix) [(viii)] Vector control.

(x) [(ix)] Dewatering of excavations prior to lining or waste disposal.

(xi) [(x)] Dust and mud control measures for access roads.

(xii) [(xi)] Compaction and intermediate cover application and final cover procedures. Instructions shall be included for application of intermediate and final cover with guidance on the type and thickness of material to be applied.

(xiii) [(xii)] Procedures and responsibilities for assuring continuous compliance with the Soil and Liner Quality Control Plan.

(xiv) [(xiii)] Monitoring for leachate and methane. The timing for place-

ment of monitoring or venting wells shall be addressed and guidance provided for sampling.

(xv) [(xiv)] Posting of signs and enforcement of site rules to include proper covering of waste-hauling vehicles.

(xvi) [(xv)] Protection of on-site utilities and easements.

(xvii) [(xvi)] Wet-weather operations.

(xviii) [(xvii)] Inspection and maintenance of completed sections of the site during the active life of the site and after closure. Specific plans shall be provided for inspection by a professional engineer to evaluate and upgrade unsatisfactory conditions as necessary.

(xix) [(xviii)] Incorporation of other instructions as necessary to ensure that site personnel comply with all of the operational standards for the type of site involved.

(M) Attachment 13—**evidence of financial responsibility.** The applicant shall submit evidence of financial responsibility which assures the department that he has sufficient assets to properly operate the site and to provide proper closure. A firm commitment to provide backup equipment by lease, purchase, or diversion from other activities is part of this responsibility. This assurance may be in the form of performance bonds, letters of credit from recognized financial institutions, company stockholder reports, trust funds, or insurance [etc.,] in the case of privately owned facilities and by commissioners' court or city council resolution in the case of publicly owned facilities. The department shall have the authority to require such financial responsibility as it deems appropriate.

(N) Attachment 14—**evidence of competency.** The applicant shall submit a list [record] of all solid waste sites operated [his activities involving solid waste management] in Texas within the last 10 years, as well as in all other states, territories, or countries. The type of site operated in each state, territory, or country shall be identified by location, operating dates, name and address of the regulatory agency, and the name under which the site was operated. If the applicant does not have a prior site operating record, he must possess a department letter of competency as described in §§325.381-325.391 of this title (relating to Solid Waste Technician Training and Certification Program) for the type of facility involved, evidence of equivalent qualification, or evidence that the proposed site supervisor has such qualification. The department may require that an appropriately qualified site supervisor be employed before commencing site operation. The names of the principals and supervisors of the applicant's organization shall be provided, together with previous affiliations with other organizations engaged in solid waste activities. Evidence of competency to operate the site shall also [be provided, to] in-

clude landfilling and earthmoving experience, other pertinent experience, or department letters of competency possessed by [of] key personnel and the number and size of each type of equipment to be dedicated to site operation.

(O) (No change.)

**§325.75. Technical Information Required for Solid Waste Processing and Experimental Sites.**

(a) (No change.)

(b) The site development plan shall be prepared in the format and content described in paragraphs (1)-(6) of this subsection.

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

(5) Design data shall [will] be reflected to the maximum extent possible on the set of attachments described in paragraph (6) of this subsection. Information which is to be placed in narrative form in this section of the application should be in a sequence that parallels the sequence of the attachments described in paragraph (6) of this subsection. Applicants shall [will] consider criteria that in the selection of a site and design of a facility will provide for the safeguarding of the health, welfare, and physical property of the people and the environment through consideration of geology, soil conditions, drainage, land use, zoning, adequacy of access roads and highways, and other considerations as the specific site dictates. Applicants shall include information in the support data for their permit applications [information] as specified in the design criteria indicated in this paragraph. Additional information may be required of the applicant when deemed necessary by the department.

(A) (No change.)

(B) Access.

(i) Solid waste processing facilities shall be so planned that they result in a minimum disruption of normal traffic patterns. [Data shall be submitted to substantiate adequacy of public access roadways, including types of surfacing, pavement widths, complete details of upgrading required, and recent daily traffic counts (estimated, when counts not available). A statement shall also be included stating if any significant roadway limitations (structures, surfacing, sight distances, alignment, dust hazards, weight limits, etc.) exist on these public access routes.] An estimate shall be provided of the number, sizes, and maximum weight of vehicles expected to use the facility daily.

(ii) Provisions shall be made for all-weather access from publicly owned [access] routes to the site and within the site. Interior access road locations and the type of surfacing shall be indicated on a site plan. Maintenance and dust control procedures, including all-weather serviceability of interior roads shall also be addressed in the overall site design and operating plan. [A design of the intersection of the public access road

with the site entrance road shall be included with the overall site design. The intersection design should address turning radii, pavement widths, traffic storage lanes, gates, signalization, and landscaping as appropriate.]

(iii)-(iv) (No change.)

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

(6) Attachments.

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

(D) Attachment 4—aerial photograph. This should be an aerial photograph approximately nine inches by nine inches with a scale within a range of one inch equals 1,667 feet to one inch equals 3,334 feet and showing the area within at least a 1/2-mile radius of the site boundaries. The site boundaries shall be marked. Aerial photographs are usually available at a nominal fee from the Aerial Photography Field Office, 2222 West, 2300 South, P.O. Box 30010, Salt Lake City, Utah 84130 [Administrative Services Division, ASCS—USDA, 2505 Parley's Way, Salt Lake City, Utah 84109]. The Agricultural Stabilization and Conservation Office in the county where the site is located should be contacted prior to ordering to determine identifying data for the coverage desired and cost.

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

(H) Attachment 8—site operating plan. This document is to provide guidance from the design engineer to site management and operating personnel in sufficient detail to enable them to conduct day-to-day operations in a manner consistent with the engineer's design. As a minimum, the site operating plan shall include guidance or instructions on the following.

(i) The minimum number of personnel, and their functions, [and the size, type, and number of equipment and minimum number of each type] to be provided by the site operator in order to have adequate capability to conduct the operation in conformance with the design and operational standards. A supervisory position shall be designated to be in charge with a designated alternate, and one or the other shall be on site at least 75% of the time.

(ii) The minimum number and size of each type of equipment to be provided by the site operator in order to have adequate capability to conduct the operation in conformance with the design and operational standards.

(iii) [(ii)] Security, site access control, screening, traffic control, and safety.

(iv) [(iii)] Control of dumping within designated areas.

(v) [(iv)] Fire prevention and control, provision of fire-fighting equipment, and special training requirements for fire-fighting personnel who may be called on for assistance.

(vi) [(v)] Procedures to ensure that unauthorized wastes are not accepted for disposal.

(vii) [(vi)] Control of wind-blown material.

(viii) [(vii)] Vector control.

(I) (No change.)

(J) Attachment 10—evidence of competency. The applicant shall submit a list [record] of all solid waste sites operated [his activities involving solid waste management] in Texas within the last 10 years, as well as in all other states, territories, or countries. The type of site operated in each state, territory, or country shall be identified by location, operating dates, name and address of the regulatory agency, and the name under which the site was operated. If the applicant does not have a prior site operating record, he must possess a department letter of competency as described in §§325.381-325.391 of this title (relating to Solid Waste Technician Training and Certification Program) for the type of facility involved, evidence of equivalent qualification, or evidence that the proposed site supervisor has such qualification. The department may require that an appropriately qualified site supervisor be employed before commencing site operation. The names of the principals and supervisors of the applicant's organization shall be provided, together with previous affiliations with other organizations engaged in solid waste activities. Evidence of competency to operate the site shall also [be provided, to] include pertinent experience and qualifications, such as department letters of competency, of key personnel.

(K) (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 January 21, 1985.

TRD-850751

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

Proposed date of adoption:  
April 27, 1985

For further information, please call  
(512) 468-7271.

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## Application Review Process

### ★ 25 TAC §§325.91-325.95

The amendments are proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of municipal solid waste.

**§325.91. General.** The chief of the bureau is responsible for accomplishing all departmental actions necessary for the processing, technical evaluation of permit applications, and referral to the Office of General Counsel for issuance of a notice of opportunity for a public hearing or scheduling of the public hearing. The chief of the bureau or his designated representative will be designated a party in accordance with the Administrative Procedure and Texas Register Act in all cases and will submit a recommendation for approval or denial of applications for permits or for their renewal, amendment, or transfer. The chief of the bureau, or his designated representative, will designate a professional engineer as project engineer, and such other staff members as may be necessary, to assist him in performing all processing and evaluation actions for each application. The [bureau] chief of the bureau, or his designated representative, shall determine when the permit application is sufficiently complete to schedule a public hearing. The [will ensure that all information and data required by the regulations have been provided, except that the] chief of the bureau, or his designated representative, may temporarily approve an applicant's request for a variance from these rules if considered justified and may temporarily waive any requirement which he considers not essential to the evaluation of the application or for holding a public hearing. A temporary waiver/variance shall be affirmed, modified, or set aside at the public hearing or during the final decision-making process. The applicant is responsible for presenting justification at the public hearing for the waiver/variance temporarily granted by the chief of the bureau or his designated representative. If the applicant requests a variance from the requirements of these rules [regulations], the chief of the bureau will ensure that the request is incorporated into the application.

### §325.92. Application Processing.

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

(c) Normally, the entities to whom copies of the application are mailed shall have 30 days to present comments and recommendations on the permit application. The agencies having maintenance responsibility for public access routes serving the proposed facility shall be specifi-

cally requested to comment on the adequacy of the routes existing or proposed to adequately [safely] accommodate the traffic expected to use the facility. If any of the review agencies or the bureau require additional data in order to conduct a proper evaluation, the additional data, if considered reasonable by the chief of the bureau or his designated representative, will be requested by the bureau. Following the time for receipt of comments and recommendations from various review agencies, the designated project engineer and other staff members assigned under the supervision of the bureau chief will perform a detailed technical evaluation and prepare a written summary of the application taking into consideration all comments received from the review agencies. [Consideration will be given to any recommendation or action taken by the governing body of a city or county within whose jurisdiction the proposed site is to be located.]

### §325.93. Scheduling and Preparation for a Public Hearing.

(a) The bureau, [may request schedule a hearing] on its own motion, may request that a hearing be scheduled or that an opportunity for a public hearing be provided, and will [or will provide an opportunity for a public hearing and] make available copies of its technical summary upon request.

(1) (No change.)

(2) If the bureau does not [require or has not] receive [received] a written request from a person deemed to have a justiciable interest for a public hearing, the chief of the bureau will [shall] submit to the department's Office of General Counsel a brief containing the bureau's technical evaluation of the permit application, analysis, conclusions, and recommendations accompanied by the proposed permit.

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

(b) (No change.)

(c) The municipal solid waste management rules in effect at the time that the bureau conducted the technical evaluation [notice is given under subsections (a) or (b) of this section] shall be the rules under which hearing procedures are conducted, including the final decision regarding the application. The public hearing notice and the opportunity for a public hearing notice shall include a statement that identifies the set of rules under which the hearing will be conducted and the final decision rendered.

### §325.94. Conduct of the Public Hearing.

(a) The public hearing will be conducted by a hearing examiner designated by the commissioner. The bureau [of Solid Waste Management] will normally be represented at the hearing by the chief of the bureau [chief], his designated representative, and/or the designated project engineer assisted by appropriate staff members. The bureau representatives may offer

pertinent information contained in official records into the hearing record.

(b)-(d) (No change.)

### §325.95. Final Determination on Application.

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

(c) Opposed cases. In opposed cases in which the commissioner neither hears the evidence nor reads the complete record, a proposal for decision will [shall] be prepared by the hearing examiner [based on initial briefs and reply briefs filed by all parties to the action]. Prior to the closing of the hearing record, the hearing examiner shall establish a schedule for all ensuing actions through the final determination by the commissioner. All parties shall have an opportunity to file briefs with the hearing examiner, providing copies thereof to all other parties who shall then have an opportunity to file reply briefs with the hearing examiner. The chief of the bureau will [shall] file a brief in all cases. The hearing examiner will then prepare a proposal for decision and provide copies to all parties. All parties filing exceptions and briefs to the proposal for decision shall provide copies of such exceptions and briefs to all other parties who shall then have an opportunity to file replies with the hearing examiner. Following the receipt of replies from all parties or the termination of the specified period of time for receipt of such replies, the Office of General Counsel will [shall] forward the proposal for decision, together with all briefs, exceptions and replies received, through the associate commissioner for environmental and consumer health protection to the commissioner. Following his review of the proposal for decision, exceptions, briefs, replies, and staff recommendations, the commissioner shall issue a final decision in the form of a permit, with special provisions attached thereto, if appropriate; a denial order, containing the grounds for such denial; or any other action as may be authorized by state law. Subsequent to this final decision by the commissioner, a motion for rehearing may be filed by any person affected by the decision. This motion must be filed within 15 days of the commissioner's decision and persons opposing or otherwise responding to the motion for rehearing shall [will] be provided an opportunity to file a reply to the motion. The commissioner shall have 45 days from the time of the final decision (i.e., the issuance of the permit or denial order) to rule on the motions for rehearing, unless such time is extended by the commissioner by written order. Anyone who has filed a motion for rehearing may appeal the commissioner's final decision to a district court in Travis County within 30 days after a motion for rehearing has been overruled either by written order of the commissioner or by operation of law. Time limitations for the filing of motions, responses, exceptions, and briefs shall be governed by

the provisions of the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a.

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 January 21, 1985.

TRD-850636 Robert A. MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of  
Health

Proposed date of adoption:  
April 27, 1985

For further information, please call  
(512) 458-7271.



## Subchapter F. Operational Standards for Solid Waste Land Disposal Sites General

### ★25 TAC §325.114

The new section is proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of municipal solid waste.

**§325.114. Evidence of Financial Responsibility.** The department may for good cause require evidence of financial responsibility as it deems appropriate to assure the department that the responsible owner/operator has sufficient assets to properly operate the site and to provide proper closure. A firm commitment to provide backup equipment by lease, purchase, or diversion from other activities is part of this responsibility. This assurance may be in the form of performance bonds, letters of credit from recognized financial institutions, company stockholder reports, trust funds, or insurance in the case of privately owned facilities and by commissioners' court or city council resolution in the case of publicly owned facilities.

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

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Deputy Commissioner  
Professional Services  
Texas Department of  
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(512) 458-7271.



## Standards for Protection of Ground and Surface Waters

### ★25 TAC §§325.121-325.124

The amendments are proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of municipal solid waste.

#### **§325.121. General Liner Requirements and Alternatives.**

(a) The minimum acceptable protection is a layer of soil in each disposal trench, excavation, or area that is at least equivalent to three feet of soil having a maximum coefficient of permeability of  $1.0 \times 10^{-7}$  centimeters per second unless some other means of protection is approved by the department. [; or] All constructed liners shall be provided a protected cover of one foot of soil in addition to the liner. This protective cover may be of on-site material and does not have to meet a coefficient of permeability requirement.

(b) Requests to use soil liner thicknesses of less than three feet when soils with a coefficient of permeability of less than  $1.0 \times 10^{-7}$  centimeters per second are to be used shall be considered by the department on a case-by-case basis. Such requests shall be accompanied by a soil and liner quality control plan as described in §325.122 of this title (relating to Soil and Liner Quality Control). The plan shall specify the types of spreading and compaction equipment that will be used to construct the liner. [When soil liner thicknesses of less than three feet are proposed as equivalents, a protective cover of at least one foot of soil in addition to the liner shall be used. This protective cover may be of on-site material and does not have to meet a coefficient of

permeability requirement.] If the coefficient of permeability of the liner soil is [ $1.0 \times 10^{-6}$  centimeters per second or] less than  $1.0 \times 10^{-7}$  centimeters per second, the liner thickness shall not be less than one foot in compacted thickness under density-controlled construction prior to placement of the protective cover. If the plasticity index of the liner soil is less than 15, [and] the liquid limit is less than 30, or the percent passing No. 200 sieve is less than 30, the liner equivalency [liner] rule does not apply and the soil liner shall be no less than three feet in compacted thickness.

(c) (No change.)

#### **§325.122. Soil and Liner Quality Control.**

(a) The site operators of sites serving a population equivalent of 5,000 or more, or where lining is required by permit special provision, shall have [on file with the bureau] an approved soil and liner quality control plan (SLQCP) for each site required to submit soil and liner evaluation reports (SLER) by subsection (b) of this section.

(b) The site operators of sites serving a population equivalent of 5,000 or more, or where lining is required by permit special provision, shall submit to the bureau a soil and liner evaluation report (SLER) in triplicate (including all attachments) for each disposal trench, excavation, or area as outlined in the SLQCP at least 14 days prior to depositing any solid waste in the trench, excavation, or disposal area unless alternate means for protecting ground waters have been approved by the bureau.

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

(3) The SLQCP shall include specifications and construction methods employing good engineering practices for both the evaluation of existing soils and the compaction of clay soils to form a liner under each of the four potential conditions described in subparagraphs (A)-(D) of this paragraph, and provide for soil and liner quality control testing frequencies and procedures as described in subparagraph (E) of this paragraph.

(A)-(D) (No change.)

(E) Soil and liner quality control testing frequencies and procedures.

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

(iii) The amount of compaction shall be expressed as a percentage of standard Proctor density, which has been proven by soils laboratory testing to provide a coefficient of permeability of  $1.0 \times 10^{-7}$  centimeters per second or less.

(iv)-(vii) (No change.)

(4)-(5) (No change.)

(c) (No change.)

#### **§325.123. Miscellaneous Standards for the Protection of Ground and Surface Waters.**

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

(e) Rainfall water within the landfill area that has come in contact with solid waste and other polluted waters shall not be discharged without prior specific approval of the Texas Department of Water

Resources (TDWR). Prior to discharge of any water that has been in contact with solid waste, a copy of TDWR's approval for such discharge shall be provided to the bureau.

**§325.124. Groundwater Protection Systems.**

(a) Facilities required to have groundwater monitoring programs and initiating operation on or after the effective date of these rules [regulations] shall provide for obtaining and analyzing four background groundwater samples from all monitor wells. Background values shall be established from samples collected at least once during each of the four calendar quarters of a two-year period. For sites permitted after the effective date of these rules, the two-year period shall start as of the date of permit issuance; while for sites permitted prior to the effective date of these rules, the two-year period shall start as of the effective date of these rules. Sites where approved background groundwater sampling and testing has been previously accomplished, new background monitoring and testing shall not be required. Samples from any monitor well shall not be collected for at least 45 days following collection of a previous sample, unless a replacement sample is necessary. At least one sample per well shall [must] be collected and submitted to a laboratory for analysis prior to the deposition of any solid waste on site. Background samples shall be analyzed for [In addition to] the two groups of parameters listed in paragraphs (1) and (2) of this subsection [each well sample analysis shall include four replicate determinations for total organic carbon (TOC) content and the groundwater elevation (MSL) at the time the sample was collected].

(1) (No change.)

(2) **Other parameters [Nonheavy metals]:**

calcium	total dissolved solids
magnesium	phenolphthalein alkalinity as CaCO <sub>3</sub>
sodium	alkalinity as CaCO <sub>3</sub>
carbonate	hardness as CaCO <sub>3</sub>
bicarbonate	pH
sulphate	specific conductance
chloride	anion-cation balance
fluoride	groundwater elevation (MSL)
nitrate (as N)	total organic carbon (TOC)

(four replicates/sample)

(b) (No change.)

(c) Once every fourth year all sites required to monitor groundwater shall [will] sample and analyze for the [nonheavy metals] group of parameters specified in subsection (a) of this section plus iron and manganese [in addition to the indicator parameters specified in subsection (b) of this section].

(d)-(g) (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 January 21, 1985.

TRD-850637

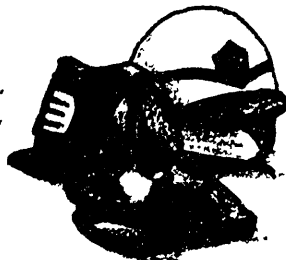
Robert A. MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of Health

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For further information, please call (512) 458-7271.

★ ★ ★



**Other Operational Standards for Types I, II, III, and IV Sites**

★25 TAC §§325.133, 325.136, 325.140, 325.150, 325.152, 325.154

The amendments are proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, 54(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of municipal solid waste.

**§325.133. Access Control.** Uncontrolled access and dumping of unauthorized materials shall be prevented. For Type IV sites, waste unloading shall be closely monitored to assure that only allowable wastes are accepted. (See §325.42 of this title (relating to Types of Municipal Solid Waste Sites) for information concerning allowable wastes.) Any unauthorized wastes shall be removed from the site and taken to an approved disposal facility. Because compactor type vehicle loads cannot be inspected prior to discharge, such vehicles shall not be accepted at type IV landfills. For Type I, II, or III sites, only brush and/or construction-demolition wastes free from other solid wastes shall be deposited in areas designated to receive brush and/or construction-demolition wastes.

**§325.136. Disposal of Special Wastes.**

(a) (No change.)

(b) Receipt of the following special wastes do not require written authorization from the department for acceptance provided the waste is handled in accordance with the noted provisions for each waste.

(1) Infectious or [and] pathological wastes from laboratories, research facilities, and health and veterinary facilities may be accepted at a Type I municipal solid waste site without further written approval if the wastes are double-bagged in plastic bags not less than 1.5 mils [mil] thick each and conspicuously marked. The waste shall not be commingled with routine solid waste, but shall be segregated for special collection and transportation. The wastes shall be covered with three feet of other solid waste or two feet of soil immediately upon receipt.

(2)-(8) (No change.)

**§325.140. Materials Along Route to Site.** Where the site operator does not make an effort to assure that vehicles hauling waste to his site are enclosed or provided with a tarpaulin, net, or other means to properly secure the load to prevent the escape of any part of the load by blowing or spilling by taking actions such as posting signs, reporting offenders to proper law enforcement officers, adding surcharges, or similar measures, the operator shall be responsible for the increased cleanup of waste materials spilled along and within the right-of-way of all public access roads serving the site.

(a) The site operator shall authorize only persons operating vehicles which comply with the following requirements to dispose of waste at the site.

(1) All vehicles and equipment used for the collection and transportation of municipal solid waste shall be constructed, operated, and maintained to prevent loss of liquid or solid waste material and to minimize health and safety hazards to solid waste management personnel and the public.

(2) Collection vehicles and equipment shall be maintained in a sanitary condition to preclude odors and fly breeding.

(3) Collection vehicles not constructed with an enclosed transport body shall use other devices such as nets or tarpaulins to preclude accidental spillage.

(b) Where the site operator fails to enforce these requirements, he shall be responsible for prompt cleanup of all waste materials spilled along and within the right-of-way of all public access roads serving the site.]

**§325.150. Compaction, Intermediate Cover, and Final Cover.**

(a) (No change.)

(b) Intermediate cover shall be six inches of well-compacted earthen material not previously mixed with garbage, rubbish, or other solid waste to prevent the blowing of waste materials; [and to prevent] insect



and rodent problems; and obnoxious odors. Cover frequencies shall be as outlined in §325.42 of this title (relating to Types of Municipal Solid Waste Sites) unless some other cover frequency is stipulated by the department.

(1) Except as provided in paragraph (2) of this subsection, intermediate cover shall be applied as follows:

(A) Where daily cover is required, all solid waste deposited each day shall be provided with intermediate cover at [by] the end of the working day.

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

(2) (No change.)

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

#### §325.152. Site Completion and Closure Procedures.

(a) (No change.)

(b) A [An approved landfill] closure/completion plan approved [shall be on file with] the bureau is required for each land disposal site serving a population equivalent of 5,000 or more. Sites serving a population equivalent of less than 5,000 may be required to have an approved landfill closure/completion plan. The closure/completion plan shall portray the proposed final contours, establishing side slopes and top grades, and proposed surface drainage features. Protective measures for any areas subject to flooding by a 100-year frequency flood shall be described. Requests to amend approved closure plans shall be submitted with all necessary supporting data to the bureau no less than 60 days prior to implementation of closure procedures. Written approval by the department is mandatory before the site operator may proceed with the implementation of a closure/completion plan for a site.

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

#### §325.154. Post-Closure Use of Landfilled Areas.

(a) Because of the potential hazard to public health, groundwater, and the environment if closed landfilled areas are disturbed, the department retains regulatory control over [any activities which may affect the integrity of the landfill cover, drainage, liners, or monitoring system.] activities such as relocating waste from a closed landfill, extracting materials for energy, or material and gas recovery. These activities shall not be undertaken unless prior approval is obtained from the department.

(b) Although departmental approval is not necessary for post-closure uses of landfills other than those specified in subsection (a) of this section, the department believes the information found in paragraphs (1)-(8) of this subsection should be considered.

(1)-(8) (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.

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

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For further information, please call  
(512) 458-7271.

★ ★ ★

#### Subchapter G. Operational Standards for Solid Waste Processing and Experimental Sites

##### Operational Standards for Types V and VI Sites

★25 TAC §325.183

The amendments are proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of municipal solid waste.

#### §325.183. Sanitation and Vector Control.

(a) (No change.)

(b) At processing facilities [When applicable], all working surfaces that come in contact with wastes shall be washed down on a weekly [bi-weekly] basis at the completion of processing. For processing facilities [systems] that operate on a continuous basis, washdown shall be accomplished semi-weekly [bi-weekly] as a minimum with daily sweeping.

(c)-(d) (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.

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Robert A. MacLean  
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Professional Services  
Texas Department of  
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For further information, please call  
(512) 458-7271.

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#### Subchapter N. Management of Sludges and Similar Wastes Transporters

★25 TAC §§325.442, 325.443, 325.445

The amendments are proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of municipal solid waste.

#### §325.442. Registration.

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

(c) Registrations are required to be renewed within three years of the date of the latest registration or whenever:

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

(d) (No change.)

§325.443. Delivery Requirement. Transporters regulated under §§325.441-325.447 of this title (relating to Transporters) shall comply with all requirements of §§325.31-325.34 of this title (relating to Municipal Solid Waste Collection) and shall deposit wastes only at facilities [a facility] designated by or acceptable to the generator where the operator of the facility agrees to receive the wastes and the facility has been approved by the department to receive the wastes. For purposes of this section, [In this regard,] "approved by the department" means the department has given its approval by rule, permit, letter, or other document that identifies the individual facility or class of facilities to receive that specific waste or class of waste.

#### §325.445. Disposition Control.

(a) Waste control record. Persons who collect and/or transport waste subject to control under this subchapter shall initiate and maintain a record of each individual collection and deposit. Such record shall be in the form of a manifest trip ticket or other similar documentation approved by the department. The department does not require a specific form, however, a sample of an acceptable form is included in §325.906 of this title (relating to Appendix F—Form for Vacuum Truck Trip Ticket). Persons who want to use any other form shall submit it to the bureau for review and approval prior to its use. The waste control record shall include:

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

(6) Identification (permit [application] or [site] registration number, location, and operator) of the facility where the waste was deposited; and

(7) (No change.)

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

This agency hereby certifies that the proposal has been reviewed by legal coun-

sel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 21, 1985.

TRD-850628 Robert A. MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of  
Health

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April 27, 1985

For further information, please call  
(512) 458-7271.

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### Land Application for Beneficial Use

#### ★25 TAC §§325.462-325.466

The amendments are proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of municipal solid waste.

#### §325.462. Basic Requirements for Land Application.

(a) (No change.)

(b) Registration of land application for beneficial use sites. Owners/operators of sites which qualify for exemption from a permit as set forth in §325.52 of this title (relating to Permit Exemptions) and for which a permit has not been issued shall register such sites with the department by utilizing Part A, Sections I and II, of the form contained in §325.901 of this title (relating to Appendix A—Application for a Permit/Registration to Operate a Municipal Solid Waste Site—Part A (General Data)). Registration of a site at which wastes are applied to the land for beneficial use is effective on the date that the department, by letter, acknowledges receipt of a properly completed application and provides the owner/operator a registration number. Site registration information on file with the department shall be confirmed

or updated, in writing, whenever: [Persons applying sludge to the land under provisions of §§325.461-325.465 of this title (relating to Land Application for Beneficial Use) shall register such sites as a Type VII site with the department in accordance with §325.52 of this title (relating to Permit Exemptions) by utilizing the form or a facsimile of the form contained in §325.901 of this title (relating to Appendix A—Application for a Permit/Registration to Operate a Municipal Solid Waste Site—Part A (General Data).]

(1) ownership or name of operator is changed;

(2) size of site is proposed to be increased;

(3) the mailing address and/or telephone number of the owner or operator is changed; or

(4) requested by the department.

(c) Permits for [sites for] land application for beneficial use sites. Although a permit is not required for the operation of a site used for land application of certain wastes for beneficial use, the owner/operator of such a site may request the department to issue a permit. When a permit is requested, the application shall be prepared and processed in accordance with §§325.51-325.95 of this title (relating to Permit Procedures and Design Criteria), as applicable. Except where a variance is granted by the department in accordance with the procedures set forth in §325.231 of this title (relating to Granting of Variances), the design and operational requirements contained in §§325.461-325.465 of this title (relating to Land Application for Beneficial Use) shall be applicable to such permitted sites. [The owner/operator of a site for land application for beneficial use may request the department to issue a permit and the department may issue a permit to authorize the operation. Where the department issues a permit, it shall consider the permit application in accordance with department guidelines and §§325.51-325.95 of this title (relating to Permit Procedures and Design Criteria). The design and operational requirements shall, as a minimum, comply with this undesignated head and permit special conditions.]

#### §325.463. General Land Application Standards [Authorization].

(a) (No change.)

(b) Wastewater treatment plant sludges applied to the land for beneficial use shall, prior to application or incorporation into the soil, be stabilized by a process to significantly reduce pathogens or by a process to further reduce pathogens in accordance with the requirements in 40 CFR §257.3-6 [as identified in federal regulations under 40 CFR Part 257, Appendix II, prior to application to the land.]. In addition to these requirements, land application sites receiving wastes for beneficial use shall not be used for grazing dairy animals for at least

12 months following application of such waste.

(c)-(g) (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 January 21, 1985.

TRD-850627 Robert A. MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of  
Health

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For further information, please call  
(512) 458-7271.

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### Grease Trap Waste, Grit Trap Waste, Septage, and Water Supply Treatment Plant Sludges

#### ★25 TAC §325.533, §325.534

The amendments are proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of municipal solid waste.

#### §325.533. Septage.

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

(c) Land application.

(1) (No change.)

(2) Septage that has been stabilized by a process to significantly reduce pathogens or by a process to further reduce pathogens as described [provided] in 40 Code of Federal Regulations, Part 257, Appendix II, may be applied to the land for beneficial use when such application [beneficially used in land application when such operation] complies with requirements contained in §§325.461-325.465 of this title (relating to Land Application for Beneficial Use).

(3) The bureau, after consultation with local public health officials, may grant an exception to the requirements of paragraph (2) of this subsection with respect to stabilization to reduce pathogens when requested [requirement for further stabilization of septage prior to land application when requested] in writing and when such application conforms to the following provisions:

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

(F) Grazing by dairy [of] animals shall be prevented for at least 12 months and grazing by other [whose products are consumed by humans or harvesting forage from the site for feeding to such] animals whose products are consumed by humans shall be prevented [prohibited] for at least one month [six months].

(G)-(I) (No change.)

(d) (No change.)

**§325.534. Water Supply Treatment Plant Sludge.**

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

(e) Disposition.

(1) (No change.)

(2) Sludges may be applied to the land for beneficial use provided the site [made available for land application provided the site of application] is registered by [with] the department in accordance with subsection (b) of §325.462 of this title (relating to Basic Requirements for Land Application) or permitted by the department in accordance with subsection (c) of §325.462 of this title (relating to Basic Requirements for Land Application). Such a site shall be operated in a manner that avoids public health nuisances and runoff into surface waters [and the site is operated in a manner that avoids public health nuisances and runoff into the surface waters. The application for registration shall provide information on operational procedures].

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

This agency hereby certifies that the proposal has been reviewed by legal coun-

sel and found to be within the agency's authority to adopt.

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

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For further information, please call  
(512) 458-7271.

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### Subchapter X. Forms and Documents

#### ★ 25 TAC §325.901, §325.906

The repeal is proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of municipal solid waste.

§325.901. *Appendix A—Application for a Permit/Registration to Operate a Municipal Solid Waste Site—Part A (General Data).*

#### §325.906. *Appendix F—Form for Vacuum Truck Trip Ticket.*

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

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

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For further information, please call  
(512) 458-7271.

★ ★ ★

The new sections are proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of municipal solid waste.

§325.901. *Appendix A—Application for a Permit/Registration to Operate a Municipal Solid Waste Site—Part A (General Data).* This section adopts Appendix A—Application for a Permit/Registration to Operate a Municipal Solid Waste Site—Part A (General Data).

TEXAS DEPARTMENT OF HEALTH  
 1100 West 49th Street  
 Austin, Texas 78756

APPLICATION FOR A PERMIT/REGISTRATION TO OPERATE A  
 MUNICIPAL SOLID WASTE SITE

PART A - GENERAL DATA  
 SECTION I - ALL SITES

All references to rules herein refer to the department's municipal solid waste management rules. The applicant is encouraged to read the rules and should consult with the department to determine if any amendments to the rules have been published that would impose additional or different requirements than are specified herein.

This form must be submitted in eleven copies unless otherwise determined by the department for a specific site. Supporting documents shall be submitted in the numbers indicated. Failure to complete all entries and provide all necessary attachments will delay processing the application. Notes 1,2,3, and 4 at the end of Part A should be read before completing Section II or III or proceeding to complete Part B, as applicable. PLEASE TYPE OR PRINT IN BLACK INK.

PERMIT/REGISTRATION APPLICATION NO. \_\_\_\_\_ (Applicant Leave Blank)

Name of Applicant: \_\_\_\_\_  
 (City, County, Individual or Company)

TYPE OF FACILITY (*)			
<u>Landfill</u>  _____ Type I  _____ Type II  _____ Type III  _____ Type IV	<u>Processing Site</u>  _____ Type V _____ Composting  _____ Incinerator  _____ Transfer Station  _____ Trench Burner  _____ Other	_____ <u>Experimental Site</u>  _____ <u>Sludge Land Management Site</u>  _____ Disposal  _____ Application  _____ <u>Hazardous Waste Site</u>  _____ Storage _____ Treatment  _____ Disposal  _____ <u>Material/Gas Recovery Site</u>	Type VI  Type VII          Type VIII          Type IX

(\*) See Subchapter D of the rules

Facility is: Existing \_\_\_\_\_ Proposed \_\_\_\_\_ (Check One)  
 (Date Established)

Facility is: \_\_\_\_\_ feet to the nearest road \_\_\_\_\_;  
 \_\_\_\_\_ miles to nearest airport/airfield \_\_\_\_\_;  
 \_\_\_\_\_ feet (miles) to nearest occupied structure.

MUNICIPAL SOLID WASTE PERMIT/REGISTRATION APPLICATION (MSA-A)

Appendix A, continued

Name of Applicant \_\_\_\_\_

Street Address or Location of the Site: (Distance and direction from city, roads, intersections, etc.)

\_\_\_\_\_  
\_\_\_\_\_

Geographic coordinates: \_\_\_\_\_

Site is located in: (Fill in appropriate blanks.)

County of \_\_\_\_\_ City Limits of City of \_\_\_\_\_

Extraterritorial jurisdiction (ETJ) of City of \_\_\_\_\_

Nearest town \_\_\_\_\_  
(Applicable only if site is outside the city limits or ETJ of any city)

Application is for amendment or renewal of Permit/Registration No. \_\_\_\_\_

List any other existing permits or licenses issued by this or any government agency, whether local, state, or federal which pertain to this facility.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SUBMIT ELEVEN COPIES OF AN AREA MAP WITH THE COMPLETED PART "A" WHICH CLEARLY SHOWS:**

1. Date and scale of map.
2. Site boundaries.
3. Prevailing wind direction and north arrow.
4. Location of drainage structures, streams, waterways and lakes.
5. Water wells within 500 feet of the site.  
(If there are no wells in the vicinity, please add a note to that effect.)
6. Residences and other significant structures within one (1) mile of the site.
7. Cemeteries within one (1) mile of the site.
8. Designated recreational areas within one (1) mile of the site.
9. Land use (i.e. farm or ranch land, commercial, residential, wooded areas, etc.) within one (1) mile of the site (1/2 mile for processing plants). (Annotate as needed.)

Appendix A, continued

Name of Applicant \_\_\_\_\_

10. Political boundaries, including municipal extraterritorial jurisdictional limits.
11. Names or designations of main public roadways within one (1) mile of the site. Indicate type of surfacing of roads providing access to the site.
12. Locations and names of all airports within four (4) miles of the site.
13. Drainage and utility easements on or adjacent to the site.
14. Latitudes and longitudes.

For all types of applications other than for Type I and IV sites serving 5,000 or more persons, the map shall be all or a portion of half-scale State Department of Highways and Public Transportation County Map or a United States Geological Survey 7 1/2-Minute Quadrangle Sheet. For applications for Type I and IV sites serving 5,000 or more persons or population equivalent, both types of maps shall be submitted. Equivalent maps may be submitted with any application provided they meet the prior approval of this department.

The facility will serve approximately \_\_\_\_\_ persons or population equivalent and it is estimated that it will receive an average of approximately \_\_\_\_\_ tons per day of municipal solid waste. The estimated life of the facility is \_\_\_\_\_ years. Open burning of solid waste \_\_\_\_\_ (is) (is not) contemplated.

It is requested that the permit/registration be issued for a site of \_\_\_\_\_ acres. The name, address, and telephone number of the owner of the site are as follows:

\_\_\_\_\_  
\_\_\_\_\_

The name, address, and telephone number of the applicant are as follows:

\_\_\_\_\_  
\_\_\_\_\_

Except as provided in § 325.72, When the applicant for a permit is not a city, county, state agency, or federal agency and is not the owner of record of the land or does not have an option to buy the land on which the site is located, there shall be submitted with the application a statement in the general format provided in Appendix E of the rules, signed by the owner of the land acknowledging that he is aware that his land as described in the legal description submitted is to be used for the storage, processing and/or disposal of solid waste and, that the owner recognizes that notwithstanding and without prejudice to any contractual or other obligations between owner and operator, the department may regard owner and operator as jointly and severally responsible for the operation, maintenance, closure, and post-closure care of the site.

Appendix A, continued

Name of Applicant \_\_\_\_\_

- NOTE 1:** If the applicant is sure of the type classification of the facility and operation for which a permit is desired, he may proceed to complete Part B of the application which pertains to more detailed information and technical data required for evaluation of the particular type of facility and operation. Before proceeding to Part B, the applicant is advised to read Subchapter E of the rules for guidance in providing the necessary detail required for each item in Part B. Additionally, the applicant should consult with the department to determine the amount of soil data required for the site. Applicants for Type I and IV sites serving 5,000 or more persons and for Types V and VI will not use Part B, but will provide a technical report in the form of a Site Development Plan as described in Subchapter E of the rules.
- NOTE 2:** If the applicant is not sure of the type classification of the facility and operation for which a permit is desired, only Part A should be completed, signed, and submitted to the department. Upon receipt of Part A, the department will evaluate it and advise the applicant of the appropriate classification for the operation and facility so that unnecessary expenditures for the preparation of Part B can be avoided when a Site Development Plan may be required in lieu of Part B.
- NOTE 3:** Information required by Section II of this form shall be provided only when the application is for a site registration.
- NOTE 4:** Information required by Section III of this form shall be provided only when the application is for a hazardous waste permit.

\_\_\_\_\_  
(Signature of Applicant or Authorized Agent)

\_\_\_\_\_  
(Typed or Printed Name and Title)

\_\_\_\_\_  
(Street or P. O. Box)

\_\_\_\_\_  
(City) (State) (Zip Code)

\_\_\_\_\_  
(Area Code) (Telephone)

\_\_\_\_\_  
(Date)

Appendix A, continued

TEXAS DEPARTMENT OF HEALTH  
1100 West 49th Street  
Austin, Texas 78756

APPLICATION FOR A PERMIT/REGISTRATION TO OPERATE A  
MUNICIPAL SOLID WASTE SITE

SECTION II

1. For registration of a site to be used for trench burner operations, submit a copy of the Texas Air Control Board permit for the trench burner and all items required by Section I.
2. For registration of a site to be used for land application of sludge, submit the following information and all items required by Section I.
  - a. Sewage treatment plants and other facilities served
  - b. Quality of sludge from each source
    - (1) Method of stabilization
    - (2) Process used to further reduce pathogens
    - (3) Recent EP toxicity analysis (hazardous waste determination)
  - c. Method of transportation
  - d. Land application methods



Appendix A, continued

TEXAS DEPARTMENT OF HEALTH  
1100 West 49th Street  
Austin, Texas 78756

APPLICATION FOR A PERMIT/REGISTRATION TO OPERATE A  
MUNICIPAL SOLID WASTE SITE

SECTION III - HAZARDOUS WASTE SITES

This supplementary form shall be submitted with Part A for a hazardous municipal solid waste site permit application.

1. List up to four Standard Industrial Classification (SIC) codes which best reflect the principal products or services provided by the facility (Standard Industrial Classification Manual (District of Columbia: Executive Office of the President - Office of Management and Budget, 1972)). \_\_\_\_\_
2. Status of owner (Federal)(State)(Private)(Public)(Other, specify). \_\_\_\_\_
3. Status of operator (Federal)(State)(Private)(Public)(Other, specify). \_\_\_\_\_
4. Facility located on Indian lands? Yes \_\_\_\_\_ No \_\_\_\_\_
5. On the topographic (or other) map submitted, indicate location of each hazardous waste treatment, storage or disposal facility and any drinking water wells and springs within 1/4 mile.
6. Briefly describe the nature of business conducted at the facility (attach supplemental sheet(s) if needed) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
7. Is this an initial or revised application? Initial \_\_\_\_\_ Revised \_\_\_\_\_
8. If an existing facility, submit a scale drawing of the facility (8 1/2" x 11") showing property boundaries, location of all past, present, and future treatment, storage, and disposal areas.
9. If an existing facility, submit photographs of the facility clearly delineating all existing structures; existing treatment, storage, and disposal areas; and sites of future treatment, storage, and disposal areas.
10. Describe the processes (treatment, storage, disposal) (used) (to be used) and the design capacities of each (obtain current process code data from the department). \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
11. List the hazardous waste (to be) treated, stored, disposed annually and general description of processes (to be) used for each waste (obtain current listing of hazardous waste from the department). \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Attach additional sheets if necessary)



## TITLE 34. PUBLIC FINANCE

### Part I. Comptroller of Public Accounts

#### Chapter 3. Tax Administration Subchapter O. State Sales and Use Tax

##### ★ 34 TAC §3.299

The Comptroller of Public Accounts proposes an amendment to §3.299, concerning newspapers, magazines, publishers, sacred writing, and broadcasters. When the section was first proposed for amendment on October 16, 1984, the subsection on magazines was inadvertently deleted. The amendment restates the comptroller's position on taxable magazine sales.

Billy Hamilton, revenue estimating director, has determined that enforcement or administration of the proposed rule will not result in any fiscal implications for state or local government. This section is promulgated under the Tax Code, Title 2, and no statement of the fiscal implications for small businesses is required.

Comments on the proposal should be submitted to D. Carolyn Busch, P.O. Box 13528, Austin, Texas 78711.

This amendment is proposed under the Texas Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the sales tax.

§3.299. *Newspapers, Magazines, Publishers, Sacred Writing, Broadcasters.*

(a) (No change.)

(b) Magazines.

(1) **Magazine**—Those publications, usually paper-backed and sometimes illustrated, that appear at regular intervals and contain stories, articles, and essays by various writers, and advertisements.

(2) The sale, lease, rental, or other consumption in this state of magazines is taxable.

(c)-(e) (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 January 28, 1985.

TRD-850872      Bob Bullock  
Comptroller of Public  
Accounts

Earliest possible date of adoption:  
March 8, 1985  
For further information, please call  
(512) 476-1913.

★      ★      ★

## Part IV. Employees Retirement System of Texas Chapter 81. Insurance

### ★ 34 TAC §81.11

The Employees Retirement System of Texas proposes an amendment to §81.11, concerning eligibility and effective dates of dependent coverage. The amendment provides extended automatic insurance coverage for newborn dependents if the covered employee or retiree is already paying for coverage for children. This will help avoid unintended losses of coverage.

Henry Eckert, Group Insurance Division director, has determined that for the first five-year period the rule is 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. Eckert 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 provision of coverage that will be automatic, even though a filing will be required before benefits are paid on behalf of the newborn dependent. Presently, some employees who have insurance coverage on their children fail to add newborns. 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 Everard C. Davenport, General Counsel, Employees Retirement System of Texas, P.O. Box 13207, Austin, Texas 78711.

The amendment is proposed under the Insurance Code, Article 3.50-2, §4A, which provides the Employees Retirement System of Texas with the authority to provide standards for determining eligibility for participation in the State Uniform Group Insurance Program.

§81.11. *Eligibility and Effective Dates of Coverages for Dependents.*

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

(g) Conditions that apply to dependents health coverages in the program.

(1)-(8) (No change.)

(9) Newborn dependents coverages will be effective immediately and automatically at the time of birth in the health benefits plan of the program in effect for the employee's or retiree's other dependents. If there are no other dependents covered at the time of birth, the newborn dependent will be immediately and automatically covered in the same health benefits plan in which the employee or retiree is then covered. To continue a newborn dependent's health benefits coverage more than

30 days after the date of birth, an application for health benefits coverages must be submitted within 30 days after the date of birth if there were no other dependent children covered at the time. If there was health benefits coverage already in effect for dependent children, an application to add subsequent newborn dependents must be submitted before verification of coverage for the newborn dependent will be provided to the carrier. [To continue a newborn dependents health benefits coverage more than 30 days after the date of birth, an application for health benefits coverages must be submitted within 30 days after the date of birth.]

(h)-(1) (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 January 29, 1985.

TRD-850968      Clayton T. Garrison  
Executive Director  
Employees Retirement  
System of Texas

Earliest possible date of adoption:  
March 8, 1985  
For further information, please call  
(512) 476-6431, ext. 212.

★      ★      ★

## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### Part I. Texas Department of Public Safety

#### Chapter 3. Traffic Law Enforcement

#### Texas Registered Vehicles Not Requiring Inspection

### ★ 37 TAC §3.91

The Texas Department of Public Safety proposes new §3.91, concerning Texas registered vehicles not requiring inspection. This new section exempts motor vehicles imported into the United States from a foreign country by members of a military force or civilian component that is a party to the NATO agreement of 1953 from the Texas vehicle inspection requirements. Imported private vehicles may have Texas registration and be operated by members or their dependents.

Melvin C. Peeples, chief accountant III, 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.

Joe E. Milner, traffic law enforcement chief, has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is that owners of imported motor vehicles are granted vehicle inspection reciprocity with member countries of the NATO agreement of 1953. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

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

The new section is proposed under Texas Civil Statutes, Article 6701d, Article XV, §142(c), which provide the Texas Department of Public Safety with the authority to adopt rules necessary for the administration and enforcement of the Act, Article XV.

**§3.91. NATO Agreement Vehicle Inspection Exemptions.**

(a) Motor vehicles imported into the United States from a foreign country by members of a military force or civilian component that is a party to the NATO agreement of 1953 may obtain Texas registration and operate imported private vehicles by members or their dependents without obtaining a Texas motor vehicle inspection certificate.

(b) The NATO member countries are Belgium, Canada, Denmark, Greece, Ireland, Italy, Luxemburg, Netherlands, Norway, Portugal, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, and West Germany.

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 January 22, 1985.

TRD-850756 James B. Adams  
Director  
Texas Department of  
Public Safety

Earliest possible date of adoption:

March 8, 1985

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

★ ★ ★

**Part IX. Commission on Jail Standards**

**Chapter 259. New Construction Rules**

**New Jail Design, Construction, and Furnishing Requirements**

★ 37 TAC §259.68

The Commission on Jail Standards proposes an amendment to §259.68, con-

cerning detention doors. The amendment stipulates that all cell doors shall be at least 28 inches in clear width.

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

Mr. Viterna also has determined that for each year of the first five years the rule is in effect there is no public benefit anticipated as a result of enforcing the rule. 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 Robert O. Viterna, Commission on Jail Standards, P.O. Box 12985, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Title 18, Article 5115.1, which provides the Commission on Jail Standards with the authority to promulgate rules affecting county jails.

**§259.68. Detention Doors.** Hollow metal doors shall be constructed of 12 to 14 gauge steel in security areas. Eighteen gauge hollow metal doors may be used in nonsecurity areas. Plate doors, where used, shall be constructed of material not less than 3/16 inch thick. Tool-resisting steel plate doors, where used, shall be constructed of material not less than 1/4 inch thick. Grating doors shall be constructed of the same type of grillwork as the walls in which they are installed. Consideration shall be given in the design of all doors so that the direction of opening of the material of which these are constructed will not reduce or compromise the security sought to be achieved. Detention-type doors shall be equipped with detention-type hardware and accessories. All cell doors shall be at least 28 inches in clear width.

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 January 23, 1985.

TRD-850880 Robert O. Viterna  
Executive Director  
Commission on Jail  
Standards

Earliest possible date of adoption:

March 8, 1985

For further information, please call  
(512) 475-2716.

★ ★ ★

**New Lock-Up Design, Construction, and Furnishing Requirements**

★ 37 TAC §259.163

The Commission on Jail Standards proposes an amendment to §259.163, concerning detention doors. The amendment stipulates that all jail cell doors shall be at least 28 inches in clear width.

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

Mr. Viterna also has determined that for each year of the first five years the rule as proposed is in effect there is no public benefit anticipated as a result of enforcing the rule as proposed. 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 Robert O. Viterna, Commission on Jail Standards, P.O. Box 12985, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Title 18, Article 5115.1, which provides Commission on Jail Standards with the authority to promulgate rules affecting county jails.

**§259.163. Detention Doors.** Hollow metal doors shall be constructed of 12 to 14 gauge steel in security areas. Eighteen gauge hollow metal doors may be used in nonsecurity areas. Plate doors, where used, shall be constructed of material not less than 3/16 inch thick. Tool-resisting steel plate doors, where used, shall be constructed of material not less than 1/4 inch thick. Grating doors shall be constructed of the same type grillwork as the walls in which they are installed. Consideration shall be given in the design of all doors so that the direction of opening and the material of which these are constructed will not reduce or compromise the security sought to be achieved. Detention-type doors shall be equipped with detention-type hardware and accessories. All cell doors shall be at least 28 inches in clear width.

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 January 23, 1985.

TRD-850881 Robert O. Viterna  
Executive Director  
Commission on Jail  
Standards

Earliest possible date of adoption:

March 8, 1985

For further information, please call  
(512) 475-2716.

★ ★ ★

## New Low Risk Design, Construction, and Furnishing Requirements

★ 37 TAC §259.247

The Commission on Jail Standards proposes an amendment to §259.247, concerning doors. The amendment stipulates that all jail cell doors shall be at least 28 inches in clear width.

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

Mr. Viterna also has determined that for each year of the first five years the rule as proposed is in effect there is no public benefit anticipated as a result of enforcing the rule as proposed, nor is there any anticipated economic cost to individuals who are required to comply with the rule.

Comments on the proposal may be submitted to Robert O. Viterna, Commission on Jail Standards, P.O. Box 12985, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Title 18, Article 5115.1, which provides Commission on Jail Standards with the authority to promulgate rules affecting county jails.

§259.247. *Doors.* Doors may be of any material commensurate with the degree of security sought. Doors shall be equipped with appropriate hardware and accessories to achieve the degree of security sought. All cell doors shall be at least 28 inches in clear width.

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 January 23, 1985.

TRD-850882

Robert O. Viterna  
Executive Director  
Commission on Jail  
Standards

Earliest possible date of adoption:  
March 8, 1985

For further information, please call  
(512) 475-2716.

★ ★ ★



## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Resources Chapter 16. ICF/SNF

The Texas Department of Human Resources proposes amendments §§16.1301, 16.1905, 16.3008, 16.3010, 16.3106, 16.3208, 16.3209, 16.3903, and 16.5902, concerning intermediate care facility/skilled nursing facility (ICF/SNF). These sections are amended to make them consistent with the Texas Department of Health minimum licensing standards for nursing homes. The specific changes follow.

Section 16.1301 is amended to delete paragraphs (1)-(4) because these paragraphs do not encompass all possible requirements.

Section 16.1905 is amended to correct the name of the Texas Board of Licensure for Nursing Home Administrators.

Section 16.3008 is amended to delete the statement that the director of nursing may be the charge nurse on the day shift. This statement is incompatible with §16.3011.

Section 16.3010 is amended to reflect that the level-of-care assessment form may be used as the nursing assessment.

Section 16.3106 is amended to specify that the dietary department must keep a one-week supply of staple foods at all times.

Section 16.3208 is amended to specify that the attending physician must authorize the facility to release drugs to the recipient-patient.

Section 16.3209 is amended to clarify that the recipient-patient must not be permitted to self-administer legend and nonlegend drugs unless the stated exceptions apply.

Section 16.3903 is amended to clarify that admission and assessment information must be recorded in the medical record.

Section 16.5902 is amended to change the reference in subsection (c). The reference is changed from subsection (a)(6) to subsection (a). The previous reference was too limiting.

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

Mr. Hawes also has determined that for each year of the first five years the rules are in effect the anticipated public benefit is rules that are consistent with the Texas Department of Health's licensing standards. There is no economic cost to individuals required to comply with the rules.

Comments may be sent to Cathy Rossberg, Administrator, Policy Development Support Division—930, Texas Department of Human Resources 153-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in this Register.

### Compliance with Federal Laws

★ 40 TAC §16.1301

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

§16.1301. *Section 504 of the Rehabilitation Act of 1973.* The facility must be in compliance with all applicable federal laws including the Rehabilitation Act of 1973, §504. [To comply with this law, the facility must:

[(1) conduct an evaluation of its policies and practices and the effects of those that do not or may not meet the requirements of §504;

[(2) execute the provisions of non-discrimination in employment practices and reasonable accommodation;

[(3) develop a transition plan, if warranted, outlining the steps necessary to complete structural changes to ensure program accessibility;

[(4) apply requirements for new construction to facilities constructed after June 1977.]

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 January 29, 1985.

TRD-850938

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Resources

Earliest possible date of adoption:  
March 8, 1985

For further information, please call  
(512) 450-3766.

★ ★ ★

### Governing Body and Management

★ 40 TAC §16.1905

The amendment is proposed under the Human Resources Code, Title 2, Chapter 22 and Chapter 32, which authorizes

the department to administer public assistance programs.

**§16.1905. Administration.**

(a) The facility must be operated under the supervision of a nursing facility administrator licensed by the Texas Board of Licensure for Nursing Home Administrators. The administrator, as a professional, must work at least 40 hours per week on administrative duties. The administrator must be accountable to the governing body for overall management of the facility. The administrator's authority and responsibilities must be clearly outlined to include:

- (1)-(7) (No change.)
- (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 January 29, 1985.

TRD-850939      Marlin W. Johnston  
                         Commissioner  
                         Texas Department of  
                         Human Resources

Earliest possible date of adoption:  
March 8, 1985  
For further information, please call  
(512) 450-3766.

★      ★      ★

**Nursing Services**

**★40 TAC §16.3008, §16.3010**

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

**§16.3008. ICF Director of Nursing.**

- (a)-(b) (No change.)
- [(c) The director of nursing may be the charge nurse on the day shift.]
- (c)[(d)] If the director of nursing has general administrative responsibilities for the operation and management of the facility, he must have a licensed nurse assistant so that there is the equivalent of a full-time director of nursing.

**§16.3010. Responsibilities of the Director of Nursing.**

- (a) (No change.)
- (b) The director of nursing must have at least the following responsibilities:
  - (1)-(10) (No change.)
  - (11) Ensuring that a nursing care plan is established, reviewed, and modified as necessary for each recipient-patient. The director of nursing must ensure that the nursing care plan describes nursing action for continuity of care on a 24-hour basis. Based on the prescribed medical plan, a nursing assessment must be initiated following admission and completed after the recipient-patient has been observed and his

needs have been assessed. The level-of-care assessment [medical-nursing care evaluation] form may be used as the nursing assessment. A nursing care plan must be formulated and completed within 30 days after admission. The director of nursing must ensure the plan includes the recipient-patient's problems and needs, long-term goals and short-term objectives, and approaches or actions to meet needs. The plan must be reviewed/revise when the recipient-patient's needs change or at least every 90 days. The plan must be made available to all direct recipient-patient care staff.

- (12)-(14) (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 January 29, 1985.

TRD-850940      Marlin W. Johnston  
                         Commissioner  
                         Texas Department of  
                         Human Resources

Earliest possible date of adoption:  
March 8, 1985  
For further information, please call  
(512) 450-3766.

★      ★      ★

**Food and Nutrition Services**

**★40 TAC §16.3106**

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

**§16.3106. Menus and Nutritional Adequacy.**

- (a)-(i) (No change.)
- (j) The dietary department must keep a one-week [three-day] supply of staple foods and a two-day supply of perishable foods at all times. The facility is allowed the flexibility to use food on hand to make substitutions at any intervals as long as comparable nutritional value is maintained. The facility must document the substitution on the day of use.
- (k)-(o) (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 January 29, 1985.

TRD-850941      Marlin W. Johnston  
                         Commissioner  
                         Texas Department of  
                         Human Resources

Earliest possible date of adoption:  
March 8, 1985  
For further information, please call  
(512) 450-3766.

★      ★      ★

**Primary Services**

**★40 TAC §16.3208, §16.3209**

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

**§16.3208. Drug Release.**

(a) The facility must release drugs only on the written or verbal authorization of the attending physician to the recipient-patient, responsible party, or family if the recipient-patient is discharged or furloughed, unless otherwise requested by the physician].

- (b) (No change.)

**§16.3209. Drug Administration.** Drugs and biologicals are to be administered only by physicians, licensed nursing personnel, or medication aides.

- (1)-(3) (No change.)
- (4) The recipient-patient must not possess or be permitted to self-administer [administer] legend and nonlegend drugs, except for emergency drugs on special order of the recipient-patient's physician or in a predischarge program under the supervision of a licensed nurse.
- (5)-(6) (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 January 29, 1985.

TRD-850942      Marlin W. Johnston  
                         Commissioner  
                         Texas Department of  
                         Human Resources

Earliest possible date of adoption:  
March 8, 1985  
For further information, please call  
(512) 450-3766.

★      ★      ★

**Medical Records**

**★40 TAC §16.3903**

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

**§16.3903. Content.**

- (a) (No change.)
- (b) The facility must ensure that the medical record contains the following medical information. The documentation outlined in paragraphs (1) and (2) of this subsection must be obtained. Either, however, will be acceptable for compliance at the time of survey by the state survey agency.

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

(7) The medical record must contain observations made by nursing personnel. In intermediate care facilities, observations must be recorded at least daily. In skilled nursing facilities, observations must be recorded on each of the three shifts for a 24-hour period. The observations must show at least the following:

(A) Admission and assessment [Admitting or accessing] information including:

(i)-(v) (No change.)

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

(8) (No change.)

(c)-(d) (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 January 29, 1985.

TRD-850843      Martin W. Johnston  
Commissioner  
Texas Department of  
Human Resources

Earliest possible date of adoption:

March 8, 1985

For further information, please call  
(512) 450-3766.

★      ★      ★

### Recipient-Patient Activities

#### ★40 TAC §16.5902

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

*§16.5902. Activities Director Requirements.*

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

(c) Consultation.

(1) Consultation, if required, must be provided by a person who is a qualified activities consultant. A qualified activities consultant is one who meets all qualifications and requirements of an activities director, as specified in subsection (a) [(a)(6)] of this section.

(2) (No change.)

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

Issued in Austin, Texas, on January 29, 1985.

TRD-850844      Martin W. Johnston  
Commissioner  
Texas Department of  
Human Resources

Earliest possible date of adoption:

March 8, 1985

For further information, please call  
(512) 450-3766.

★      ★      ★

## TITLE 43.

### TRANSPORTATION

#### Part I. State Department of Highways and Public Transportation

##### Chapter 21. Right of Way Division

##### Right of Way Division Rules and Regulations—Rules Relating to Road Utility Districts

★43 TAC §§21.171, 21.181, 21.182, 21.191, 21.201, 21.211, 21.212, 21.221-21.224, 21.231, 21.241, 21.251, 21.261, 21.271, 21.281-21.286, 21.301, 21.311, 21.312

The State Department of Highways and Public Transportation proposes new §§21.171, 21.181, 21.182, 21.191, 21.201, 21.211, 21.212, 21.221-21.224, 21.231, 21.241, 21.251, 21.261, 21.271, 21.281-21.286, 21.301, 21.311, and 21.312, concerning road utility districts. These sections are proposed to implement recent and substantial legislation relating to the creation, administration, powers, duties, operations, financing, and dissolution of road utility districts, convey completed facilities to certain governmental agencies and to certain powers and duties of the State Department of Highways and Public Transportation.

L. E. Clarke, right of way engineer, 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. Fees provided by the legislation are considered adequate to finance the department's cost of administration. Completed and conveyed facilities at no cost will compensate for additional cost of maintenance.

Mr. Clarke 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 that roads and streets may be constructed without cost to the general public. Those property owners within a given road utility district will finance the costs. These roads and streets will be available for use by the general public.

The anticipated economic cost to individuals who are required to comply with the rules is limited only to those property owners within a road utility district. Such costs are not predictable since the scope of each district will vary.

Comments on the proposal may be submitted to L. E. Clarke, Right of Way En-

gineer, State Department of Highways and Public Transportation, P.O. Box 5075, Austin, Texas 78763.

The new sections are proposed under Texas Civil Statutes, Articles 6666, 6674r-1, and 6252-13a, which provide the State Highway and Public Transportation Commission with the authority to establish rules for the conduct of the department and specifically of road utility districts.

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

Act—The Road Utility District Act of 1984, Texas Civil Statutes, Article 6674r-1.

Applicant or petitioner—Any person, as defined herein, who submits plans for proposed facilities or files a petition for creation of a district, in compliance with the Act and these sections.

Approval statement—The written statement issued to a petitioner by a governmental entity under the Act, §4(d), and in accordance with the requirements of these sections.

Bonds—Bonds, notes, warrants, or other evidence of indebtedness issued under the Act.

Bridge layouts—Preliminary drawings showing plan and profile view and typical section of each bridge class (total span 20 feet or more) structure. Horizontal and vertical scale are typically one inch equals 20 feet. Pertinent horizontal and vertical curve data, lateral (where applicable) and vertical clearances, bridge rail class, grade data, bridge length and span arrangement, test hole logs, control lines, location of profile grade line, and the approach roadway and bridge width should be shown on all bridge layouts. Where the bridge is a stream crossing, certain hydraulic data should be shown including discharge, velocity and highwater for both the design year and base (100 year) year flood. For a continuously flowing stream, ordinary highwater elevation should be shown.

Commission—The State Highway and Public Transportation Commission.

Construction plans or plans, specifications, and estimates (P.S. and E.)—The detailed plans and accompanying specifications and construction cost estimate which serve as the documents for construction contract letting purposes. Plans are drawings which show the location, character, and dimensions of the prescribed work, including layouts, profiles, cross sections, other miscellaneous details, and quantity summaries. Specifications are the compilation of provisions and requirements for the performance of prescribed work.

Department—The State Department of Highways and Public Transportation.

District—A road utility district created under the Act.

**Drainage works**—Any property, easements, facilities or works necessary or appropriate for the improvement of rivers, creeks, and streams to prevent overflows, or for the construction and maintenance of pools, lakes, reservoirs, dams, canals, and waterways for the purpose of drainage, or in aid of these purposes, if the property, easements, facilities, or works are related to or are in furtherance of the construction, acquisition, or improvement of roads.

**Engineer-director**—The chief executive officer of the State Department of Highways and Public Transportation or whomever he so designates.

**Engineering report**—A written report prepared by a registered professional engineer in Texas which describes the proposed facilities and the existing and proposed conditions pertinent to the planning, design, construction, and maintenance of the proposed facilities. The engineering report should be bound, typewritten on 8½-inch by 11-inch paper, with drawings that may, if appropriate, be foldouts.

**Facility(ies)**—Roads or drainage works constructed, acquired or improved by the districts.

**Final plans**—The as-built construction plans that therefore include field changes that were made during construction.

**Governmental entity**—A city, county, or the State Department of Highways and Public Transportation to which the district facilities are to be conveyed.

**Hydraulic design data**—Engineering information which includes specification of the basis of design and the design coefficients, rainfall intensities, drainage area sizes, and calculated flow quantities for each drainage structure, including inlet and storm sewers where applicable.

**Person**—An individual, corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, joint venture, association, or any other legal entity.

**Preliminary plans**—Those plans and designs including the construction or final plans, where appropriate, of the facilities required under Texas Civil Statutes, Article 6674r-1, §4, and these sections.

**Roads**—Macadamized, graveled, or paved roads and turnpikes which serve or are intended to serve as arterial or main feeder roads.

**Schematic(s)**—A continuous roll to scale (one inch equals 40 feet, one inch equals 50 feet, one inch equals 100 feet, or one inch equals 200 feet horizontal and one inch equals five feet, or one inch equals 10 feet vertical) engineering drawings depicting plan view on the upper portion and proposed profile grade line (PGL) and natural ground profile (along the PGL) superimposed on a grid on the lower portion. The plan view shall show horizontal alignment data for each roadway; number of lanes on each roadway; right of way limits; location

and configuration of interchanges, grade separations and ramps; control of access lines (where applicable); intersection design; location of median openings; and location and length of speed-change lanes. The grid view shall include percent grades and vertical curve data. A typical section and an indication of design speed should be shown on a schematic.

**Typical section(s)**—Drawings which show usual roadway (or bridge) cross sectional features including lane and shoulder widths; limits of surfacing; pavement structure data, including subgrade treatment type and depth, base course(s) thickness(es) and their gradation, the plasticity index and density requirements for embankment materials, and/or other specification controls of structural integrity or performance, and type of surfacing material; travel lane and shoulder cross slopes; side slope rates for cut and fill sections; ditch or storm sewer location and depth; typical right of way limits; profile grade line location; typical traffic barrier location; median width and slopes; and curb location and geometry.

**§21.181. The Commission's Interpretation of Legislative Authority.** The State Legislature of Texas has manifested an intention to protect the public interest by establishing a centralized and coordinated agency for review and approval of roads and related drainage facilities with the duty and responsibility to grant the creation of districts, approve or disapprove plans and changes or additions thereto, authorize or delay the facility conveyance, and dissolve road districts as evidenced by the Road Utility District Act of 1984, Texas Civil Statutes, Article 6674r-1. The legislature has demonstrated such an intent by causing projects involving the construction of roads and related drainage facilities, by special districts created under the authority of the Texas Constitution, Article III, §52, and this Act, to be subject always to the supervision of a central statewide authority, which is presently the State Highway and Public Transportation Commission, to carry out this legislative policy and to implement the policy by the promulgation of these sections. The commission may, when it deems necessary in order to fulfill its duty and responsibility, require audits or other information, on-site inspections, evaluations, and engineering reports and institute investigations and hearings using hearing officers or examiners.

**§21.182. Policy and Administrative Construction.** The commission shall use the following criteria in the consideration of applications for approval of plans and creation of districts. These criteria are as follows:

(1) Structural integrity. The plan for the construction of the proposed facilities must be based upon sound established engineering principle and be compatible with the requirements of the county or

counties and city or cities in whose jurisdiction the district is located or with the design criteria of the department. Consideration will be given to any possible effects on any existing system of roads and related drainage facilities.

(2) Safety. Any proposed facility must be designed so that it will not increase flooding in such a way that any person's life or property will be endangered or subjected to significantly increased flooding. The commission shall not approve any facilities which will significantly increase flood rises on any person's land without that person's consent or which will endanger life or property or create a public hazard.

(3) Rights of third parties. The rights of third parties affected by proposed facilities may be considered. Before approving any facilities, the commission may give consideration to the rights of all such parties not otherwise considered under paragraphs (1) and (2) of this section.

(4) Coordination. The commission shall assure that, as far as possible, facilities shall be designed in such a manner that each phase of a facility (if designed in phases) shall be a complete facility forming a coordinate part of the finished facility, so constituted that the successful operation of each phase shall coordinate with the successful operation of other phases within the same facility.

(5) Environmental effects. The commission may consider all environmental effects of the facilities in its evaluation, including specifically scenic and landscaping matters.

**§21.191. Approval of Governmental Entity.** According to the Act, §4, an applicant must submit a copy of all preliminary plans to the governmental entity for its approval. Any preliminary plans to be submitted and filed with the governmental entity and the commission shall contain as a minimum the following, provided none of the requirements of these sections shall limit or prohibit a governmental entity from making additional requirements:

(1) an engineering report prepared by a registered professional engineer in Texas and his or her signature and seal shall be prominently displayed on the title sheet. Specifically included in the engineering report shall be:

(A) average daily traffic volumes on existing roads and streets located within the district;

(B) forecasted (five and 20 years from date of petition) average daily traffic volumes on existing and proposed roads and streets within or impacted by creation of the district;

(C) an assessment of the impact on the safety and quality of flow on state highways, municipal streets, and/or county roads that are intersected, interchanged, relocated, or widened as a result of construction of the proposed arterial or main feeder road;



(D) a description of the proposed facilities together with typical section(s) of the proposed arterial or main feeder road including an existing typical section where an existing route is to be improved and will become the arterial or main feeder road;

(E) to-scale maps showing the district boundaries, topography, arterial or main feeder route location, and anticipated land use and population density;

(F) to-scale map of existing drainage areas that are partially or wholly within the district;

(G) hydraulic design frequencies for drainage structure(s) along the arterial or main feeder;

(H) where impacted by the proposed arterial or main feeder road, statements regarding the anticipated handling of existing traffic during construction activities;

(I) an assessment of environmental impacts which shall be in-depth where environmentally sensitive areas are adversely impacted;

(J) where bridge class structures (total span 20 feet or more) are proposed, an indication of structural capacity in terms of design loading;

(K) a preliminary estimate of construction costs subdivided into drainage structures and storm sewers, bridge facilities, roadway, and miscellaneous features;

(L) a tabulation of basic geometric design values including design speed, maximum horizontal curvature, maximum gradient, minimum stopping sight distance, minimum superelevation rates, and other pertinent geometric design data;

(M) proposed landscaping and scenic easements;

(N) proposed temporary and permanent measures for controlling erosion;

(O) identification of the sources or reference publications (e.g., city, county, State Department of Highways and Public Transportation, American Association of State Highway and Transportation officials, etc.) that serve as a basis for the selected design values and standards or will serve as the standards, guidelines, criteria, or specifications in the subsequent development of other design documents including the P.S.&E.;

(2) a schematic of the facilities; provided, however, the governmental entity or department may request, or the applicant may submit, construction plans or P.S.&E.;

(3) a description of the title, guarantees, and form of conveyance to be used in conveying the land facilities to the governmental entity.

**§21.201. Petition.** A district may be created as authorized by the Act. The petitioners shall file the following documents with the commission:

(1) a petition containing the matters as required by the Act, §6, and signed by holders of title to all of the land within the proposed district together with their mailing address, and accompanied by a \$5,000 nonrefundable filing fee made payable to the State Department of Highways and Public Transportation;

(2) map showing district boundaries and drawn on plan sheets 22 to 24 inches by 36 inches, a metes and bounds description, and a computation sheet for survey closure.

(3) a plan sheet (22 to 24 inches by 36 inches) showing the district boundaries, existing topography including streams, highways, roads, and other improvements; all proposed facilities; and any other applicable information;

(4) the preliminary plans, conforming to the requirements of the Act, §4, and §21.191 of this title (relating to Approval of Governmental Entity);

(5) an approval statement from the governmental entity or entities, as required in the Act, §4, and these sections;

(6) an engineering report, signed and sealed by a registered professional engineer, including the following:

(A) vicinity map;

(B) cost of right of way including justification and support that cost represents an equitable and fair market value, or a statement that the right of way and easements will be conveyed at no cost to the district;

(C) the projected useful life of the facilities and the expected or anticipated cost of maintenance of the improvements;

(D) a comprehensive analysis and study showing complete justification for creation of the district supported by evidence that the proposed facilities are feasible, practicable, necessary, and will be a benefit to land included in the district; that the land to be included in the proposed district will be benefited by the creation of the district; and that the facilities constructed, acquired, or improved are necessary and will benefit the district;

(7) a financial study of the proposed district and surrounding area, prepared by an independent consultant, which includes the following:

(A) projected bond requirements;

(i) estimated cost of the facility;

(ii) all other estimated costs of the district;

(iii) a finding that the district will be financially able to issue and pay bonds of the district and all other costs of the district with projected revenues;

(B) economic feasibility;

(i) a table showing the computed or projected tax rate over the life of the bond period and fees, if any;

(ii) total tax assessments;

(iii) a table showing the total debt encumbering the land within the district, including any debt payable from taxes levied by an entity under the provisions of the Texas Constitution, Article III, §52;

(iv) a projection of the assessed valuation of the real property on a yearly basis from the date of filing to the projected date the facilities will be completed;

(8) a certificate from the central appraisal district of the county or counties in which the proposed district is located or by the county tax assessor indicating the owners and tax valuation of the real property within the proposed district as reflected on the county or counties tax rolls; if the tax rolls do not show the petitioner(s) to be owner(s) of the land within the proposed district, then the petitioner(s) will file with the commission a certified copy of the deed(s) tracing title from the person(s) listed on the county or counties tax rolls as owner(s) of the land to the petitioner(s);

(9) a certificate from the city or cities clerk(s), or secretary(ies) and county clerk(s) that a copy of the preliminary plans for creation of the proposed district was received by the city or cities in whose extraterritorial jurisdiction all or part of the proposed district is located and by the commissioners' court of any county or counties in which all or part of the proposed district is located;

(10) a specific chronological history showing compliance with the Act, §4;

(11) a specific order of the commission providing for the public hearing and giving a notice thereof;

(12) a list of at least five potential temporary directors, eligible under §21.231 of this title (relating to Appointment of Temporary Directors), with accompanying resumes;

(13) other data, forms, and information as the commission may require.

**§21.211. Registered Engineer.** All plans of the facilities which are submitted under the Act and these sections shall be prepared and signed by a registered professional engineer, and his or her seal shall appear upon or be fixed thereto.

**§21.212. Filing.** Any documents which are to be filed with the commission or the department under this Act shall be submitted to the State Right of Way Engineer of the Right of Way Division, State Department of Highways and Public Transportation, at its current address in Austin, Texas. Applicants shall submit all of the required data at one time in one package. Applications are to be reviewed by the engineer-director of the department and may be returned for completion if they do not satisfy the requirements of the Act and these rules prior to acceptance for filing.

**§21.221. Hearing Officer.** After review and acceptance for filing with the commission, the chairman of the commission or his duly designated representative, shall appoint a hearing officer who shall set the petition and preliminary plans for hearing and cause notice thereof to be given. The hearing officer shall conduct the hearing and make findings of fact and recommendations to the commission in accordance with the Act and these sections. The commission shall, as soon as practicable after the conclusion of the hearing and receiving the hearing officer's report, issue an order either granting the creation of the district and approving the plans or denying the petition and disapproving the plans in accordance with the Act and these sections.

**§21.222. Hearing.** The hearing on the creation of the district and the approval of the petition and preliminary plans shall be conducted in accordance with the Act and §§1.21-1.63 of this title (relating to Contested Case Procedure), relative to contested case procedure. Notice of such hearing shall be in accordance with the Act and these sections.

**§21.223. Engineer-Director Review of Application and Plans.** The engineer-director shall review the preliminary plans, petition, and all other documents required to be submitted under the Act and these rules and make recommendations accordingly as may be required at the hearing on the petition to create the district and otherwise.

**§21.224. Publication of Notice of Hearing.**

(a) The applicant shall cause notice of the hearing on the petition and preliminary plans to be published in a newspaper of general circulation in each county in which the proposed district is to be located one time each week for two consecutive weeks, with the first publication being at least 30 days before the date set for the hearing. The notice shall include the following:

- (1) a vicinity map showing the location of the proposed district in relation to roads and other major landmarks;
- (2) the exact location of the facilities as nearly as it can be described;
- (3) the applicant's anticipated construction and completion schedule, and an estimate of the facilities' cost;
- (4) the applicant's name and mailing address;
- (5) a description of the nature and purpose of the petition which will enable any interested party to be reasonably apprised of the benefits and necessity of the district;
- (6) a statement that any protesting party is entitled to have his or her rights determined at a hearing to be held under the provisions of this Act and the rules of the commission;
- (7) the date, time, and place of hearing.

(b) The applicant shall provide the commission with proof of publication. The applicant's submission of the publisher's affidavit, which includes the name of the newspaper, the title of the affidavit, which includes the name of the newspaper, the title of the affiant, the dates of publication, and the county or counties in which the newspaper is of general circulation, to which is attached a newspaper tearsheet of the notice that was published, will be admissible in the hearing as prima facie evidence of the facts contained therein.

(c) The hearing officer or person so designed shall send notice by first class mail at least 30 days prior to the date set for the hearing to each person required by the Act, §7, to receive notice.

**§21.231. Appointment of Temporary Directors.** Upon the entry of an order granting the petition for creation of a district under these rules, and at other relevant times as may be provided by law, the commission shall appoint not more than five temporary directors from the list in the petition who shall serve until their successors are elected, or appointed, and qualified. To receive consideration for appointment as a temporary director, a person shall be at least 18 years old, a resident citizen of Texas, and either own land subject to taxation in the county or counties in which the proposed district is located or be a qualified voter within the proposed district.

**§21.241. Debt Limitations.** In its order granting creation of the district and approving the plans, the commission may limit the district's ability to incur debt under the Texas Constitution, Article III, §52, to 20% of the assessed value of the real property within the district; provided, however, if the county commissioner's court(s) of the county or counties in which the district is located consent(s) to a greater debt limitation, the commission may limit the district's ability to incur debt under the Texas Constitution, Article III, §52, in any amount up to 25% of the assessed value of the real property within the district.

**§21.251. Additional Reports and Information Required of Districts.**

(a) Within 30 days after the election to confirm the creation of the district, the district shall file with the county clerk(s) of the county or counties in which the district is located and the commission the reports and information pertinent to the operation of the district including:

- (1) the name of the district;
- (2) the complete and accurate legal description of the boundaries of the district;
- (3) the most recent rate of district taxes on property located in the district;
- (4) the total amount of bonds which have been approved by the voters and which may be issued by the district;
- (5) the date on which the election

to confirm the creation of the district was held;

(6) a statement of the functions performed or to be performed by the district;

(7) a complete and accurate map or plat showing the boundaries of the district.

(A) the information form and map or plat required by this section shall be signed by a majority of the members of the governing board of the district and by each such officer affirmed and acknowledged, before it is filed with the county clerk, and each amendment made to an information form or map also shall be signed by the members of the governing board of the district and by each such officer affirmed and acknowledged, before it is filed with the county clerk.

(B) the information form required by this section shall be filed with the engineer-director within 30 days after the election to confirm the creation of the district. For purposes of this section, the words "officially created" mean the date and hour in which the results of the confirmation election are declared.

(C) within seven days after a change in any of the information contained in the district information form, map, or plat, the district shall file an amendment setting forth the changes made.

(D) if a district fails to file the information required herein in the time required, the engineer-director may request the attorney general of Texas to seek a writ of mandamus to force the governing board of the district to prepare and file the necessary information.

(E) if a district covered by the provisions of this section is dissolved, the members of the governing board shall file a statement of this fact, together with the effective date of the dissolution, with the information form.

(b) The district shall file within seven days any changes to the information described in subsection (a)(1)-(7) of this section.

**§21.261. Districts to File Information with Commission.** Immediately before having its bonds approved by the attorney general of Texas in accordance with Texas Civil Statutes, Article 6674r-1, §56, each district shall file with the commission a complete record showing the amount of bonds authorized to be issued for the purpose of constructing the facilities, and the district's engineer's estimates and reports.

**§21.262. Failure to File Reports.** If a district fails to file the information required herein in the time required, the engineer-director may request the attorney general of Texas, to seek a writ of mandamus to force the governing board of the district to prepare and file the necessary information.

**§21.271. Posting Notice in the District.**

(a) Any district which has the power to construct and finance any facilities as provided in this Act and these rules shall, within 30 days after the creation of the district, post signs indicating the existence of the district at two or more principal entrances to the district.

(b) Detailed sign specifications as to location, format, size, and materials may be obtained from the engineer-director on request.

**§21.281. Unauthorized Construction of Facilities.**

If any applicant has constructed facilities, has undertaken to begin work upon facilities, or intends to acquire facilities for which approval is required by this Act and these rules prior to filing for approval of preliminary plans, the commission shall automatically refuse to accept an application for the approval of said preliminary plans until the engineer-director has determined that the construction which has been accomplished meets criteria and requirements of the Act and these sections. Upon such finding the application may be filed and received for disposition as in the case of other applications. The applicant may be required to submit such information as is necessary for the engineer-director to make this determination.

**§21.282. Construction of Facilities Without Approval of Construction Plans.**

No district may construct, attempt to construct, or cause to be constructed, any facility on, along, or in any district, that is to be financed by bonds issued under the Act or the Texas Constitution, Article III, §52, without first obtaining approval of the construction plans by the engineer-director and the governmental entity in accordance with these sections. The engineer-director may request the attorney general of Texas, or the governmental entity may request the appropriate county attorney or district attorney to file suit in a district court to enjoin the construction, for monetary penalties, or both.

**§21.283. Submission of Construction Plans.**

Provided that construction plans were not submitted initially as a part of the preliminary plans, then following authorization by the commission of the creation of the district, the applicant shall submit to the governmental entity and engineer-director the construction plans for the facilities for approval prior to beginning construction.

**§21.284. Supervisory Authority.** The governmental entity and engineer-director may exercise supervisory authority and control over the preparation of all construction plans for construction of the facilities and the engineering work related thereto. During construction, on-site inspection may be made at the governmental entity's or engineer-director's discretion to determine compliance with approved plans. If it is determined that the work has not been done in compliance with the construction contract, notice of this fact to the district may be given with notification that unless the work is brought into compliance within a period deemed to be appropriate, approval of the construction plans may be suspended and a request to the attorney general of Texas and/or the appropriate county attorney or district attorney to impose appropriate sanctions for the construction of unauthorized facilities may be made.

**§21.285. Changes and Additions to Facilities.**

Any changes in or additions to facilities that are not included in the plans approved by the commission shall be filed with the commission in accordance with the Act, §38, and these sections for approval. The request must fully explain the reason for the change, the estimated cost, and be accompanied by an engineering report with modified drawings and documents where appropriate. Additional information shall be furnished as deemed necessary by the engineer-director. The engineer-director shall review the request and after consultation with the governmental entity make recommendations to the commission. The commission shall issue an order approving or disapproving the requests, changes, or additions. All minor field changes or changes or additions totalling less than \$25,000, and not altering the approved plans or affecting the scope of the work made during construction, after approval by the board, shall be submitted to the governmental entity and engineer-director.

**§21.286. Failure to Report Changes.**

No district may construct, attempt to construct, or cause to be constructed any facility on, along, or in any district which differs from the construction plans approved pursuant these sections, except as indicated in §21.285 of this title (relating to Changes and Additions to Facilities). The engineer-director may request the attorney general of Texas to file suit in a district court of Travis County, Texas, or the governmental entity may request the appropriate county attor-

ney or district attorney, to enjoin such violation or threatened violations, for monetary penalties, or both.

**§21.301. Authorization of Conveyance.**

The commission authorization of conveyance to the governmental entity shall be issued in accordance with and subject to the provisions of the Act and these sections. The order of the district's board shall be accompanied by a certified copy of the approval finding of the governmental entity that the facilities have been completed in accordance with its requirements and a certification by a registered professional engineer that the facilities have been constructed in accordance with the approved plans.

**§21.311. Petition for Dissolution.**

(a) A district desiring the commission to dissolve the district pursuant to the authority of the Act, §72, shall file a petition with the commission setting forth the grounds for dissolution in accordance with the Act.

(b) The district shall file with the commission a certified financial statement and an auditor's opinion that all bonds and other indebtedness have been paid in full.

(c) The district also shall file any information as described in the Act, §43 and §44, together with any other information deemed necessary by the commission in furtherance of its responsibilities under the Act.

**§21.312. Order of Dissolution.** The issuance of the order of dissolution by the commission shall be subject to and be in accordance with the provisions of the Act and these sections.

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 January 23, 1985.

TRD-850755

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

Earliest possible date of adoption:  
March 8, 1985  
For further information, please call  
(512) 476-2141.

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# 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 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 and a notice of the withdrawal will appear in the *Register*.

## TITLE 16. ECONOMIC REGULATION

### Part I. Railroad Commission of Texas

#### Chapter 9. Liquefied Petroleum Gas Division

##### Subchapter B. Basic Rules

###### ★16 TAC §9.63

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed new §9.63 submitted by the Railroad Commission of Texas has been automatically withdrawn, effective January 29, 1985. The proposed new section appeared in the July 27, 1984, issue of the *Texas Register* (9 TexReg 4059).

TRD-850959  
Filed: January 29, 1985

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##### Subchapter E. Division III

###### ★16 TAC §9.121

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed amendments to §9.121 submitted by the Railroad Commission of Texas have been automatically withdrawn, effective January 29, 1985. The proposed amendments appeared in the July 27, 1984, issue of the *Texas Register* (9 TexReg 4060).

TRD-850960  
Filed: January 29, 1985

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# Adopted

## Rules

An agency may take final action on a rule 30 days after a proposal has been published in the *Register*. The rule becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

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. If an agency adopts the rule with changes to the proposed text, the proposal will be republished with the changes.

### TITLE 7. BANKING AND SECURITIES

#### Part VI. Credit Union Department

##### Chapter 91. Chartering, Operations, Mergers, Liquidations

###### Definitions

###### ★7 TAC §91.2

The Credit Union Department adopts amendments to §91.2, without changes to the proposed text published in the November 9, 1984, issue of the *Texas Register* (9 TexReg 5760).

The section provides the commission's interpretation as to the method to be used for approving loans made to directors, officers, and employees of the credit union, their affiliated business interests, or family members to insure financial integrity, fiscal responsibility, and independent judgment, thereby eliminating the possibility for questionable lending practices to these individuals.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 2461, §11.07, which provide the Credit Union Commission with the authority to promulgate general rules and regulations pursuant to this Act and, from time to time, to amend the same.

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

Issued in Austin, Texas, on January 22, 1985.

TRD-850788

John P. Parsons  
Commissioner  
Credit Union  
Department

Effective date: February 14, 1985

Proposal publication date: November 19, 1984

For further information, please call  
(512) 837-9236.

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### TITLE 16. ECONOMIC REGULATION

#### Part I. Railroad Commission of Texas

##### Chapter 5. Transportation Division

###### Subchapter X. Agricultural Permits

###### ★16 TAC §5.535

The Railroad Commission of Texas adopts amendments to §5.535, with changes to the proposed text published in the September 4, 1984, issue of the *Texas Register* (9 TexReg 4707).

The amendments implement the provisions of House Bill 593, 68th Legislature, 1983. As amended, the involved regulations define live horticultural products and live nursery stock as commodities eligible for transportation under the scope of an agricultural permit. The language "by the original producer or grower" has been added to §5.535(b)(5)(D) for clarification.

There will be no fiscal implication to either state or local government or small businesses as a result of enforcing or administering the rule. The public benefit anticipated as a result of enforcing the rule is the implementation of House Bill 593. There is no anticipated economic cost to individuals who are required to comply with the rule.

Comments submitted in favor of the amendments stated that the rule would result in increased availability of proper equipment and will benefit both growers and consumers of horticultural and nursery products; the economic environment created as a result of the rule would increase the horticultural and nursery industry within Texas; and the rule would allow Texas growers to remain competitive with growers in other states.

Comments submitted in opposition to the amendments stated that the amendments go beyond legislative intent; the amendment would serve to divert traffic presently handled by existing carriers; the exemption should not be extended to less-than-truckload shipments; and the fiscal implications and economic costs of

complying with the rule would result in the destruction of existing carriers.

The following persons commented in favor of the amendments: A-G Sod Farms, Inc., the Town of Addison, Afghan Nursery, Aldridge Nursery, Inc., Andersens Greenery, Armstrong Valley Nursery, TEX-ART Stone Company, B & D Tree Company, Bob Thompson Landscapes, Brookwood, Bruce Miller Nursery, Inc., Burnett Landscape, Inc., Callahan's General Store, Circle S Nursery, Cooperative Rose Growers, Inc., Caprock Growers, Inc., Carl Pool Corporation, Casa Flora, Cornelius Nurseries, Inc., Country Lane, Inc., Covington Nursery and Garden Center, inc., D&L Landscapes, Dallas Nurseries Garden Center, Inc., Dave Shows and Associates, Double B Land and Cattle Company, Ellison's Greenhouses, Inc., Far West Forreests, Fincastle Blues, Five-M Nurseries, Freedom Oak Nursery, Freeman Nurseries, G. Bush, Inc., Gibson's Landscape Contractors, Inc., Good Morning Garden Center, Glenn Harp and Sons, Inc., Great Southwest Growers, Green Grass, Greenleaf, Green Light Company, Greensleeves Landscape Nursery, Inc., Greenwood Nursery, Jesse Grubb, Harris Wholesale Nursery, Harry's Greenhouse, Hawkins Nursery and Landscape Company, Inc., Heritage Live Oaks, Holden-Dodson Nursery, Inc., Holland Gardens, House's Nursery, Inc., Jackson and Perkins Company, K. C. Browne, Inc., Kactus Korral, Inc., Kimbrew-Walter Roses, Kraft Gardens, Lakeway, Leaf-Leisure, Lerio Corporation, Li'l Green House Nursery, Loma Verde Landscaping and Lawn Maintenance, Lone Star Growers, Inc., McMasters Rice Hull Compost, Mea Nursery, Metric Acres, Mike's Garden Center, Nakase Brothers Wholesale Nursery, New Leaf Environmental Systems, Nexus Greenhouses, Nicholson-Hardie Seed Stores, Number 1 Nursery, Petal Pushers, Inc., Pine Nursery, Plastics, inc., Porter and Son Seedsmen, Powell Plant Farms, Inc., R&R Landscaping Maintenance, Inc., Ran-Pro Farms, Inc., Ricaville Gardens, Rio Grande Nursery, Inc., Rockwell Nursery, Roquemore Dirt Yard and Trucking Company, Rosenblath Landscape Service, SCJ Enterprises, Inc., San Jacinto Capital Corporation, Sandy Foot Farm,

Scholl Farms, Schulz Nursery, Sexton Plant Company, Shade Tree Landscaping Sid Smith and Associates, Inc., Southwest Landscape Nursery Company, Inc., Sunbelt Trees, Sunrise Tropicals, Inc., Texas Association of Nurserymen, Texas Pecan Nursery, Inc., TEX-AID, Thomas Bros. Grass Company, Touch of Green, Tran-Tex Nursery, Inc., Turkey Creek Farms, Inc., Representative D. R. "Tom" Uher, Warren F. Purdy Company, Waynes', Wolfe Nursery, and Wonder Chemical Company, Inc.

The following persons commented against the amendments: Alamo Express, Inc., Central Freight Lines, Inc., Gulf Coast Express, Inc., Hollingsworth Grain and Trucking, Long Transport, Inc., George L. Morrow Trucking Company, Inc., Patton Transportation, Inc., Red Arrow Freight Lines, Inc., and Schultz Brothers, Inc.

The commission had the following responses to opposing comments. There exists in the record of this matter insufficient factual basis to justify limiting the scope of the amendments adopted by this order to shipments of truckload volume only, and such limitation, if imposed, would unduly burden both compliance with and enforcement of the rule as a whole. Neither does there exist in the record any basis upon which to find that the amendments adopted by this order will result in the destruction of existing certificated carriers. Existing certificated carriers, and any other natural or corporate entity, may apply for and receive permits authorizing transportation of eligible agricultural commodities; under such authority, permit holders may transport the full range of traffic involved herein. The amendments adopted by this order are within the scope of legislative intent because the involved commodities have, since the passage of House Bill 593, been defined by the regulations of this commission as agricultural commodities in their natural state (see 16 TAC §5.29, concerning specialized motor carriers of agricultural products). In light of specific delegation of authority to the commission to amend this section by rule making, and in consideration of the absence of any prohibition to the contrary, it may be presumed that amendments adopted by this order are not beyond the intent of the legislature.

The amendments are adopted under Texas Civil Statutes, Article 911b, §4 and §5b, which provide the Railroad Commission of Texas with authority to provide reasonable regulations for the governance of motor carriers and for a limited exemption for transportation of eligible agricultural commodities, respectively.

**§5.535. Definitions of Key Terms Relating to Agricultural Commodities Exemption.**

(a) (No change.)

(b) Specific definitions of terms. The following words or terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Eligible agricultural commodities—cotton, seed cotton, cottonseed and cotton burrs; live animals, including livestock, poultry and game birds; grain (including rice); fresh fruits and fresh vegetables; wool and mohair; peanuts; nuts; seed (for planting); oil seed; fresh eggs; raw milk; sugar cane; manure produced by livestock, poultry, or game birds; hay; live horticultural products and live nursery stock, including any tree, shrub, vine, cutting, graft, scion, grass, bulb, or bud that is in a growing state and is grown for, kept for, or is capable of propagation and distribution for sale. Provisions of §5.29, of this title (relating to Specialized Motor Carriers of Agricultural Products), §5.30 of this title (relating to Specialized Motor Carriers of Livestock, Feedstock, and the Like), and §5.31 of this title (relating to Description of Grain) do not apply in interpretation of commodities listed in this paragraph.

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

(5) Point of production—

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

(D) For live horticultural products and live nursery stock, the point at which such are held by the original producer of grower during one or more growing seasons, whether held in the earth, in containers, or otherwise

(E) Except as provided in subparagraphs (A)-(D) of this paragraph, any point in the State of Texas at which such commodity is severed from the earth or at which such substance was eliminated, removed, or extracted from the host animal other than by slaughtering.

(6) Point of processing—

(A) Cotton gins, rice mills, dryers, feed mills, packing sheds, egg packing facilities, grain and seed cleaning and/or conditioning facilities, animal auction barns, nurseries, greenhouses, lathe houses, and container growing areas at which the continuing substantial identity of the commodity is not changed but merely made ready for first manufacture shall be considered points of processing.

(B) (No change.)

(7) (No change.)

(8) Point of first manufacture—

(A) The point at which the continuing substantial identity of the commodity is changed. The continuing substantial identity of an eligible agricultural commodity will be deemed to have changed where either:

(i) the description of the commodity in standard trade usage changed, or

(ii) the character of the commodity itself has changed, as where:

(I) livestock, poultry, or game birds are slaughtered;

(II) fresh fruits and vegetables are chopped, crushed, sliced, or ground;

(III) milk is pasteurized or homogenized, or the cream is separated from the milk; or

(IV) any eligible agricultural commodity is boiled, cooked, frozen, or packaged in airtight containers for sale or distribution.

(B) For live horticultural products and live nursery stock, the point of first manufacture shall be any business, whether retail or wholesale, and any other location at which such products and/or stock, having been acquired from the original producer, are maintained and held out as merchandise as that term is ordinarily used among both business persons and the general public.

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

Issued in Austin, Texas, on January 21, 1985.

TRD-850854      Buddy Temple,  
Chairman  
Mack Wallace,  
Commissioner  
Railroad Commission of  
Texas

Effective date: February 15, 1985  
Proposed publication date: September 4, 1984  
For further information, please call  
(512) 445-1188.

★      ★      ★

**Chapter 9. Liquefied Petroleum Gas Division**

**Subchapter N. Division XII Automatic Dispensers**

★ 16 TAC §§9.321, 9.325, 9.327, 9.329, 9.335, 9.340

The Railroad Commission of Texas adopts new §§9.321, 9.325, 9.327, 9.329, 9.335, and 9.340, without changes to the proposed text published in the December 7, 1984, issue of the *Texas Register* (9 TexReg 6162).

The new sections bring the LP-gas industry in Texas in line with the prevailing commercial standards of the nation. The automatic dispensers in question have been in limited use in other states and in other nations for several years and have shown no appreciable safety hazard when properly installed and used by trained consumers. There also is evi-

dence to indicate that the dispenser may actually increase the safety of some types of installations because of the greater numbers of safety devices built into the dispensers.

The new sections require LP-Gas Division licenses to submit plans for any installation at which an automatic dispenser is desired. If the dispenser is approved for use in Texas by the LP-Gas Division, and if the plans and specifications submitted meet the requirements of all the safety rules, then the plans will be tentatively approved. After proper installation, the subject dispenser may be granted final approval. Further, the new sections regulate the types of consumers allowed to purchase LP-gas from an automatic dispenser and will restrict the types of LP-gas containers which may be filled in this kind of installation.

The only comments received endorsed the proposed sections in full.

Buckeye Gas Products, Petrolane Corporation, and Texas Propane commented in favor of the sections.

The new sections are adopted under the Texas Natural Resources Code, §113.052, which requires the Railroad Commission of Texas to promulgate and adopt rules and standards which promote safety in the LP-gas industry in Texas. The sections as adopted will further this mandate by providing for the systematic installation of a new type of dispenser which is as safe, or safer, than those presently shown to be safe for use in Texas.

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

Issued in Austin, Texas, on January 21, 1986.

TRD-880733      Buddy Temple,  
                          Chairman  
                          Mack Wallace and  
                          Jim Nugent,  
                          Commissioners  
                          Railroad Commission of  
                          Texas

Effective date: March 1, 1986  
Expiration date: December 7, 1984  
For further information, please call  
(512) 445-1186.

★      ★      ★



## Part II. Public Utility Commission of Texas Chapter 23. Substantive Rules Customer Service and Protection ★ 16 TAC §23.46

The Public Utility Commission of Texas adopts an amendment to §23.46, with changes to the proposed text published in the November 16, 1984, issue of the *Texas Register* (9 TexReg 5876).

The amendment assists in preventing peril to the health and welfare of the public in households where a life-threatening condition exists or would exist because of disconnection of electric utility service during severe weather conditions.

The amendment prevents electric utilities from disconnecting service to households during severe weather conditions when it has been ascertained that life-threatening conditions exist or would exist if disconnection did occur during periods of severe weather conditions as determined by the National Weather Service (NWS). The NWS will determine whether there is an excessive heat alert, and specific conditions pertaining to extreme cold weather are defined as when the previous day's highest temperature did not exceed 32°F and the temperature is predicted to remain at or below that level for the next 24 hours.

Consumers Union was in favor of the amendment because, in its opinion, the amendment is needed to prevent disconnection of electric service when the potential for life-threatening conditions exist because of extreme weather. The utilities cited the existence of another section concerning the health of the public during disconnection, the difficulty of administering this section, and the fact that the section could impose penalties on those who pay their bills promptly.

Consumers Union commented in favor of the amendment; West Texas Utilities, Texas-New Mexico Power Co., Wise Electric Cooperative, and Texas Electric Cooperatives, Inc., commented against the amendment.

The commission feels that those comments against the amendment do not outweigh the possible life-threatening conditions that might occur if no rule for disconnection existed during periods of extreme weather.

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

### §23.46. Discontinuance of Service.

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

(i) Disconnection during extreme weather. On a day when the previous day's highest temperature did not exceed 32°F and the temperature is predicted to remain at or below that level for the next 24 hours, according to the nearest National Weather Service (NWS) reports, or in zones where and excessive heat alert is in effect as determined by the NWS and reported by the National Oceanic and Atmospheric Administration (NOAA), an electric utility cannot disconnect a customer until the utility ascertains that no life-threatening condition exists in the customer's household, or would exist, because of disconnection during severe weather conditions.

(j)-(k) (No change.)

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

Issued in Austin, Texas, on January 24, 1985.

TRD-850826      Rhonda Colbert Ryan  
                          Secretary of the  
                          Commission  
                          Public Utility  
                          Commission of Texas

Effective date: February 15, 1985  
Proposal publication date: November 16, 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 title and part.)*

### Powers and Duties Summary Procedures for Routine Matters

★059.01.11.041-.045

The State Board of Insurance adopts new Rules 059.01.11.042-.045, with changes to the proposed text published in the July 24, 1984, issue of the *Texas Register* (9 TexReg 3989). New Rule 059.01.11.041 is adopted without changes and will not be republished.

The new rules address procedures for summary disposition of certain routine

matters coming before the State Board of Insurance. Presently, these matters require a decision by either the State Board of Insurance or the commissioner of insurance, depending on the nature of the matter. Under the Insurance Code, Article 1.33, the board may adopt rules to create a summary procedure for certain activities, including the matters addressed in these rules. The activities which are subject to such procedure are ones which are deemed by the board to be routine; and they are confined to activities which are voluminous, repetitive, believed to be noncontroversial, and are of limited interest to any persons except those immediately involved or affected by the proposed action. The activities covered by these rules are specified in Rule 059.01.11.042. Decision-making authority for such matters is delegated to various deputy insurance commissioners by Rule 059.01.11.043. Notice requirements are specified in Rule 059.01.11.044. A procedure for appealing the disposition of the activities specified in Rule 059.01.11.042 is set out in Rule 059.01.11.045.

Two parties outside of the agency commented on the proposed new rules. Allstate Insurance Company (Allstate) suggested that the words "specific risk" be deleted from proposed Rule 059.01.11.042(9) on the ground that they are not consistent with the statute to which paragraph (9) refers. Allstate also suggested that proposed Rule 059.01.11.042(3) be expanded to provide for summary disposition of rate filings to write motor vehicle insurance under a rule plan different from that promulgated by the board. These comments are no longer applicable because the board has determined to delete the provisions dealing with rate deviations from the summary procedure rules.

Richard S. Geiger also commented on the proposed rules. Mr. Geiger suggested that the reference to Texas Civil Statutes, Article 4769, in proposed Rule 059.01.11.042(2) should be corrected in view of recent legislation repealing that statute. He also wondered whether uniform percentage rate deviations should be considered as "routine matters" under Article 1.33. The board has determined at this time to delete the provisions dealing with rate deviations and premium taxes from the summary procedure rules. These comments are therefore also no longer applicable.

Mr. Geiger suggested that a provision be added to the rules to create a summary procedure for agent's licensing. The board agrees with this comment and new provisions are added for agent's licensing in Rules 059.01.11.042(2); 059.01.11.043(1); 059.01.11.044(a), (a)(3), and

(d); and 059.01.11.045(a). Mr. Geiger suggested several editorial changes and clarifications to Rules 059.01.11.044(c) and 059.01.11.045(a). The board agrees, and the rules are changed accordingly. Mr. Geiger also suggested that the rules specify the procedure for higher review of summary procedure determinations made by the persons designated in Rule 059.01.11.043. The board agrees and the rules are amended to provide for a *de novo* review of such decisions pursuant to the Administrative Procedure and Texas Register Act. Finally, Mr. Geiger suggested that rates and policy and endorsement forms filed under the Insurance Code, Article 5.15(a), be added to the summary procedure rules. The board disagrees with this comment. The board does not wish to address standard and uniform programs at this time.

On its own motion, the board has deleted several provisions from the rules. Provisions dealing with the filing of late tax returns are deleted from proposed Rule 059.01.11.042(2) because separate rule provisions have been prescribed to deal with that problem. The board also has deleted provisions dealing with auto insurance deviations and fire and allied lines insurance deviations in proposed Rules 059.01.11.042(3), (9), and (10), and proposed Rule 059.01.11.043(3) and (4) because it is considering rules to deal more specifically with those subjects. The rules are renumbered as a result of the deleted provisions.

The State Board of insurance staff also made several suggestions. It was suggested that adopted Rules 059.01.11.042(10) and 059.01.11.043 be amended to apply to "excess" not "deviated" filings for inland marine and to drop reference to deviated home warranty coverage. The use of the word "deviated" was in error. The board agrees and the rule is changed accordingly. The staff suggested that proposed Rule 059.01.11.043(3)(F) be made paragraph (4)(D) of the same rule because the deputy commissioner specified in paragraph (4) is more appropriate to deal with those matters. The board agrees with these comments and the rule is changed accordingly. There are several additional editorial clarifications and changes in Rules 059.01.11.044 and 059.01.11.045. Subsection (a) of proposed Rule 059.01.11.044 is divided into subsection (a) and subsection (b) to appropriately deal with notice of proposed agency action. Proposed subsection (b) and subsection (c) and relettered (c) and (d) respectively.

The new rules are adopted under authority of the Insurance Code, Article 1.33, which provides the State Board of Insurance with the authority to adopt rules to create a summary procedure and design-

nate certain activities as routine matters which should be handled by a summary procedure as authorized by that statute.

**.042. Designated Activities.** The following statutorily prescribed applications are designated for summary procedure disposition.

(1) Life, accident, or health forms. Filings of life, accident, or health insurance policy form applications for approval or disapproval, but not for withdrawal of approval, made pursuant to the Insurance Code, Article 3.42.

(2) Agents licenses. Filings of application for agents licenses pursuant to the Insurance Code, Articles 1.14-2, 3.75, 9.35-9.38, 9.41-9.43, 9.56, 20A.15, 21.07, 21.07-1, 21.07-2, 21.07-3, 21.07-4, 21.09, 21.11, 21.14, 23.23.

(3) Auto consent to rate. Applications to write motor vehicle insurance rates greater than the standard rate or premium that has been promulgated by the board on any specific risk (consent to rate) pursuant to the Insurance Code, Article 5.03(d).

(4) Subchapter B, (a) rates. Average (a) rate applications filed for the types of insurance specified in the Insurance Code, Article 5.13 and 5.15-1, pursuant to the Insurance Code, Article 5.15.

(5) Subchapter B, excess rate or umbrella. Excess rate or umbrella applications for the types of insurance specified in the Insurance Code, Article 5.13, filed pursuant to the Insurance Code, Article 5.15.

(6) Subchapter B, consent to rate. Applications to charge a rate or premium greater than the standard rate or premium approved by the board for the types of insurance specified in the Insurance Code, Article 5.13, pursuant to the Insurance Code, Article 5.15(d).

(7) Rates in excess of maximum for fire and allied lines insurance. Applications to charge rates for fire and allied lines insurance at rates in excess of the maximum rates promulgated by the board for any specific risk pursuant to the Insurance Code, Article 5.26(a).

(8) Highly protected risk rating plans. Application for approval as a highly protected risk rating plan for fire and allied lines insurance pursuant to the Insurance Code, Article 5.26.

(9) No promulgated rates provided. Review of cases where no rate of premium is fixed or determined by the board for fire and allied lines insurance for certain risks or classes of risks as permitted by the Insurance Code, Article 5.31 and Article 5.36.

(10) Excess inland marine. Applications to write regulated lines under the Insurance Code, Article 5.53, at rates in excess of the standard and uniform rates that have been approved by the board pursuant to the Insurance Code, Article 5.53.

**.043. Delegation.** The State Board of Insurance hereby delegates to the following deputy commissioners administration over



the filings designated in paragraphs (1)-(4) of this rule.

(1) Deputy commissioner for life insurance is responsible for Rule 059.01.11.042(1) of this title (relating to Designated Activities) filings, life, accident, and health forms and 059.01.11.042(2) of this title (relating to Designated Activities) agents licenses.

(2) Deputy commissioner of casualty insurance is responsible for all of the following filings:

(A) Rule 059.01.11.042(3) of this title (relating to Designated Activities), auto consent to rate;

(B) Rule 059.01.11.042(4) of this title (relating to Designated Activities), Subchapter B, (a) rates;

(C) Rule 059.01.11.042(5) of this title (relating to Designated Activities), Subchapter B, excess or umbrella;

(D) Rule 059.01.11.042(6) of this title (relating to Designated Activities), Subchapter B, consent to rate.

(3) Deputy commissioner for property insurance is responsible for all of the following filings:

(A) Rule 059.01.11.042(7) of this title (relating to Designated Activities), fire and allied lines excess rates;

(B) Rule 059.01.11.042(8) of this title (relating to Designated Activities), highly protected risk rating plans;

(C) Rule 059.01.11.042(9) of this title (relating to Designated Activities), no promulgated rates provided; and

(D) Rule 059.01.11.042(10) of this title (relating to Designated Activities), inland marine excess rate.

#### .044. Summary Procedure; Notice.

(a) Notice regarding 059.01.11.042(1)-(6). Before taking any action under subsection (b) of this rule with regard to any delegated activities designated under paragraphs (1)-(6) of Rule 059.01.11.042 of this title (relating to Designated Activities), the delegated deputy commissioner specified in Rule 059.01.11.043 of this title (relating to Delegation), shall cause to be prominently placed a notice of the proposed agency action on a bulletin board located in the foyer, first floor, 11th Street entrance of State Board of Insurance Annex (211 East 11th Street, Austin). The notice shall be posted not less than five days before any action is taken and each notice shall contain:

(1) the type of activity considered; and

(2) for matters listed in paragraph (1) of Rule 059.01.11.042 of this title (relating to Designated Activities), the notice shall list the name of the insurer and shall identify the type of form number and the proposed disposition of the matter; and

(3) for matters listed in paragraph (2) of Rule 059.01.11.042 of this title (relating to Designated Activities) the notice shall list the name of the applicant, the business address of the applicant, the license number

of the applicant if applicable, the agency file number of the application and the proposed disposition of the matter; and

(4) for matters listed in paragraphs (3)-(7) of Rule 059.01.11.042 of this title (relating to Designated Activities), the notice shall list the name of the insurer and the name of the insured, where applicable, and the proposed disposition of the matter.

(b) Notice regarding 059.01.11.042(7)-(10). Before taking any action under subsection (b) of this rule with regard to any delegated activities designated under paragraphs (7)-(10) of Rule 059.01.11.042 of this title (relating to Designated Activities), the delegated deputy commissioner specified in Rule 059.01.11.043 of this title (relating to Delegation), shall cause to be prominently placed a notice of the proposed agency action on a bulletin board located in the foyer, first floor, 12th Street entrance to the State Board of Insurance Building (1110 San Jacinto Boulevard, Austin). The notice shall be posted not less than five days before any action is taken and each notice shall contain:

(1) the type of activity considered; and

(2) for matters listed in paragraphs (7)-(10) of Rule 059.01.11.042 of this title (relating to Designated Activities), the notice shall list the name of the insurer and the name of the insured, where applicable, and the proposed disposition of the matter.

(c) Actual notice for proposed negative action. In the case of proposed negative action, parties directly involved shall be given actual notice at least one week in advance of the action proposed and the reasons for the proposed negative action. Actual notice means notice by certified mail, return receipt requested, addressed to the last known address of the applicant or if the applicant is represented by an attorney to the applicant's attorney of record.

(d) Notice of decision. For paragraphs (1)-(10) of Rule 059.01.11.042 of this title (relating to Designated Activities), the appropriate deputy commission shall record his or her decision in a letter sent to the applicant, a copy of which shall be retained and filed with the application and, in case of a negative action, the return receipt coupon shall be attached thereto. For paragraph (2) of Rule 059.01.11.042 of this title (relating to Designated Activities), the appropriate deputy commissioner shall indicate his or her positive decision by causing the appropriate license to be mailed to the applicant, and by causing the decision to be recorded in the agency's computer files. Notice of any proposed negative decision with respect to paragraph (2) of said rule shall be in accordance with subsection (c) of this rule.

#### .045. Review.

(a) Any person affected by any action under paragraph (1) or paragraph (2) of Rule 059.01.11.043 of this title (relating to Delegation), may petition the commissioner for a hearing to review the matter. The petition

shall contain an identification of the matter complained of and a petitioner's statement, including a rebuttal of the deputy commissioner's decision with sufficient particularity to inform the commissioner and any interested persons of the petitioner's reasons and arguments. The petition shall be filed with the hearings reporter. The review shall be de novo pursuant to the Administrative Procedures and Texas Register Act. Any further relief sought is governed by the Insurance Code, Article 1.04.

(b) Any person affected by any action under paragraphs (3)-(10) of Rule 059.01.11.043 of this title (relating to Delegation), may petition the State Board of Insurance for a hearing to review the matter. The petition shall contain an identification of the matter complained of and a petitioner's statement, including a rebuttal of the deputy commissioner's decision with specific particularity to inform the board and any interested persons of the petitioner's reasons and arguments. The petition shall be filed with the chief clerk, State Board of Insurance. The review shall be de novo pursuant to the Administrative Procedures and Texas Register 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 January 24, 1985.

TRD-850807

James W. Norman  
Chief Clerk  
State Board of Insurance

Effective date: February 15, 1985  
Proposal publication date: July 24, 1984  
For further information, please call  
(512) 475-2950.

★ ★ ★

## TITLE 34. PUBLIC FINANCE

### Part I. Comptroller of Public Accounts

#### Chapter 3. Tax Administration

#### Subchapter V. Bingo Regulation and Tax

★ 34 TAC §3.554

The Comptroller of Public Accounts adopts amendments to §3.554, without changes to the proposed text published in the December 18, 1984, issue of the *Texas Register* (9 TexReg 6384).

The amendments clarify the requirement of random selection of winning numbers and require submission by manufacturers of proof of random selection procedures

and authorize verification by the comptroller.

No comments were received regarding the adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 179d, which provide that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the Bingo Enabling 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 January 28, 1985.

TRD-850873      Bob Bullock  
Comptroller of Public  
Accounts

Effective date: February 18, 1985  
Proposal publication date: December 18, 1984  
For further information, please call  
(512) 476-1913.

★      ★      ★

## Part IV. Employees Retirement System of Texas Chapter 81. Insurance

### ★34 TAC §81.1

The Employees Retirement System of Texas adopts amendments to §81.1, without changes to the proposed text published in the December 21, 1984, issue of the *Texas Register* (9 TexReg 6419).

The amendment adds the definitions of "dependent" and "employee" to the rules governing the State Uniform Group Insurance Program. This should avoid any unnecessary questions about the meaning of those terms as they appear throughout the insurance rules.

The section sets out concise definitions of the terms "dependent" and "employee" which appear repeatedly throughout the insurance rules. Criteria for determining disability as needed for eligibility of nonspousal, adult dependents is included.

No comments were received regarding the adoption of the amendments.

The amendments are adopted under the insurance Code, Article 3.50-2, §4A, which provides the Employees Retirement System of Texas with the authority to adopt rules consistent with this Act that provide standards for determining eligibility for participation in the program,

including standards for determining disability.

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

Issued in Austin, Texas, on January 28, 1985.

TRD-850884      Clayton T. Garrison  
Executive Director  
Employees Retirement  
System of Texas

Effective date: February 18, 1985  
Proposal publication date: December 21, 1984  
For further information, please call  
(512) 476-8431, ext. 212.

★      ★      ★

### ★34 TAC §81.15

The Employees Retirement System of Texas adopts an amendment to §81.15, without changes to the proposed text published in the December 21, 1984, issue of the *Texas Register* (9 TexReg 6420).

The amendment describes the means by which health maintenance organizations may be approved to offer their services to state employees.

The amendment describes eligibility standards, terms of approval, and deadlines for filing of information and directs that health maintenance organizations must be federally qualified to be considered in the state program.

David Ferguson, executive director, Central Texas Health Plan, commented that requiring federal qualification of health maintenance organizations is unnecessary as state standards are adequate. While federal qualification is now beneficial, it may become burdensome. Also, requiring full application procedures for expansion of service areas under certain circumstances is unnecessary, particularly the requirement that the health maintenance organization be in business in the area for 12 months before filing an application.

No one commented in favor of the amendments. Mr. Ferguson commented against the amendments.

The agency believes that requiring federal certification of health maintenance organizations provides added protection for employees and prevents mandated overlapping of two similar health maintenance organizations. If federal certification becomes burdensome, the rule can be amended. Also, failure to require new applications for service area expansion

under the defined circumstances would cause the trustee to lose control over this portion of the health benefits program.

The amendments are adopted under the Insurance Code, Article 3.50-2, §5, which provides the Employees Retirement System of Texas with the authority to select and contract for services performed by health maintenance organizations.

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

Issued in Austin, Texas, on January 28, 1985.

TRD-850885      Clayton T. Garrison  
Executive Director  
Employees Retirement  
System of Texas

Effective date: February 18, 1985  
Proposal publication date: December 21, 1984  
For further information, please call  
(512) 476-8431, ext. 212.

★      ★      ★

## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### Part III. Texas Youth Commission

#### Chapter 81. General Provisions Control of Youth

### ★37 TAC §81.196

The Texas Youth Commission adopts the repeal of §81.196, without changes to the proposal published in the December 21, 1984, issue of the *Texas Register* (9 TexReg 6422).

The topic is covered in §81.39 of this title, relating to security program, and §§89.540-89.610 of this title, relating to security.

The section will no longer be in effect as a result of the repeal.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under the Human Resources Code, §61.075, which provides the Texas Youth Commission with the authority to order the confinement of a delinquent child under the conditions it believes best designed for the child's welfare and the interests of the public.

This agency hereby certifies that the rule as adopted has been reviewed by legal

counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on January 25, 1985.

TRD-850861 Ron Jackson  
Executive Director  
Texas Youth  
Commission

Effective date: February 15, 1985  
Proposal publication date: December 21, 1984  
For further information, please call  
(512) 452-8111, ext. 390.

★ ★ ★

★37 TAC §81.198

The Texas Youth Commission (TYC) adopts new §81.198, without changes to the proposed text published in the December 14, 1984, issue of the *Texas Register* (9 TexReg 6306).

The agency is providing a standard dress code which applies to student in all TYC programs.

The dress code is posted in all living areas. Child care staff will monitor student appearance and enforce the dress code. Students may file grievances about any adverse decisions made about them.

No comments were received regarding the adopting of the new section.

The new section is adopted under the Human Resources Code, §61.076, which authorizes the Texas Youth Commission to require the modes of life and conduct that seem best adapted to fit the child for return to full liberty without danger to the public.

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

Issued in Austin, Texas, on January 25, 1985.

TRD-850859 Ron Jackson  
Executive Director  
Texas Youth  
Commission

Effective date: February 15, 1985  
Proposal publication date: December 14, 1984  
For further information, please call  
(512) 452-8111, ext. 390.

★ ★ ★

**Records and Reports**

★37 TAC §81.222

The Texas Youth Commission (TYC) adopts amendments to §81.222, with-

out changes to the proposed text published in the December 14, 1984, issue of the *Texas Register* (9 TexReg 6306).

The changes clarify responsibility for notifications and mailing of the student master file.

The amendments will be implemented in all TYC programs. Staff will be notified of changes through updates to the agency manuals system.

No comments were received regarding the adoption of the amendment.

The amendments are adopted under the Human Resources Code, §61.046, which charges the Texas Youth Commission with the responsibility for the welfare and custody of the children in the schools or facilities.

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

Issued in Austin, Texas, on January 25, 1985.

TRD-850860 Ron Jackson  
Executive Director  
Texas Youth  
Commission

Effective date: February 15, 1985  
Proposal publication date: December 14, 1984  
For further information, please call  
(512) 452-8111, ext. 390.

★ ★ ★

**Chapter 93. Volunteer Services Administration**

★37 TAC §93.1, §93.3

The Texas Youth Commission adopts the repeal of §93.1 and §93.3, without changes to the proposal published in the December 25, 1984, issue of the *Texas Register* (9 TexReg 6461).

The sections will be replaced with new §93.1 and §93.3 simultaneously adopted. The existing rules will no longer be in effect.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under the Human Resources Code, §61.034, which authorize Texas Youth Commission to adopt policies and make all rules appropriate to the proper accomplishments of its functions.

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

Issued in Austin, Texas, on January 25, 1985.

TRD-850862 Ron Jackson  
Executive Director  
Texas Youth  
Commission

Effective date: February 15, 1985  
Proposal publication date: December 25, 1984  
For further information, please call  
(512) 452-8111, ext. 390.

★ ★ ★

The Texas Youth Commission adopts new §93.1 and §93.3, without changes to the proposed text published in the December 25, 1984, issue of the *Texas Register* (9 TexReg 6461).

The new sections replace §93.1 and §93.3, which are simultaneously repealed.

Volunteer coordinators will implement changes in the volunteer programs for each facility or parole area.

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

The new sections are adopted under the Human Resources Code, §61.034, which authorizes Texas Youth Commission to adopt policies and make all rules appropriate to the proper accomplishment of its functions.

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

Issued in Austin, Texas, on January 25, 1985.

TRD-850870 Ron Jackson  
Executive Director  
Texas Youth  
Commission

Effective date: February 15, 1985  
Proposal publication date: December 25, 1984  
For further information, please call  
(512) 452-8111, ext. 390.

★ ★ ★

**Volunteer Management**

★37 TAC §§93.21, 93.23, 93.25, 93.45, 93.49

The Texas Youth Commission adopts the repeal of §§93.21, 93.23, 93.25, 93.45, and 93.49, without changes to the proposal published in the December 21, 1984, issue of the *Texas Register* (9 TexReg 6423).

The agency is updating its rules and will replace these with rules simultaneously

adopted in this issue of the *Texas Register*. The existing rules will no longer be in effect.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under the Human Resources Code, §61.034, which authorizes Texas Youth Commission to adopt policies and make all rules appropriate to the proper accomplishment of its functions.

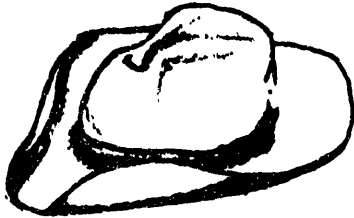
This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on January 25, 1985.

TRD-850864 Ron Jackson  
Executive Director  
Texas Youth  
Commission

Effective date: February 15, 1985  
Proposal publication date: December 21, 1984  
For further information, please call  
(512) 452-8111, ext. 390.

★ ★ ★



★ 37 TAC §§93.21, 93.25, 93.29,  
93.33, 93.37, 93.41, 93.43, 93.45,  
93.49, 93.53

The Texas Youth Commission adopts new §§93.21, 93.25, 93.29, 93.33, 93.37, 93.41, 93.43, 93.45, and 93.53, without changes to the proposed text published in the December 21, 1984, issue of the *Texas Register* (9 TexReg 8423).

Volunteer Services is revising and reorganizing its rules to improve program management and operation. The volunteer coordinators for each facility and parole area will implement the changed rules.

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

The new sections are adopted under the Human Resources Code, §61.034, which authorizes the Texas Youth Commission to adopt policies and make all rules appropriate to the proper accomplishment of its functions.

This agency hereby certifies that the rule as adopted has been reviewed by legal

counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on January 25, 1985.

TRD-850863 Ron Jackson  
Executive Director  
Texas Youth  
Commission

Effective date: February 15, 1985  
Proposal publication date: December 21, 1984  
For further information, please call  
(512) 452-8111, ext. 390.

★ ★ ★

★ 37 TAC §93.63

The Texas Youth Commission adopts amendments to §93.63, without changes to the proposed text published in the December 21, 1984, issue of the *Texas Register* (9 TexReg 6426).

The section has been renumbered as part of the revision and reorganization of the volunteer services rules. There will be no change in the way the rule functions.

No comments were received regarding the adoption of the amendment.

The amendment is adopted under the Human Resources Code, §61.034, which authorizes the Texas Youth Commission to adopt policies and make all rules appropriate to the proper accomplishment of its functions.

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

Issued in Austin, Texas, on January 25, 1985.

TRD-850865 Ron Jackson  
Executive Director  
Texas Youth  
Commission

Effective date: February 15, 1985  
Proposal publication date: December 21, 1984  
For further information, please call  
(512) 452-8111, ext. 390.

★ ★ ★

Constraints

★ 37 TAC §93.65

The Texas Youth Commission adopts amendments to §93.65, without changes to the proposed text published in the December 21, 1984, issue of the *Texas Register* (9 TexReg 6426).

Volunteer Services is revising its rules to improve program management and operation. The revised rules will be implemented by the volunteer coordinators.

No comments were received regarding the adoption of the amendments.

The amendments are adopted under the Human Resources Code, §61.034, which authorizes the Texas Youth Commission to adopt policies and make all rules appropriate to the proper accomplishment of its functions.

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

Issued in Austin, Texas, on January 25, 1985.

TRD-850866 Ron Jackson  
Executive Director  
Texas Youth  
Commission

Effective date: February 15, 1985  
Proposal publication date: December 21, 1984  
For further information, please call  
(512) 452-8111, ext. 390.

★ ★ ★

Donations

★ 37 TAC §§93.71, 93.75, 93.79,  
93.85, 93.89, 93.91, 93.95, 93.97

The Texas Youth Commission adopts the repeal of §§93.71, 93.75, 93.79, 93.85, 93.89, 93.91, 93.95, and 93.97, without changes to the proposal published in the December 21, 1984, issue of the *Texas Register* (9 TexReg 6427).

Volunteer Services is reorganizing its rules and replacing these with new rules simultaneously adopted in this issue of the *Texas Register*. The existing rules will no longer be in effect.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under the Human Resources Code, §61.034, which authorizes the Texas Youth Commission to adopt policies and make rules appropriate to the proper accomplishment of its functions.

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

Issued in Austin, Texas, on January 25, 1985.

TRD-850867 Ron Jackson  
Executive Director  
Texas Youth  
Commission

Effective date: February 15, 1985  
Proposal publication date: December 21, 1984  
For further information, please call  
(512) 452-8111, ext. 390.

★ ★ ★

**Community Advisory Councils**

★ 37 TAC §§93.79, 93.83, 93.87, 93.91, 93.95

The Texas Youth Commission adopts new §93.79, 93.83, 93.87, 93.91, and 93.95, without changes to the proposed text published in the December 21, 1984, issue of the *Texas Register* (9 Tex-Reg 6427).

Volunteer Services is revising its rules to improve program management and operation. Volunteer coordinators will implement the rules.

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

The new sections are adopted under the Human Resources Code, §61.034, which authorizes the Texas Youth Commission to adopt policies and make rules appropriate to the proper accomplishment of its functions.

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

Issued in Austin, Texas, on January 25, 1985.

TRD-850868 Ron Jackson  
Executive Director  
Texas Youth  
Commission

Effective date: February 15, 1985  
Proposal publication date: December 21, 1984  
For further information, please call (512) 452-8111, ext. 390.

★ ★ ★

**Volunteer Reports**

★ 37 TAC §93.101

The Texas Youth Commission adopts the repeal of §93.101, without changes to the proposal published in the December 25, 1984, issue of the *Texas Register* (9 TexReg 6563).

Volunteer Services is revising its rules to improve program operation and management. The section will no longer be in effect as a result of the repeal.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under the Human Resources Code, §61.034, which authorize the Texas Youth Commission to adopt policies and make all rules appropriate to the proper accomplishment of its functions.

This agency hereby certifies that the rule as adopted has been reviewed by legal

counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on January 25, 1985.

TRD-850869 Ron Jackson  
Executive Director  
Texas Youth  
Commission

Effective date: February 15, 1985  
Proposal publication date: December 25, 1984  
For further information, please call (512) 452-8111, ext. 390.

★ ★ ★

The Texas Youth Commission adopts new §93.101, without changes to the proposed text published in the December 25, 1984, issue of the *Texas Register* (9 TexReg 6463).

Volunteer Services is revising its rules to improve program operation and management. The new section will be implemented by the volunteer coordinator in each program.

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

The new section is adopted under the Human Resources Code, §61.034, which authorizes Texas Youth Commission to adopt policies and make all rules appropriate to the proper accomplishment of its functions.

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

Issued in Austin, Texas, on January 25, 1985.

TRD-850871 Ron Jackson  
Executive Director  
Texas Youth  
Commission

Effective date: February 15, 1985  
Proposal publication date: December 25, 1984  
For further information, please call (512) 452-8111, ext. 390.

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**Part IX. Commission on Jail Standards**

**Chapter 259. New Construction Rules**

**Podular/Direct Supervision Design, Construction, and Furnishing Requirements**

★ 37 TAC §§259.301-259.386

The Commission on Jail Standards adopts new §259.382, with changes to

the proposed text published in the December 25, 1984, issue of the *Texas Register* (9 TexReg 6464). Sections 259.301-259.381 and 259.383-259.386 are adopted without changes and will not be republished.

These sections outline another concept of providing efficient and modern incarceration procedures at the county level and incorporate the latest correctional concept as advocated by the National Institute of Corrections.

These sections allow counties the option of constructing a new jail with the concepts of podular construction and direct supervision.

Two comments were received from Southern Building Code Congress International, Inc. One was to change §259.382 to read "Standard Plumbing Code" instead of "Southern Standard Building Code." The commission agrees, and this change has been made. The second comment requested that counties be required to use the Standard Building Code as their guide. This requirement is already in the existing rules and is not necessary in these new sections.

The new sections are adopted under Texas Civil Statutes, Title 18, Article 5115.1, which provide the Commission on Jail Standards with authority to promulgate rules affecting county jails.

§259.382. *Plumbing and Drainage.* Plumbing work shall meet the requirements of the Standard Plumbing Code, or equivalent. Water closets, showers, and lavatories used by high-risk inmates shall be vandal-resistant type. Warm water shall be provided in inmate areas of each lavatory and shower. Water shall not exceed 110° F at its outlet in these areas. All plumbing to inmate areas shall have a quick shut-off valve or other approved means to prevent flooding.

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

Issued in Austin, Texas, on January 25, 1985.

TRD-850883 Robert O. Viterna  
Executive Director  
Commission on Jail  
Standards

Effective date: February 18, 1985  
Proposal publication date: December 25, 1984  
For further information, please call (512) 475-2716.

★ ★ ★



# TITLE 40. SOCIAL SERVICES AND ASSISTANCE

## Part I. Texas Department of Human Resources

### Chapter 29. Purchased Health Services

#### Subchapter P. Hearing Aid Services

★40 TAC §§29.1501-29.1504

The Texas Department of Human Resources adopts new §29.1501 and §29.1504, with changes to the proposed text published in the November 6, 1984, issue of the *Texas Register* (9 TexReg 5696). Sections 29.1502 and 29.1503 are adopted without changes and will not be republished.

The department included the new sections on hearing aid services in Chapter 29, since hearing aids are covered by Medicaid for eligible recipients and the services are administered through the department's health insuring agent. The department is simultaneously adopting the repeal of the existing sections in Chapter 37, concerning the Hearing Aid Program, in this issue of the *Register*.

The new sections stipulate the policies and procedures for the coverage of hearing aid services by the Texas Medical Assistance (Medicaid) Program.

One comment was received on the proposal. A member of the Texas Hearing Aid Association endorsed the rule action and expressed appreciation for the management of the Hearing Aid Program by the health insuring agent.

The department made several changes to the proposed text. In §29.1501(b)(7), the department is allowing more flexibility by changing the language to read, "Providers should dispense U.S. manufactured hearing aids."

The word "services" was deleted in §29.1504(b) to reflect the basis of reimbursement for only the hearing aid instrument.

In §29.1504(b)(3), the department inserted two additional cost items to be included in determining the fee schedule. These were inadvertently omitted in the proposal. The language now reads, "The fee schedule includes costs for hearing aids, earmolds, evaluation, fitting and dispensing, follow-up visits, and repairs."

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

#### §29.1501. Benefits and Limitations.

(a) Benefits. Hearing aid services available through the Texas Medical Assistance (Medicaid) Program are provided in accordance with federal regulations found at 42 Code of Federal Regulations 430.0, Subchapter C, medical assistance programs, state-legislated appropriations, and the provisions and procedures found elsewhere in this chapter as cited at §29.1502(b) of this title (relating to Requirements for Hearing Aid Services). The following hearing aid services are available through the Texas Medicaid Program:

- (1) physician examination to determine the medical necessity for a hearing aid;
- (2) hearing aid evaluations, including home visit hearing evaluations;
- (3) hearing aid;
- (4) initial fitting, dispensing, and post-fitting check of hearing aid;
- (5) first and second revisits to assess the recipients adaptation to the hearing aid and the functioning of the instrument;
- (6) repair of hearing aid;
- (7) replacement of lost or destroyed hearing aid; and
- (8) replacement of an inappropriate hearing aid.

(b) Limitations and exclusions. Hearing aid providers and examining physicians must comply with the following conditions and limitations established by the department or its designee:

(1) Hearing aid services are available only to eligible Medicaid recipients age 21 or older.

(2) Recipients are limited to one hearing aid every five years (60 months) from the dispensing month of the present instrument, except in cases of loss or destruction. If the hearing aid is inappropriate for the recipient's hearing needs, the hearing aid can be replaced provided there is no evidence of abuse or neglect.

(3) An individual using a hearing aid before becoming eligible for Medicaid benefits may have a hearing aid evaluation conducted by an approved hearing aid services provider after he becomes eligible for Medicaid. Medicaid payment for a new hearing aid, however, is denied if the provider concludes, based upon the evaluation findings, that the recipient's present hearing aid adequately compensates for his degree of hearing loss.

(4) Providers may not submit a hearing aid evaluation claim to the department or its designee unless the Medicaid recipient meets the eligibility criteria in §29.1502(b)(1)(B) of this title (relating to Requirements for Hearing Aid Services).

(5) The department or its designee does not pay for:

(A) evaluations, repairs, or hearing aids for recipients under 21 years old;

(B) repairs for hearing aids purchased by the Texas Rehabilitation Com-

mission if the recipient is still eligible for services under that program;

(C) replacement of batteries or cords;

(D) repairs during the warranty period or when a protection plan is in force; or

(E) a hearing aid if the recipient or a third party has made a deposit or any payments toward its purchase.

(6) Binaural fittings are not available except for legally blind, hearing-impaired recipients who can document that they have no other available resources.

(7) Providers should dispense U.S. manufactured hearing aids if the purchase price and quality are comparable to those of foreign manufacturers.

(8) Recipients may receive home visit hearing aid evaluations and hearing aid fittings only on the written recommendation of a physician.

(9) Hearing aid services do not include auditory training, speech reading, or other types of habilitative or rehabilitative services.

#### §29.1504. Reimbursement for Hearing Aid Services.

(a) The Texas Department of Human Resources or its designee makes direct vendor payments to providers of hearing aid services participating in the Texas Medical Assistance (Medicaid) Program. Participating providers are reimbursed within the limits defined by the maximum allowable fee schedule for hearing aid services established by the Texas Board of Human Resources.

(b) Reimbursement for a hearing aid is based on the lowest of the invoice cost of the hearing aid, the acquisition cost of the hearing aid, or the department's maximum allowable fee.

(1) Providers must submit to the department or its designee claims for authorized hearing aid services within 90 days of the date of service. (An additional five days is allowed for mail time.) Providers must include on the claim form the model number, serial number, and warranty date of the hearing aid.

(2) The department may authorize reimbursement for a hearing aid that exceeds the maximum allowable fee under the following conditions:

(A) the recipient must certify in writing his preference for a specific hearing aid, and

(B) the recipient must acknowledge in the certification his responsibility to pay the difference between the acquisition cost of the preferred instrument and the department's maximum allowable fee.

(3) The department or its designee establishes a fee schedule to set the upper limits of reimbursement for authorized hearing aid services. The fee schedule includes costs for hearing aids, earmolds,

evaluation, fitting and dispensing, follow-up visits, and repairs.

(A) The maximum allowable fee schedule is subject to periodic review by the department or its designee to determine if adjustment to the fee schedule is necessary. Adjustment is based upon the comparison of the Health Care Financing Administration's (HCFA) "cumulative economic index" used in updating physician/supplier profiles and current fees after the index factor has been applied to them. The index is applied for reasonable charge determinations in accordance with federal regulations cited at 42 Code of Federal Regulations §405.502. The "indexed fees" are compared to the aggregate of providers' billed charges and invoice costs to determine the necessity for and extent of adjustment. Fees for services may be adjusted to levels greater or less than the "index." The fee schedule's overall adjustment, however, approximates the level indicated by the index factor. Any adjustment to the fee schedule is subject to the availability of legislatively appropriated funds. The department or its designee informs participating providers of changes to the fee schedule through the Texas Medicaid Bulletin, which is distributed to all providers enrolled in the Texas Medicaid Program.

(B) Reimbursement for a physician's examination to determine the need for a hearing aid is not subject to the fee schedule. The department considers the examination a "physician service" and reimburses physicians according to a determination of reasonable charge as described in §29.1104 of this title (relating to Reasonable Charges).

(4) The department or its designee does not reimburse institutions or hospitals for hearing aid services and supplies as separate items of service if these supplies and services are included in their reimbursement formula.

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

Issued in Austin, Texas, on January 24, 1985.

TRD-850759 Martin W. Johnston  
Commissioner  
Texas Department of  
Human Resources

Effective date: February 14, 1985  
Proposal publication date: November 6, 1984  
For further information, please call  
(512) 450-3766.

★ ★ ★

### Chapter 33. Early and Periodic Screening, Diagnosis, and Treatment

The Texas Department of Human Resources (DHR) adopts the repeal of

§§33.241, 33.261, 33.262, 33.311-33.314, 33.317, and 33.319; new §§33.311, 33.314, and 33.317; and amendments to §§33.302, 33.303, 33.310, and 33.322, without changes to the proposals published in the December 7, 1984, issue of the *Texas Register* (9 TexReg 6180).

The actions clarify and update policies for the EPSDT Dental Program so that the policy statements are consistent with the current operation of the program.

No comments were received regarding adoption of the proposals.

### Subchapter O. Providers

★40 TAC §33.241

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

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

Issued in Austin, Texas, on January 29, 1985.

TRD-850945 Martin W. Johnston  
Commissioner  
Texas Department of  
Human Resources

Effective date: February 19, 1985  
Proposal publication date: December 7, 1984  
For further information, please call  
(512) 450-3766.

★ ★ ★

### Subchapter P. Dental Office Practices

★40 TAC §33.261, §33.262

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

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

Issued in Austin, Texas, on January 29, 1985.

TRD-850946 Martin W. Johnston  
Commissioner  
Texas Department of  
Human Resources

Effective date: February 19, 1985  
Proposal publication date: December 7, 1984  
For further information, please call  
(512) 450-3766.

★ ★ ★

### Subchapter R. Dental Services

★40 TAC §§33.302, 33.303, 33.310, 33.322

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

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

Issued in Austin, Texas, on January 29, 1985.

TRD-850949 Martin W. Johnston  
Commissioner  
Texas Department of  
Human Resources

Effective date: February 19, 1985  
Proposal publication date: December 7, 1984  
For further information, please call  
(512) 450-3766.

★ ★ ★

★40 TAC §§33.311-33.314, 33.317, 33.319

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

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

Issued in Austin, Texas, on January 29, 1985.

TRD-850947 Merlin W. Johnston  
Commissioner  
Texas Department of  
Human Resources

Effective date: February 19, 1985  
Proposal publication date: December 7, 1984  
For further information, please call  
(512) 450-3766.

★ ★ ★

★40 TAC §§33.311, 33.314, 33.317

The new sections are adopted under the Human Resources Code, Chapter 22 and Chapter 32, which authorizes the department to administer public assistance programs and medical assistance.

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

Issued in Austin, Texas, on January 29, 1985.

TRD-850948 Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Resources

Effective date: February 19, 1985  
Proposal publication date: December 7, 1984  
For further information, please call  
(512) 450-3786.

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### Chapter 37. Hearing Aid Program

The Texas Department of Human Resources adopts the repeal of §§37.1006-37.1008, 37.1107, 37.1201-37.1208, 37.1301-37.1303, 37.1401-37.1405, 37.1501, 37.1502, 37.1601, 37.1701, 37.2001, 37.2101-37.2103, 37.2401, 37.2402, 37.2501-37.2505, 37.3001-37.3003, 37.3301-37.3308, 37.3401-37.3406, and 37.9801-37.9809, without changes to the proposal published in the November 6, 1984, issue of the *Texas Register* (9 TexReg 5700).

In a separate submission, the department has adopted sections concerning hearing aid services in Chapter 29 so that the rules are more appropriately located in the chapter dealing with purchased health services. The department's health insuring agent reimburses providers of hearing aid services.

No comments were received regarding the adoption of the repeal.

### Subchapter K. Eligibility

★40 TAC §§37.1006-37.1008

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

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

Issued in Austin, Texas, on January 24, 1985.

TRD-850760 Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Resources

Effective date: February 14, 1985  
Proposal publication date: November 6, 1984  
For further information, please call  
(512) 450-3786.

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### Subchapter L. Hearing Aid Program Services

★40 TAC §37.1107

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

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

Issued in Austin, Texas, on January 24, 1985.

TRD-850761 Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Resources

Effective date: February 14, 1985  
Proposal publication date: November 6, 1984  
For further information, please call  
(512) 450-3786.

★ ★ ★

### Subchapter M. Prior Authorization

★40 TAC §§37.1201-37.1208

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

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

Issued in Austin, Texas, on January 24, 1985.

TRD-850762 Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Resources

Effective date: February 14, 1985  
Proposal publication date: November 6, 1984  
For further information, please call  
(512) 450-3786.

★ ★ ★

### Subchapter N. Services Not Requiring Prior Authorization

★40 TAC §§37.1301-37.1303

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

This agency hereby certifies that the rule as adopted has been reviewed by legal

counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on January 24, 1985.

TRD-850763 Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Resources

Effective date: February 14, 1985  
Proposal publication date: November 6, 1984  
For further information, please call  
(512) 450-3786.

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### Subchapter O. Standards for Hearing Evaluations

★40 TAC §§37.1401-37.1405

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

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

Issued in Austin, Texas, on January 24, 1985.

TRD-850764 Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Resources

Effective date: February 14, 1985  
Proposal publication date: November 6, 1984  
For further information, please call  
(512) 450-3786

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### Subchapter P. Standards for Hearing Aids

★40 TAC §37.1501, §37.1502

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

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

Issued in Austin, Texas, on January 24, 1985.

TRD-850765 Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Resources

Effective date: February 14, 1985  
Proposal publication date: November 6, 1984  
For further information, please call  
(512) 450-3786.

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### Subchapter Q. Reimbursement

★40 TAC §37.1601

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

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

Issued in Austin, Texas, on January 24, 1985.

TRD-850766 Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Resources

Effective date: February 14, 1985  
Proposal publication date: November 6, 1984  
For further information, please call  
(512) 450-3766.

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### Subchapter R. Limitations

★40 TAC §37.1701

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

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

Issued in Austin, Texas, on January 24, 1985.

TRD-850767 Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Resources

Effective date: February 14, 1985  
Proposal publication date: November 6, 1984  
For further information, please call  
(512) 450-3766.

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### Subchapter Y. Retention of Records

★40 TAC §37.2401, §37.2402

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

This agency hereby certifies that the rule as adopted has been reviewed by legal

counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on January 24, 1985.

TRD-850770 Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Resources

Effective date: February 14, 1985  
Proposal publication date: November 6, 1984  
For further information, please call  
(512) 450-3766.

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### Subchapter Z. Provider Policies

★40 TAC §§37.2501-37.2505

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

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

Issued in Austin, Texas, on January 24, 1985.

TRD-850771 Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Resources

Effective date: February 14, 1985  
Proposal publication date: November 6, 1984  
For further information, please call  
(512) 450-3766.

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### Subchapter EE. Reimbursement Policies

★40 TAC §§37.3001-37.3003

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

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

Issued in Austin, Texas, on January 24, 1985.

TRD-850772 Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Resources

Effective date: February 14, 1985  
Proposal publication date: November 6, 1984  
For further information, please call  
(512) 450-3766.

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### Subchapter HH. Claims Payment Procedures

★40 TAC §§37.3301-37.3308

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

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

Issued in Austin, Texas, on January 24, 1985.

TRD-850773 Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Resources

Effective date: February 14, 1985  
Proposal publication date: November 6, 1984  
For further information, please call  
(512) 450-3766.

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### Subchapter II. Utilization Review

★40 TAC §§37.3401-37.3406

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

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

Issued in Austin, Texas, on January 24, 1985.

TRD-850774 Martin W. Johnston  
Commissioner  
Texas Department of  
Human Resources

Effective date: February 14, 1985  
Proposal publication date: November 6, 1984  
For further information, please call  
(512) 450-3766.

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### Subchapter UUUU. Support Documents

★40 TAC §§37.9801-37.9809

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

This agency hereby certifies that the rule as adopted has been reviewed by legal

counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on January 24, 1985.

TRD-850775 Martin W. Johnston  
Commissioner  
Texas Department of  
Human Resources

Effective date: February 14, 1985  
Proposal publication date: November 6, 1984  
For further information, please call  
(512) 450-3766.

★ ★ ★  
The following adoptions submitted by the Texas Department of Human Resources will be serialized in the February 8, 1985, issue of the *Texas Register*. The effective date of adoption for the documents is May 1, 1985.

Chapter 81. Day Care Licensing  
Subchapter C. Minimum Standards  
for Kindergartens and Nursery  
Schools

40 TAC §581.201-81.230  
(repeal)

40 TAC §581.201-81.229  
(new)

Subchapter D. Minimum Standards  
for Schools: Grades Kindergarten  
and Above

40 TAC §581.301-81.329  
(repeal and new)

Subchapter E. Standards for Day  
Care Centers

40 TAC §581.401-81.432  
(repeal and new)

Subchapter G. Minimum Standards  
for Group Day Care Homes

40 TAC §581.601-81.630  
(repeal)

40 TAC §581.601-81.630,  
81.632  
(new)

Subchapter H. Minimum Standards  
for Drop-in Care Centers

40 TAC §581.701-81.726  
(repeal)

40 TAC §581.701-81.730  
(new)

Subchapter UUUU. Support  
Documents

40 TAC §581.9801  
(amendment)

Chapter 85. General Licensing  
Procedures

Subchapter UUUU. Support  
Documents

40 TAC §585.9801  
(amendment)

## State Board of Insurance Exempt Filings

### State Board of Insurance Notifications Pursuant to the Insurance Code, Chapter 5, Subchapter L

*(Editor's note: As required by the Insurance Code, Article 5.96 and Article 5.97, the Register publishes notices of actions taken by the State Board of Insurance pursuant to the Insurance Code, Chapter 5, Subchapter L. Board action taken under these articles is not subject to the Administrative Procedure and Texas Register Act, and the final actions printed in this section have not been previously published as proposals.)*

*These actions become effective 15 days after the date of publication or on a later specified date.*

*The text of the material being adopted will not be published, but may be examined in the offices of the State Board of Insurance, 1110 San Jacinto Street, Austin.)*

The State Board of Insurance has approved various agenda items presented at the July 26, 1984, annual fire hearing affecting the manual rules, rates, and policy and endorsement forms for the Texas standard policy, the Texas standard homeowners policy, the Texas standard farm and ranch owners policy, the Texas commercial multiperil policy, the Texas commercial property policy, the electronic equipment protection policy, the Texas townhouse policy, the Texas standard combination farm and ranch owners policy, and the Texas general basis schedules, which is the manual governing the writing of said policies. The agenda items approved are as follows.

**Agenda Item 4-84** permits the agreed amount endorsements (Forms 300, TxCMP-70 and TCPP-80) to be attached to policies insuring property on a blanket basis. The current rules do not allow the use of an agreed amount endorsement involving blanket insurance; however, the increased use of blanket insurance for premises containing multiple buildings produces a definite need for the availability of an agreed amount endorsement for blanket insurance. This change permits an insured to enjoy the use of an agreed amount endorsement without it being necessary that each and every building be specifically scheduled on the policy where an agreed amount endorsement is desirable.

**Agenda Item 7-84** approves the new Texas standard combination farm and ranch owners policy, to provide a single policy for an insured who is a farm owner and also has a home in town. The new policy combines the existing coverages available under a separate farm and ranch owners policy and a separate homeowners policy into a single policy. The new combination policy does not restrict coverage but rather provides a time and cost savings in the issuing of a single policy to an insured in lieu of two separate policies.

**Agenda Item 8-84** provides a definition and a flat rate for portable buildings. The current system of providing rates on portable buildings requires a company to file a rate with the board for approval on each and every portable building to be insured. The sheer volume of filings and maintenance of the files does not justify the

need for such a system. The vast majority of portable buildings fall within a given construction class which would allow a flat rate to be established for use by all companies. This eliminates the constant filing and refiling for named rates on portable buildings without producing unfair or excessive rates for insureds.

**Agenda Item 12-84** amends the rules of the Texas general basis schedules to provide that on final adjustment on a reporting form policy the premium charged cannot exceed the earned premium computed upon the provisional limit of liability. The current rules require the insured to pay premium on the average annual values which may be in excess of the provisional limit of liability. Since the insured could never collect more than the provisional limit of liability in case of loss, earned premium for the policy should never exceed the premium produced using the applicable rates times the provisional limit of liability.

**Agenda Item 13-84** amends Form TxCMP-190A and Form 34 to clarify that coverage is provided when damage to stock is a result of damage by an insured peril to power lines off premises. This item is for clarification only as the intent of the existing forms is to provide the coverage. This clarification will eliminate any questions of coverage at the time of a loss.

**Agenda Item 14-84** adds a reference to Form THO-365 (which is a newly approved form) in the rules of the Texas Catastrophe Property Insurance Association (TCPIA) manual. The TCPIA policy is used to insured various risks, includ-

ing townhouses. As new programs are developed and approved by the board (Texas Townhouses Program), it becomes necessary to amend the TCPIA rules so that risks qualifying under new programs can continue to qualify under the TCPIA Program for the available coverages.

**Agenda Item 20-84** amends the declaration page of the Texas commercial multiperil policy to include the same definition of actual cash value as that contained under the Texas standard policy. The actual wording change would be "actual cash value of the property at the time of loss, ascertained with proper deduction for depreciation." This change would make all the standard policies promulgated by the board consistent with defining actual cash value. This change does not amend the current practices to determine actual cash value at the time of a loss. It does clarify the meaning of actual cash value so that there is less likely to be problems to resolve between the insured and the company at the time of loss.

**Agenda Item 22-84** approves a flat rate for endorsements TxCMP-190 and Form 32 and eliminates the requirement that the location of the power source be listed, when power originates from a public utility. Forms TxCMP-190 and 32 provide coverage for damage to contents when such damage is a result of damage to an off-premises power source. The rating of these two forms required tracing the power source back to all buildings through which the power passed and determining a rate based on the highest rate of any one building. Because of the size of many cities, it becomes increasingly impossible to determine the various buildings through which power passes. To eliminate this problem, a flat rate can be used and the power source simply designated as a public utility without requiring all locations to be shown.

**Agenda Item 23-84** amends the air conditioning exclusion under Form TxCMP-126 to air conditioning units installed in windows or walls. The current exclusion simply refers to air conditioners, implying the possibility that central air conditioning units, which are considered building items and subject to replacement cost provisions, might be excluded under Form TxCMP-126. The intent of the replacement cost endorsement TxCMP-126 is to provide replacement cost coverage on a central air conditioning unit. This change clarifies the intent and makes Form TxCMP-126 consistent with other replacement cost endorsements.

**Agenda Item 24-84** approves a new Farm and Ranch Physical Loss Form 81-H for use with the farm and ranch policy. Currently, all risk coverage cannot be provided for risks insured under a standard farm and ranch policy. The approval of the new endorsement provides a needed coverage for those insureds having a farm and ranch policy and desiring an all risk coverage.

**Agenda Item 25-84** provides coverage for swimming pool structures, attending supplies, and equipment as an extension of building coverage under the farm and ranch owners policy. Currently, coverage is provided for swimming pools under the homeowners policy as an extension of building coverage; however, the same coverage is not provided under a farm and ranch owners policy. Outbuilding structures used in connection with a dwelling should be covered to the same extent under either policy since the exposure is generally the same for both.

**Agenda Item 27-84** approves the interruption of power and electrical disturbance amendatory endorsement, Form EEP-35, to delete electrical injury and power surge exclusions in the electronic equipment protection policy forms. Electrical injury and power surge are primary exposures for computers, particularly smaller units that are not protected within the system itself to eliminate serious damage because of power surge. The presence of such exposure, the insureds desire to insure for the exposure, and adequate rates to reflect the exposure are sufficient justification to provide for the deletion of the exclusion.

**Agenda Item 28-84** adds coverage under the debris removal section of the homeowners policy for removal of fallen trees from the premises when the fallen tree has caused damage to the insured property. Coverage presently under the debris removal section of the homeowners policy is unclear as to the extent removal of debris is covered. Some losses from trees falling on insured property have included the cost of removal of the tree from the damaged property only, but not from the premises. Other losses have included the cost of complete removal from the premises. The amending of the debris removal section clarifies the intent that removal of trees which have fallen on insured property includes the cost of removal from the premises, not just from the insured property.

**Agenda Item 30-84** adds a note in the Texas general basis schedules to indicate the availability of replacement cost coverage on dwellings insured through the TCPIA. Replacement cost coverage on dwellings insured through the TCPIA

has been available for several years. This change simply helps clarify the availability of the coverage.

**Agenda Item 32-84** amends Forms 224, HO-361, and TxCMP-32, windstorm, hurricane, and hail exclusion agreement, to add exclusion D. Consequential Loss-(Off Premises). Consequential loss-off premises can be provided under various policies; however, if the loss is caused by windstorm, hurricane, or hail and the windstorm, hurricane, and hail exclusion agreement endorsement is attached, there is no coverage under the basic policy, nor is there any coverage under the TCPIA policy. This leaves a gap in coverage for those risks located in the catastrophe area. To eliminate the gap in coverage, the windstorm, hurricane, and hail exclusion agreement endorsement is amended to exclude its application to consequential loss-off premises, thereby providing the coverage under the basic policy.

**Agenda Item 36-84** amends Endorsements HO-363 and FRO-463 to allow the 60-day period for an insured to occupy a newly completed dwelling to be extended to 90 or 120 days if needed. Because of delays involving newly purchased dwellings, the 60-day grace period allowed an insured under a homeowners policy to occupy the dwelling is no longer sufficient. In cases where longer periods of time are needed, an option is provided for 60, 90, or 120 days. This eliminates the need to cancel a homeowners policy after 60 days where an insured has not occupied the dwelling.

**Agenda Item 38-84** amends the Texas commercial multiperil and townhouse sections of the Texas general basis schedules to clarify that the qualifying premium for the premium discount plan under Section II shall be before the application of any eligible package modification and/or individual risk modification. This change in the rules simply clarifies the existing practice in determining qualifying premium for the premium discount plan.

**Agenda Item 39-84** approves the Broad Form Comprehensive General Liability Amendatory Endorsement Form TxCMP 205A, which deletes exclusions C(6) and (7) under medical payments coverage of Form TxCMP-205. Medical payments coverage under Form TxCMP-200 allows coverage to be provided club members and guests of hotels and motels. The attachment of Form TxCMP-205 replaces all medical payments coverage under Form TxCMP-200 and specifically excludes coverage to club members and guests of hotels and motels. Since Form

TxCMP-205, when attached, is for broadening coverage, it becomes unjust that certain insureds could become penalized with the attachment of Form TxCMP-205. The ability to eliminate exclusions C(6) and (7), for an appropriate premium charge, removes any injustice to specific insureds.

**Agenda Item 40-84** provides a new Home Computer Form HO-390 for the Texas homeowners policy to provide specific coverage for personal computers in a manner similar to coverage presently provided in the Small Computer/Machine Form EEP-15. Although coverage for personal computers can presently be provided under an electronic equipment protection policy, the insured is faced with obtaining a separate policy to insure a small computer. The adoption of the new form to provide similar coverage for personal computers under a homeowners policy produces a savings in time and expense to both the company, agent, and insured.

**Agenda Item 43-84** amends the rule in the Texas general basis schedules to permit the use of Endorsement HO-325 with any residential premises. The present rules in the Texas general basis schedules allow the Additional Premiums Endorsement HO325 to be attached to dwelling premises. With the expanding of condominium and townhouse ownership, the rule as amended would allow the additional premises endorsement to be attached to individually owned condominiums and townhouse units in addition to dwellings.

**Agenda Item 44-84** amends Form TxCMP-205 to provide coverage for executive officers, members of the board of trustees, directors or governors or stockholders thereof, while acting within the scope of their duties, for bodily injury to fellow employees for those executive officers who would be considered employees of the insured corporation. Under the current Form TxCMP-200 (liability coverage form), coverage is provided for bodily injury to a fellow employee where an executive officer might be considered an employee of the insured corporation. The attachment of Form TxCMP-205, which is normally a broadening of coverage, places a specific restriction on coverage for bodily injury or personal injury to another employee of the name insured arising out of or in the course of his employment. Form TxCMP-205 is revised to remove the restriction to executive officers, members of the board of trustees, directors or governors or stockholders to recognize that coverage under Form TxCMP-205 should not restrict coverage otherwise afforded under Form TxCMP-200.

**Agenda Item 45-84** provides a reference rule in the homeowners section of the Texas general basis schedules to allow the general liability farmers medical payments endorsement to be attached to a homeowners policy, subject to the rating procedure in the *General Liability Manual*.

**Agenda Item 47-84** provides a reference rule in the Texas commercial multiperil section of the Texas general basis schedules to set forth various standard fire forms that can be attached to a Texas commercial multiperil (TCMP) policy. Where the language of a standard fire form does not conflict with language contained in a Texas commercial multiperil policy, the attachment of the standard fire forms to the TCMP policy results in saving in form printing cost by eliminating the need of duplicate forms for two different policies.

**Agenda Item 48-84** approves the TCPP-Blanket Earnings and Expenses Form, TCPP-71; the TCPP-Blanket Earnings and Expenses Worksheet, Form TCPP-72; TCPP-Period of Restoration Extension Endorsement, Form TCPP-73; and TCPP-Ordinary Payroll Exclusion Endorsement, Form TCPP-74 to provide coverage for blanket earnings and expenses under the Texas commercial property policy. This allows risks insured under a Texas commercial property policy to obtain the same type of coverage as can be provided under all other commercial property policies.

**Agenda Item 52-84** amends the homeowners and farm and ranch owners premium charts to graduate in \$5,000 increments and indicate premiums for up to \$250,000. With the increases in values of dwellings, the revisions to these charts eliminates the need for added premium calculations for higher valued dwellings.

**Agenda Item 55(A)-84** provides new Loss Assessment Coverage Endorsement THO-14 for townhouse unit owners. Under the majority of the bylaws and declarations of townhouse associations, specific assessment privileges are present in cases where insufficient insurance may exist on association property. This new coverage is designed to insure the exposure that might exist for individual unit owners when assessments are made for insufficient insurance to cover a specific loss to association property.

**Agenda Item 55(B)-84** amends the no control provision in the townhouse policy, using Form THO-80, to address the neglect of individual unit owners. Because of the number of unit owners plus the association which are named insureds, it becomes important that the to-

tal insurance on a townhouse project not be prejudiced by the neglect of a single owner.

**Agenda Item 55(D)-84** amends the notice requirement in the jacket of the townhouse policy using Form THP-80 to prohibit the company from barring recovery on the basis of the notice requirement unless the occurrence giving rise to a liability claim is within the knowledge of an officer or director of the association. Since all unit owners and the association are named on the policy, the possibility exists that an individual unit owner may fail to give notice of a claim or occurrence and thereby prejudice the insurance. To eliminate this possibility, the notice requirement excludes any insured who is not an officer or director of the association.

**Agenda Item 55(F)-84** amends exclusion (a) of the association liability coverage (Forms THO-200 and THO-202) to protect the association for liability arising out of the maintenance of individual units. The current form removes all liability for the association in connection with maintenance and repair of individual units. In most cases, associations assume responsibility of maintenance and repair of units and therefore a gap in coverage is produced for the association. The revision to exclusion (a) eliminates this gap in coverage by extending liability to the association for maintenance and repair of individually owned townhouse units.

**Agenda Item 55(H)-84** provides for a reference rule to allow certain coverages available under the TCMP policy to be provided under the townhouse policy. The use of TCMP forms on a townhouse policy does no injustice to the policy and eliminates the expense of printing identical coverage forms for the townhouse policy.

These changes are to be effective March 15, 1985.

This notification is filed pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administration Procedure and Texas Register Act.

Issued in Austin, Texas, on January 24, 1985.

TRD-850835 James W. Norman  
Chief Clerk  
State Board of  
Insurance

Effective date: March 15, 1985  
For further information, please call  
(512) 475-2960.

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The State Board of Insurance has approved the withdrawal of the standard rules, rates, and forms for furrlers block, furrlers customers, and garment contractors classes of inland marine insurance, placing these classes into an unregulated area of inland marine insurance.

The withdrawal of the rules, rates, and forms for these classes allows rate and form freedom to provide coverage for the unique exposures present in these classes of inland marine insurance. In addition, with the withdrawal of the rules, rates, and forms on a countrywide basis, there is insufficient premium volume in Texas to produce creditable rates for these classes of inland marine insurance.

These changes are to be effective March 1, 1985.

This notification is filed pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

Issued in Austin, Texas, on January 24, 1985.

TRD-850836 James W. Norman  
Chief Clerk  
State Board of  
Insurance

Effective date: March 1, 1985  
For further information, please call  
(512) 475-2950.

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The State Board of Insurance adopts on a standard basis the following amended retrospective rating tables.

(1) Table of compensation expense ratios applicable only to workers compensation and employers liability insurance written under rating Option V.

(2) Table of rating values applicable only to workers compensation and employers liability insurance written under rating Options I, II, III or IV.

(3) Table of standard ratios and factors applicable only to workers compensation and employers liability insurance written under rating Options I, II, III, IV or V.

(4) Table of expected loss ranges applicable to workers compensation and employers liability, automobile liability, automobile physical damage, general liability, theft and glass insurance written either alone or in any combination under rating Option V.

These amended Texas retrospective rating tables shall apply to all new and renewal retrospective rating plans made effective on and after March 1, 1985.

This notification is made pursuant to the Insurance Code, Articles 5.96 and 5.97 which exempt it from the requirements of the Administrative Procedure and Texas Register Act.

Issued in Austin, Texas, on January 25, 1985.

TRD-850937 James W. Norman  
Chief Clerk  
State Board of  
Insurance

Effective date: March 1, 1985  
For further information, please call  
(512) 475-2950.

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The State Board of Insurance adopts amendments to the *Texas Automobile Manual*.

The board adopts physical damage rating symbols for certain models of 1985 Chevrolet private passenger automobiles. All of the models for which symbols have been adopted are newly announced models or models for which data was not available from the manufacturer at the time of their introduction.

The symbols adopted were developed from manufacturers F.O.B. list price data and adjusted in accordance with the prescribed vehicle series rating rule. The F.O.B. list price/symbol chart from which the appropriate symbols are derived is on page two of the symbol and identification section of the *Texas Automobile Manual*.

If applicable, the appropriate symbol has been raised or lowered based on the experience thresholds set out in the vehicle series rating rule in the symbol and identification section of the *Texas Automobile Manual*. The amendments are effective on February 21, 1985. This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

Issued in Austin, Texas, on January 25, 1985.

TRD-850838 James W. Norman  
Chief Clerk  
State Board of  
Insurance

Effective date: February 21, 1985  
For further information, please call  
(512) 475-2950.

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The State Board of Insurance adopts amendments to the *Texas Automobile Manual*.

The board adopts adjusted physical damage rating symbols for certain 1982, 1983, and 1984 model private passenger automobiles.

The adjusted symbols adopted were developed from manufacturers F.O.B. list price data and adjusted in accordance with the prescribed vehicle series rating rule.

The F.O.B. list price/symbol chart from which the appropriate symbols are derived is on page two of the symbol and identification section of the *Texas Automobile Manual*.

The appropriate symbol has been raised or lowered based on the experience thresholds set out in the vehicle series rating rule in the symbol and identification section of the *Texas Automobile Manual*. The amendments are effective on February 21, 1985.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

Issued in Austin, Texas, on January 25, 1985.

TRD-850839 James W. Norman  
Chief Clerk  
State Board of  
Insurance

Effective date: February 21, 1985  
For further information, please call  
(512) 475-2950.

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The State Board of Insurance has approved a filing by the Surety Association of America of a new endorsement form ERISA Rider Sr 6145 (Endorsement 222) to comply with bonding regulations made applicable to the Employee Retirement Income Security Act of 1974.

The new form is a consolidation of four existing Surety Association standard forms necessary when an employee benefit plan is added as a joint insured on certain fidelity coverages. The consolidation does not involve modification of contract language, other than minor editing, and no premium consideration is involved with this consolidation of existing forms.

The four existing forms are SR 5109a, SR 5137b, SR 5796a, and SR 5817a. Because each of these forms are useful in specific circumstances, none are being withdrawn and may continue to be used if needed.

This filing is effective February 21, 1985.

This notification is made pursuant to the Insurance Code, Article 5.97, which ex-

empties it from the requirements of the Administrative Procedure and Texas Register Act.

Issued in Austin, Texas, on January 25, 1985.

TRD-850840 James W. Norman  
Chief Clerk  
State Board of  
Insurance

Effective date: February 21, 1985  
For further information, please call  
(512) 475-2950.

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The State Board of Insurance has approved a filing by CUMIS Insurance Society, Inc., of endorsement forms to provide optional fiduciary liability coverage with their Credit Union Discovery Bond NCUA 581.

These forms provide coverage to employee benefit plan trusts and their sponsoring credit unions against claims arising out of actual or alleged breach of fiduciary duty as imposed by the Employee Retirement Income Security Act of 1974 (ERISA). The method of handling is not unlike that previously approved for IRA Endorsement 255-CDB-A360 (9/82) (TX).

This filing is effective February 21, 1985.

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Ad-

ministrative Procedure and Texas Register Act.

Issued in Austin, Texas, on January 25, 1985.

TRD-850841 James W. Norman  
Chief Clerk  
State Board of  
Insurance

Effective date: February 21, 1985  
For further information, please call  
(512) 475-2950.

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The State Board of Insurance has approved a filing by CUMIS Insurance Society, Inc., of revised rates, rules, and forms for use with their Credit Union Discovery Bond NCUA 581.

The revisions include the following:

- (1) an increase in base rates of 5.0%;
- (2) introduction of additional deductibles of \$2,000, \$2,500, \$150,000 and \$200,000;
- (3) new endorsements 255-CDBA-255-CDBA417(10/94) and 255-CDB-A418(10/84) relating to lack of faithful performance coverage. To accommodate the recent modification of the NCUA requirement so as to require only the designated credit union financial officer be insured for lack of faithful performance, the new endorsement CDB-A418 restricts this coverage to only the financial officer. In this case, the current bond base premiums will apply. There will be no premium credit or surcharge. New En-

dorsement CDB-A418 will be attached when the insured credit union opts to provide lack of faithful performance coverage to the financial officer and to the other officers and employees of the credit union. If the option is selected, an additional charge of 10% of the bond base premium will be applicable. Such other officers and employees will not be covered for investment trading losses. If no lack of faithful performance coverage is provided, a discount of 10% of the bond base premium will be applied;

(4) revised rating rules corresponding to the type of lack of faithful performance coverage selected by the credit union. The revised manual pages three-eight result from the addition of new rule I.E. on page three.

This filing is effective February 21, 1985.

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

Issued in Austin, Texas, on January 25, 1985.

TRD-850842 James W. Norman  
Chief Clerk  
State Board of  
Insurance

Effective date: February 21, 1985  
For further information, please call  
(512) 475-2950.

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# Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Register*.

**Emergency meetings and agendas.** Any of the governmental entities named above must have notice of an emergency meeting, 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.

**Posting of open meeting notices.** 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, Austin. These notices may contain more detailed agendas than what is published in the *Register*.

## Texas Adult Probation Commission

Committees of the Texas Adult Probation Commission and the full commission will meet in Suite 600, Building B, 8100 Cameron Road, Austin. Days, times, and committees follow.

**Thursday, February 7, 1985, 2 p.m.** The Audit Review Committee will consider fiscal audit reports, including final reviews for Jefferson, Hale, Milam, El Paso, Hutchinson, Lamb, Nolan, Grayson, Victoria, Webb, and Limestone Counties, and initial reviews for Brazoria, Hopkins, Kleberg, Smith, Baylor, Falls, Montague, Tarrant, Bowie, Liberty, Parker, Fayette, Duval, Potter, Walker, Van Zandt, Wichita, Howard, Young, Rusk, Panola, and Harrison Counties; and an initial monitoring review for Hall County.

**Contact:** Virginia Grote, P.O. Box 12427, Austin, Texas 78711, (512) 475-1374.

**Filed:** January 29, 1985, 11:50 a.m.  
TRD-850931

**Thursday, February 7, 1985, 2 p.m.** The Program Committee will consider funding for special programs, restitution centers, and supplemental funding grants approved for fiscal year 1985; supplemental funding budget adjustments for fiscal year 1984 for San Patricio County and Terry County; supplemental funding requests for fiscal year 1985 for Jim Wells, Maverick, Reeves, San Patricio and Wheeler Counties; the December progress report and budget adjustments for the restitution center program in Bexar, Cass, Harris (Little York and New Directions), and Jefferson Counties; implementation of a grant application in Dallas County; the Residential Service Program December progress report and budget adjustments for the court residential treatment center in El Paso County and the contract residential services in San Patricio County; the Specialized Caseloads Program, including guidelines and budget adjustments concerning additional funding for Harris County and partial deobligation for McLennan

County; an intensive Supervision Probation Program progress report; and waivers.

**Contact:** Virginia Grote, P.O. Box 12427, Austin, Texas 78711, (512) 475-1374.

**Filed:** January 29, 1985, 11:50 a.m.  
TRD-850932

**Friday, February 8, 1985, 9 a.m.** The commission will consider the minutes; financial reports; a program services report concerning funding for special programs, restitution centers, and supplemental funding grants approved for fiscal year 1985; supplemental funding budget adjustments for fiscal year 1984 for San Patricio County and Terry County; supplemental funding requests for fiscal year 1985 for Jim Wells, Maverick, Reeves, San Patricio and Wheeler Counties; the December progress report and budget adjustments for the restitution center program in Bexar, Cass, Harris (Little York and New Directions), and Jefferson Counties; implementation of a grant application in Dallas County; the Residential Services Program December progress report and budget adjustments for the court residential treatment center in El Paso County and the contract residential services in San Patricio County; the Specialized Caseloads Program, including guidelines and budget adjustments concerning additional funding for Harris County and partial deobligation for McLennan County; the Intensive Supervision Probation Program progress report; waivers; the data services report including a statistical report and projections on growth, the fiscal services report including the Audit Review Committee report and Legislative Budget Board budget recommendations, funding, and riders; and the executive director's report concerning legislative issues, final adoption of proposed standards, and consideration of new standards.

**Contact:** Virginia Grote, P.O. Box 12427, Austin, Texas 78711, (512) 475-1374.

**Filed:** January 29, 1985, 11:50 a.m.  
TRD-850930

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## Texas Department on Aging

**Thursday, February 7, 1985, 10 a.m.** The Texas Board on Aging of the Texas Department on Aging will meet in the boardroom, fifth floor, 210 Barton Springs Road, Austin. Items on the agenda include approval of the November 8, 1984, minutes; confirmation of Citizens Advisory Council appointments; the Advisory Council report, a budget update; an appropriations request; an audit update; continuation of the Texas Department on Aging; a legislative report; a program report; committee reports; a Focus '85 summary; the Texas Coalition for Elders and the Council on Disabilities.

**Contact:** O. P. (Bob) Bobbitt, P.O. Box 12786, Austin, Texas 78711, (512) 475-2717.

**Filed:** January 28, 1985, 3:57 p.m.  
TRD-850907

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## Texas Department of Agriculture

**Wednesday, February 13, 1985.** The Texas Department of Agriculture will conduct administrative hearings to review possible violations of the Texas Agriculture Code, §76.111(a) and (g) and §76.116(a)(5). Times, locations, and license holders follow.

**10 a.m.** Suite C, 5501 IH 40 West, Amarillo; Kenneth E. Gray, doing business as Gray Flying Service.

**10 a.m.** 202 East Horton, Brenham; Michael K. Brackman, doing business as Brackman Aviation.

**10 a.m.** Suite 103, 1801 North Lamar, Dallas; Rickey N. Afinowicz, doing business as H & D Agri Service.

**10 a.m.** Suite 301, 2800 Northeast Loop 410, San Antonio; O. F. McGee, doing business as Wally's Flying Service.

**10 a.m.** Expressway 83, two blocks west of Morningside Road, San Juan; David Montemayor, doing business as D & E Grove Care.

10 a.m. 421 East Ferguson, Tyler; Steve Howell, doing business as Howell Farm Supply.

11 a.m. Suite C, 5501 IH 40 West, Amarillo; Jo Ann Thompson.

11 a.m. Expressway 83, two blocks west of Morningside Road, San Juan; Lester E. Montgomery, doing business as Barnick Spray Service.

1 p.m. Suite C, 5501 IH 40 West, Amarillo; Ann Cluck, doing business as Cluck Spraying.

1 p.m. 2935 Westhollow Drive, Houston; Douglas Thompson.

2:30 p.m. 2935 Westhollow Drive, Houston; David Hearn, doing business as Ferti-Lawn, Inc.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 475-6686.

Filed: January 30, 1985, 9:51 a.m.  
TRD-850967-850977

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### Texas Air Control Board

Friday, February 8, 1985. Committees of the Texas Air Control Board and the full board will meet Room 332, 6330 Highway 290 East, Austin. Days, times, and agendas follow.

8:30 a.m. The Regulation Development Committee will consider public hearings on proposed revisions to Regulation V, to the ozone state implementation plan (SIP) for Dallas, Tarrant, and El Paso Counties, and to the carbon monoxide SIP for El Paso County, and public hearings on proposed revisions to Regulation IV.

9:30 a.m. The Ad Hoc Permit Fee Review Committee will review board authority to collect permit fees, discuss and consider permit and enforcement cost recovery systems, discuss fee systems used by other Texas state agencies, and review Sunset Advisory Commission recommendations.

10:30 a.m. The board will approve the January 11, 1985, minutes; elect a chairman and vice-chairman; and consider reports, the governor's budget recommendations, the meetings of the Regulation Development Committee and Ad Hoc Permit Fee Review Committee on February 8, 1985, a report on ozone levels and trends in Texas, and new business.

Contact: Paul M. Shinkawa, 6330 Highway 290 East, Austin, Texas 78723, (512) 451-5711, ext. 354.

Filed: January 29, 1985, 10:02 a.m.  
TRD-850915-850917

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### State Banking Board

Thursday, January 24, 1985, 3:30 p.m. The State Banking Board met in emergency session via conference call originating from 2601 North Lamar Boulevard, Austin. According to the agenda, the board considered an application for a charter for a state bank to purchase some of the assets and assume some of the liabilities of a failed bank. The applicant, if there is one, will be the bidder chosen by the board of directors of the Federal Deposit Insurance Corporation (FDIC). The emergency status was necessary because failure of the bank would disrupt banking services in the community.

Contact: Archie P. Clayton III, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

Filed: January 24, 1985, 12:48 p.m.  
TRD-850786

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### Texas Department of Community Affairs

Friday, February 8, 1985, 10 a.m. The Advisory Council on Community Affairs of the Texas Department of Community Affairs (TDCA) will meet in Room 100, 2015 IH 35 South, Austin. Items on the agenda include review of the previous meeting business, adoption of minutes, committee reports, status of the TDCA budget request, proposed legislation which could affect the TDCA, economic development training, and status of changes under the Texas Community Development Program.

Contact: Larry Crumpton, 2015 IH 35 South, Austin, Texas 78704, (512) 443-4100, ext. 201.

Filed: January 25, 1985, 3:57 p.m.  
TRD-850855

Friday, February 15, 1985, 9:30 a.m. The State Community Development Review Committee of the Texas Department of Community Affairs will meet in the auditorium, third floor, United Bank of Texas, 400 West 15th Street, Austin. According to the agenda summary, the committee will consider the minutes, the economic development report, recommendations on third-quarter economic development projects, the planning/capacity building report, recommendations on planning/capacity building applications, and TCDP comments.

Contact: Kelly Myrick, 2015 IH 35 South, Austin, Texas 78741, (512) 443-4100, ext. 375.

Filed: January 30, 1985, 4:04 p.m.  
TRD-850996

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### Texas Cosmetology Commission

Sunday, January 27, 1985, 1 p.m. The Texas Cosmetology Commission submitted an emergency revised agenda for a meeting held at the Quality Inn South, 2200 IH 35 South, Austin. According to the revised agenda, the commission heard speakers discuss the loss of student hours, including Alton Laird for Tina Hudson, Rita Harris, Annette Potter, Patty Purcell, Sandra Skief, and Terry Barber; heard Jack King speak on 22 TAC §89.8 and §89.27 and Lou Ann Hitt and Linda Corbin on the examination; discussed proposed rule changes and the attorney general's opinion regarding contract high school students; and heard reports from the assistant executive director and the executive director. The commission also met in executive session. The emergency status was necessary because the executive director was called to the Budget Oversight Committee meeting on Monday, January 28, 1985, thereby causing the executive director's report and the executive session to be moved to Monday, January 28, 1985.

Contact: Herbert Cohen, 1111 Rio Grande Street, Austin, Texas 78701, (512) 475-5460  
TRD-850811

Monday, January 28, 1985, 8:30 a.m. The Texas Cosmetology Commission submitted an emergency revised agenda for a meeting held at the Quality Inn South, 2200 IH 35 South, Austin. According to the agenda, the commission held disciplinary hearings concerning Sonja Rene Malone, Vada Marie Oswald, Sheila Kay Gorman, Cynthia Ann Selvidge, Louie Buhidar, doing business as Mr. Louie's, Samuel and Amira Bohorquez, doing business as Victoria's Beauty College, Carl Jay Schuler, Richard G. Tedesco, Rosa Emma Urias, and Judie Ann Gardner; discussed agreed orders: the prior meeting minutes; and conducted old business and new business. The emergency status was necessary because the executive director was called to a Budget Oversight Committee meeting on this day, therefore, the executive director's report and the executive session were held on Sunday, January 27, 1985.

Contact: Herbert Cohen, 1111 Rio Grande Street, Austin, Texas 78701, (512) 475-5460.

Filed: January 25, 1985, 9:36 a.m.  
TRC-850812

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### Credit Union Department

Thursday, February 7, 1985, 1 p.m. The Credit Union Commission of the Credit Union Department will meet via conference call originating from 914 East Anderson Lane, Austin. Items on the agenda include final adoption of 7 TAC §91.407, authorizing credit unions to issue mortgage-backed



bonds; a suggested change to 7 TAC §91.507, which was accepted at the January 22, 1985, meeting as a proposed rule for publication; and the advisability of seeking legislation to authorize the department to purchase casualty insurance on its building.

Contact: Harry L. Elliott, 914 East Anderson Lane, Austin, Texas 78752, (512) 837-9236.

Filed: January 30, 1985, 1:34 p.m.  
TRD-850987

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### Texas School for the Deaf

Friday, February 1, 1985, 6 p.m. The Student Life and Curriculum Committee of the Texas School for the Deaf (TSD) met in the boardroom, Administration Building, 1102 South Congress Avenue, Austin. According to the agenda, the committee reviewed student life from August 1984 to the present.

Contact: Sheila O'Leary, 1102 South Congress Avenue, Austin, Texas 78704, (512) 442-7821, ext. 303.

Filed: January 24, 1985, 2:39 p.m.  
TRD-850790

Saturday, February 2, 1985, 10 a.m. The Governing Board of TSD met in the boardroom, Administration Building, 1102 South Congress Avenue, Austin. According to the agenda, the board approved the December 8, 1984 minutes; considered business requiring board action, professional contract approval, a policy adoption second-reading, policy EI-academic achievement, policy EIAB-examinations, policy EIAB-progress reports to parents, policy EMH-class interruptions, the NSBA national convention, the board meeting schedule, the election of officers, board communications, business for information purposes, the health services report and the special services annual report, the Chapter 75 and House Bill 72 update, the interim code of student conduct update, the annual maintenance report, board member reports, and individuals who wish to make reports. The board also met in executive session.

Contact: Sheila O'Leary, 1102 South Congress Avenue, Austin, Texas 78704, (512) 442-7821, ext. 303

TRD-850791

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### East Texas State University

Thursday, February 7, 1985. Committees of the Board of Regents of East Texas State University (ETSU) will meet in the

boardroom, McDowell Administration Building, Commerce. Times, committees, and agendas follow.

1 p.m. The Academic Programs Committee will consider authority to seek approval of the Coordinating Board, Texas College and University System for a degree designation change from Doctor of Education in the College Teaching of English to Doctor of Philosophy in the College Teaching of English and approval to change the name of the Department of Biology to the Department of Biological Sciences; and curricula changes, workload reports, and undersized class reports at ETSU-Commerce and ETSU-Texarkana.

2 p.m. The Campus and Building Committee will consider a motion to award a contract for remodeling of the Memorial Student Center.

2:30 p.m. The Finance and Investment Committee will consider authority for the committee to approve room and board charges for 1985-1986 subject to ratification by the board at the next regular meeting, approve additions and transactions to the ETSU-Commerce and ETSU-Texarkana 1984-1985 operating budgets, and consider a motion to establish a permanent endorsement for music scholarships.

3 p.m. The Executive Committee will consider ETSU-Texarkana policies, a motion to confer professor emeritus status, appointment of a president for 1985-1986, and a legislative update.

Contact: Steve W. Batson, East Texas State University, Commerce, Texas 75428, (214) 886-5012.

Filed: January 29, 1985, 11:57 a.m.  
TRD-850934-850937

Friday, February 8, 1985, 9 a.m. The Board of Regents of East Texas State University (ETSU) will meet in the boardroom, McDowell Administration Building, Commerce. Items on the agenda summary include consideration of ETSU-Texarkana policies; a motion to confer professor emeritus status; authority to seek approval of the Coordinating Board, Texas College and University System for a degree designation change from Doctor of Education in the College Teaching of English to Doctor of Philosophy in the College Teaching of English and approval to change the name of the Department of Biology to the Department of Biological Sciences; curricula changes, faculty workload reports, and undersized class reports at ETSU-Commerce and ETSU-Texarkana; a motion to award a contract for remodeling of the Memorial Student Center; authority for the Finance Committee to approve room and board charges for 1985-1986 subject to ratification by the board at the next regular meeting, approval of additions and transactions to the ETSU-Commerce and ETSU-Texarkana

1984-1985 operating budgets, a motion to establish a permanent endorsement for music scholarships, and appointment of a president for 1985-1986. The board also will meet in executive session.

Contact: Steve W. Batson, East Texas State University, Commerce, Texas 75428, (214) 886-5012.

Filed: January 29, 1985, 11:57 a.m.  
TRD-850933

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### Texas Education Agency

Friday, February 1, 1985, 10 a.m. The Ad Hoc Committee on Testing of Currently Certified Teachers of the Texas Education Agency (TEA) met in Room 101-E, TEA North Building, 1200 East Anderson Lane, Austin. According to the agenda, the committee discussed possible approaches to the testing of currently certified teachers, emphasizing both measurement and legal issues.

Contact: Martin Veselka, 201 East 11th Street, Austin, Texas 78701, (512) 834-4089.

Filed: January 24, 1985, 2:53 p.m.  
TRD-850792

Friday, February 1, 1985, 10 a.m. The Committee for Personnel of the State Board of Education of the TEA met in emergency session in Room 101-E, TEA North Building, 1200 East Anderson Lane, Austin. According to the agenda, the committee attended the meeting of the Ad Hoc Committee on Testing of Currently Certified Teachers, which was already posted for this date, place, and time, to discuss the testing of currently certified personnel. The emergency status was necessary to enable committee members to participate in the discussion of issues to be considered.

Contact: Martin Veselka, 201 East 11th Street, Austin, Texas 78701, (512) 834-4089.

Filed: January 29, 1985, 4:20 p.m.  
TRD 850961

Monday, February 4, 1985, 1 p.m. The Advisory Committee for Accountable Costs of the TEA met in emergency session in Room 101, TEA North Building, 1200 East Anderson Lane, Austin. According to the agenda, the committee considered the preliminary release of data for the program weighting study. The emergency status was necessary so that the work of the committee could proceed as scheduled.

Contact: Tom Krueck, 201 East 11th Street, Austin, Texas 78701, (512) 475-2275.

Filed: January 28, 1985, 9:20 a.m.  
TRD-850877

Tuesday, February 5, 1985, 10 a.m. The officers and committee chairmen of the

State Board of Education of the TEA will meet in Room 2901, East Tower, AMFAC Hotel, Dallas/Fort Worth Airport. According to the agenda, the officers and chairmen will discuss legislative recommendations.

Contact: Dr. W. N. Kirby, 201 East 11th Street, Austin, Texas 78701, (512) 475-3271.

Filed: January 25, 1985, 4:26 p.m.  
TRD-850856

**Thursday, February 7, 1985, 1:30 p.m.** The State Board of Education of the TEA will meet in the boardroom, TEA North Building, 1200 East Anderson Lane, Austin. According to the agenda, the board will conduct a public hearing to receive public opinions on textbook content. Individuals desiring to testify at the board hearing must have registered by 5 p.m. on Thursday, January 31, 1985, by contacting Grace Grimes at (512) 475-8691. Persons testifying should bring 20 copies of their testimonies to the hearing.

Contact: Grace Grimes, 201 East 11th Street, Austin, Texas 78701, (512) 475-8691.

Filed: January 29, 1985, 4:20 p.m.  
TRD-850962

**Thursday, February 7, 1985, 4 p.m.** The Committee of the Whole of the State Board of Education of the TEA will meet in the boardroom, TEA North Building, 1200 East Anderson Lane, Austin. According to the agenda, the committee will consider a legislative briefing and recommendations and discuss methods and procedures to improve information services.

Contact: W. N. Kirby, 201 East 11th Street, Austin, Texas 78701, (512) 475-3271.

Filed: January 30, 1985, 4:06 p.m.  
TRD-850998

**Thursday, February 7, 1985, 6:30 p.m.** The State Board of Education of the TEA and invited school district representatives will meet in the Robertson Room, La Mansion Hotel, 6505 IH 35 North, Austin. According to the agenda, the board and representatives will conduct a dinner meeting to discuss implementation of House Bill 72, 68th Legislature, 2nd Called Session, 1985.

Contact: W. N. Kirby, 201 East 11th Street, Austin, Texas 78701, (512) 475-3271.

Filed: January 30, 1985, 4:06 p.m.  
TRD-850999

**Friday, February 8, 1985.** Committees of the State Board of Education of the TEA will meet in the TEA North Building, 1200 East Anderson Lane, Austin. Times, rooms, committees, and agendas follow.

**8:30 a.m.** In the boardroom, the Committee for Finance and Programs will conduct a public hearing on the proposed five-year master plan for vocational education for fiscal years 1986-1990, the proposed state plan for vocational education for fiscal years

1986-1990, and the proposed Texas state plan for adult education for fiscal years 1986-1988; review the proposed five-year master plan for vocational education, the proposed state plan for vocational education for fiscal years 1986-1988, and the proposed Texas state plan for adult education for fiscal years 1986-1988; consider proprietary schools and veterans education; conduct hearings held pursuant to the Texas Proprietary School Act; and consider rules for the Texas state plan for vocational education and the Texas annual program plan for adult education programs, a requirement for program participation (student/teacher ratios), the repeal of rules concerning funding of the semester system and the report of funds allocated, an amendment to rules concerning the Official Advisory Committee, the price differential index, requests for legislative appropriations for fiscal years 1986 and 1987, a regional education service center standardized reporting format, the appointment of trustees for Lackland Independent School District, a report of the Advisory Council for Technical-Vocational Education in Texas titled "Vocational Education—The Next Step," discussion on the proposed elimination of the area vocational education offices and proposed rules concerning administrative hearings, an interim report concerning the program weighting study, a legislative report and proposals, review of securities transactions and the investment portfolio, the recommended investment program for February, estimated funds available from the permanent school fund for the February program, and a report of the investment officer.

**8:30 a.m.** In Room 111, the Committee for Personnel will consider preparation and planning time, the Testing Program, appraisal of certified personnel, the teacher career ladder, materials available for use with textbooks, appointments to the Commission on Standards for the Teaching Profession, committee review of textbook rules, preprofessional skills test results from the November examination, a report of the Advisory Committee on Competency Testing, alternative teacher certification, advanced academic training, the annual performance report of institutions approved for teacher education, a status report on a comparison of salaries for teachers and librarians, education services for children in various detention facilities, and a legislative report and proposals.

**8:30 a.m.** In Room 101-E, the Committee for Students will consider student attendance; discipline management; summer school programs; curriculum; advanced placement examinations; tutorial programs; days of operation required; requirements for pupil attendance accounting for state funding purposes; promotion and alternatives to social promotion; student absences for extracurricular or other activities; assessment; a petition for adoption of a rule in

19 TAC Chapter 89, Subchapter G, concerning special education, a resolution concerning Texas Public Schools Week; a request for approval of amendments to the University Interscholastic League 1984-1985 constitution and contest rules; discussion on proposals for alternatives to social promotion; remedial instruction; Proclamation 61 and Proclamation 62, concerning the board's advertising for bids on textbooks; and a legislative report and proposals.

**2:45 p.m.** In Room 101-E, the Committee for Long-Range Planning will consider a proposed amendment to the board operating rules, contracting for consultative assistance for long-range planning, goals of the board, a status report on the commissioner search, continuing discussion on long-range planning, a status report on the accreditation of school districts, and a legislative report and proposals.

Contact: W. N. Kirby, 201 East 11th Street, Austin, Texas 78701, (512) 475-3271.

Filed: January 30, 1985, 4:07 p.m.  
TRD-851000-851003

**Saturday, February 9, 1985, 8:30 a.m.** The State Board of Education of the TEA will meet in the boardroom, TEA North Building, 1200 East Anderson Lane, Austin. According to the agenda summary, the board will consider proprietary schools and veterans education; hearings held pursuant to the Texas Proprietary School Act; the Texas state plan for vocational education; the State of Texas annual program plan for adult education programs; a requirement for program participation (student/teacher ratios); repeal of rules concerning funding of the semester system and a report of funds allocated; an amendment to rules concerning the official advisory committees; the price differential index; requests for legislative appropriations for fiscal years 1986 and 1987; a standardized reporting format for regional education service centers; the appointment of trustees for Lackland Independent School District; a report of the Advisory Council for Technical-Vocational Education in Texas titled "Vocational Education—The Next Step;" estimated funds available from the permanent school fund for the February program; preparation and planning time; the Testing Program; appraisal of certified personnel; the teacher career ladder; materials available for use with textbooks; appointments to the Commission on Standards for the Teaching Profession; student attendance; discipline management; summer school programs; curriculum; advanced placement examinations; tutorial programs; days of operation required; the repeal of rules concerning requirements for pupil attendance accounting for state funding purposes; promotion and alternatives to social promotion; student absences for extracurricular or other activities; assessment; a petition for adoption of a rule in 19 TAC Chapter 89, Subchapter G, con-

cerning special education; a resolution concerning Texas Public Schools Week; a request for approval of amendments to the University Interscholastic League 1984-1985 constitution and contest rules; a proposed amendment to board operating rules; a contract for consultative assistance for long-range planning; a legislative briefing and board legislative recommendations; agency personnel actions; requests by the staff to hold other positions of honor, trust, or profit; the status of the permanent school fund as of January 31, 1985; a status report on the accreditation of school districts; and reports of the interim commission of education, the board chairman, the Committee for Finance and Programs, the Committee for Personnel, the Committee for Students, and the Committee for Long-Range Planning concerning items discussed in committee meetings on Friday, February 8, 1985.

Contact: W. N. Kirby, 201 East 11th Street, Austin, Texas 78701, (512) 475-3271.

Filed: January 30, 1985, 4:06 p.m.  
TRD-851004

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### Texas Employment Commission

Tuesday, January 29, 1985, 8 a.m. The Texas Employment Commission (TEC) submitted an emergency revised agenda to a rescheduled meeting held in Room 644, TEC Building, 15th Street and Congress Avenue, Austin. According to the agenda summary, the commission considered prior meeting notes and internal procedures of the Office of Commission Appeals, considered and acted on higher level appeals in unemployment compensation cases on Docket 5, and set the date of the next meeting. The emergency status was necessary due to one of the commissioners having to appear in court. The meeting originally was scheduled for January 29, 1985, at 9 a.m. as published at 10 TexReg 297.

Contact: Courtenay Browning, TEC Building, Room 608, 15th Street and Congress Avenue, Austin, Texas, (512) 397-4415.

Filed: January 24, 1985, 3:12 p.m.  
TRD-850793

Tuesday, February 5, 1985, 9 a.m. The 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 tax liability cases and higher level appeals in unemployment compensation cases listed

on Docket 6, 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: January 28, 1985, 2:14 p.m.  
TRD-850899

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### Office of the Governor

Friday, February 8, 1985, 8 a.m. The Texas Crime Stoppers Advisory Council of the Governor's Office of Criminal Justice of the Office of the Governor will meet at the Sheraton Fairway Resort, 2105 South 10th Street, McAllen. Items on the agenda include approval of the minutes, reports on local Crime Stoppers programs and current operations, and a training seminar beginning at 10 a.m.

Contact: Greg MacAleese, P.O. Box 12428, Austin, Texas 78711, (512) 475-2303 or (800) 252-8477.

Filed: January 30, 1985, 10:58 a.m.  
TRD-850980

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### Texas Health Facilities Commission

Thursday, February 7, 1985, 9 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.

Amendment of Certificate of Need  
Ridgeview Nursing and Convalescent Center, Wichita Falls  
AN83-0726-062A(092884)

Declaratory Rulings  
Gonzales County Health Agency, Inc., Gonzales  
AO84-1211-791  
Edinburg General Hospital, Edinburg  
AH84-1227-820

Intent to Acquire Major Medical Equipment  
Bhatia-Mohan-Kamnani Partnership, Pampa  
AO84-1221-1815

Intent to Acquire Existing Health Care Facilities  
Redwood Partners, a Texas general partnership, Arlington  
AN84-1227-835  
AN84-1227-836  
AN84-1227-837  
AN84-1227-838  
AN84-1227-840  
AN84-1227-841  
AN84-1227-842  
AN84-1227-843  
AN84-1227-844

Petition for Reissuance  
Leisure Lodge-Crockett, Crockett  
AN84-0223-124R(121884)

Certificates of Need  
The Methodist Hospital, Houston  
AH84-1018-664  
Hermann Hospital, Houston  
AH84-1108-709  
Northcliff Manor, Cibola  
AN84-0928-617  
Memorial Hospital of Galveston County, Texas City  
AH84-0620-396  
Smithville Hospital, Smithville  
AH84-1108-708  
Golden Plains Care Center, Hereford  
AN84-0723-486  
Pasadena Bayshore Medical Center, Pasadena  
AH84-1022-673  
Katy Memorial Hospital, Denison  
AH84-1010-651  
Edgar B. Davis Memorial Hospital, Luling  
AH84-1011-655  
Dublin Medical Center, Dublin  
AH84-1019-665

Contact: John R. Neel, P.O. Box 50049, Austin, Texas 78763..

Filed: January 30, 1985, 9:58 a.m.  
TRD-850978

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### University of Houston System

Tuesday, February 5, 1985, 7:30 a.m. The Board of Regents of the University of Houston System will meet in the Ezekiel Cullen Boardroom, University Park, 4800 Calhoun, Houston. According to the agenda summary, the board will consider personnel recommendations, evaluations, and a contract; a consent docket; academic programs, including a Ph.D. in educational psychology; a recommendation of the Law Center Program; athletics; board policies; financial reports; gift summary reports; various contracts; the sale of real estate; and the granting of easements.

Contact: Michael T. Johnson, 4600 Gulf Freeway, Suite 500, Houston, Texas 77023, (713) 749-7545.

Filed: January 30, 1985, 3:40 p.m.  
TRD-850991

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### Texas Department of Human Resources

Thursday, February 7, 1985, 10 a.m. The Texas Board of Human Resources of the Texas Department of Human Resources will meet in the boardroom, East Tower, 701 West 51st Street, Austin. Items on the agenda include approval of the December 13, 1984, minutes; mandating certain staff-

ing and other regulations for geriatric nursing facilities as a requirement for participation in the Texas Medicaid Program; state school rates (intermediate care for the mentally retarded); a maximum allowable cost policy in the Vendor Drug Program; vendor drug dispensing fees; payment of Title XIX hospital claims; a reduction in rates of reimbursement to contractors for administration of the Emergency Food Assistance Program; investigation of child abuse and neglect in licensed child care facilities; exemptions to the community care policy (Rider 50); approval of a final rule concerning special income exemptions in the Medicaid Program; amendments to policies and procedures; an appointment to the Advisory Committee on Child Care Facilities; a recommendation of the Medical Care Advisory Committee; reports on the Texas long-term care channeling demonstration, nursing home sanctions, and rate setting for child protective foster care; the commissioner's report; and a regional report.

Contact: Bill Woods, P.O. Box 2960, Austin, Texas 78769, (512) 450-3045.

Filed: January 30, 1985, 3:35 p.m.  
TRD-850990

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### State Board of Insurance

**Wednesday, January 30, 9 a.m.** The State Board of Insurance made an emergency addition to the agenda for a meeting held in the hearing room, DeWitt C. Greer Building, 11th and Brazos Streets, Austin. The addition concerned an emergency amendment to a hearing to consider Rules 059.05.26.103 and .104, published in the January 18, 1985, issue of the *Texas Register* (10 TexReg 200). The amendment stated that there might be emergency rule making respecting the subject matter of the hearing, depending on the testimony received. The emergency status was necessary because testimony could show a crisis situation respecting rate-regulated insurers in Texas which might necessitate emergency action, and the board needed to post proper notice to be able to take such action immediately if necessary.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

Filed: January 29, 1985, 10:55 a.m.  
TRD-850918

The Commissioner's Hearing Section of the State Board of Insurance will conduct public hearings in Room 342, 1110 San Jacinto Street, Austin. Days, times, and dockets follow.

**Tuesday, February 5, 1985, 9 a.m.** Docket 7898—whether disciplinary action should be

taken against Fred D. Hardee, El Paso, who holds a Group I, legal reserve life insurance agent's license; Group II, insurance agent's license; and local recording agent's license.

Contact: Tom I. McFarling, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-1076.

Filed: January 28, 1985, 1:16 p.m.  
TRD-850886

**Tuesday, February 5, 1985, 1:30 p.m.** Docket 7923—application of Union National Life Insurance Company, Houston, for approval of revaluation of Home Office Property.

Contact: John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

Filed: January 28, 1985, 1:16 p.m.  
TRD-850887

**Thursday, February 7, 1985, 9 a.m.** Docket 7912—whether disciplinary action should be taken against Robert H. Broussard, Beaumont, who holds a Group I, legal reserve life insurance agent's license.

Contact: John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

Filed: January 28, 1985, 1:16 p.m.  
TRD-850888

**Thursday, February 7, 1985, 10 a.m.** The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. According to the agenda summary, the board will consider a decision on the appeal of H. R. Huckaby from action of the Texas Catastrophe Property Insurance Association; the commissioner's report and the fire marshal's report (both including personnel matters); final action on amendments to Rule 059.05.53.102; proposed amendments, including emergency amendments, to Rules 059.01.11.041-.045; proposed new Rules 059.01.15.253 and .263; and board orders on several different matters as itemized on the complete agenda.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

Filed: January 29, 1985, 10:56 a.m.  
TRD-850919

Addition to the previous agenda:

Consideration of posting as a proposal new Rules 059.03.51.101-.111, concerning universal life insurance, and withdrawing from consideration the present published rules; and new Rules 059.03.76.001-.012, concerning variable life insurance, and withdrawing the present rule numbers from consideration.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

Filed: January 30, 1985, 10:37 a.m.  
TRD-850966

**Thursday, February 7, 1985, 1:30 p.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 7924—whether the application of Jo Ann Robbins Slaughter, Houston, for a Group I, legal reserve life insurance agent's license, should be issued.

Contact: Tom I. McFarling, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-1076.

Filed: January 28, 1985, 1:16 p.m.  
TRD-850889

Addition to the previous agenda:

Docket 7817—whether the Group I, legal reserve life insurance agent's license and Group II, health and accident insurance agent's license held by John Joseph Gast, Grand Prairie, should be cancelled or revoked.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: January 28, 1985, 1:16 p.m.  
TRD-850890

**Friday, February 8, 1985, 9 a.m.** The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. According to the agenda, the board will hear a Research and Information Services report.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

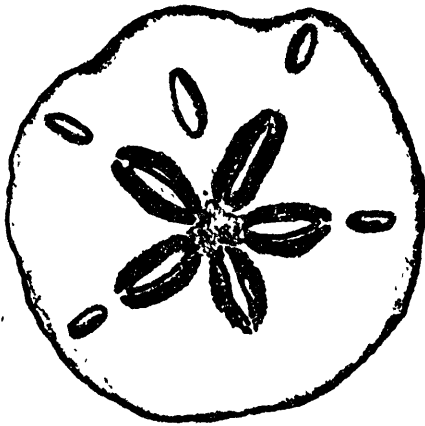
Filed: January 29, 1985, 10:56 a.m.  
TRD-850920

**Monday, February 11, 1985, 2 p.m.** The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. According to the agenda, the board will consider a petition by the Texas Automobile Insurance Service Office to amend the *Texas Standard Provisions for Automobile Policies*, June 1, 1981 edition (personal auto policy), and the *Texas Automobile Manual Endorsement Supplement* to delete the personal auto policy coverage limitation of \$1,000 for loss to a nonowned private passenger automobile, trailer, pickup, panel truck, or van when the property damage loss was due solely to the liability assumed under a rental contract; and a petition by Lone Star Driving School for approval of its graduates of the driving safety program "Driving Safety Awareness" to receive a 10% automobile insurance credit under the *Texas Automobile Manual*, Rule 38.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

Filed: January 29, 1985, 10:56 a.m.  
TRD-850921

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### Lamar University

**Friday, February 1, 1985.** Committees of the Board of Regents of Lamar University (LU) met in the Lamar Room, Gray Library, Lamar University, Beaumont. Times, committees, and agendas follow.

**8:30 a.m.** The Finance/Audit Committee and the Building and Grounds Committee jointly considered approval of the November 1984 monthly financial report; approval to submit a grant application for LU-Orange for campus construction at the Brown Center site and bids for the sale of riverfront property at LU-Orange; and LU-Beaumont items, including ratification of an emergency item to purchase a dishwasher for the main dining hall, bids for library roof repair and a skylight, bids for the north central cooling tower renovation, bids for renovation of the service building exterior, bids for replacement of the TA4 roof, bids for purchase of a word processing micro-computer system for deans' offices, bids for installation of turnstiles in Montagne Center, and approval of bids on a microscope for the Geology Department. The committees also met in executive session.

**9:15 a.m.** The Academic Affairs Committee and Personnel Committee jointly considered nonsubstantive changes in the BBA-finance and BBA-general business degree for LU-Beaumont; appointment of a vice-president for academic affairs at LU-Port Arthur; authorizing a degree granting authority to LU-Orange and LU-Port Arthur; and authorizing LU-Orange and LU-Port Arthur to pursue regional accreditation.

**9:45 a.m.** The Student Relations and Services Committee and Finance/Audit Committee jointly considered student fees and rates for LU-Beaumont and met in executive session.

**Contact:** Dr. George McLaughlin, P.O. Box 11915, Beaumont, Texas 77710, (409) 880-2304.

**Filed:** January 24, 1985, 3:53 p.m.  
TRD-850798-850800

**Friday, February 1, 1985, 10 a.m.** The Board of Regents of Lamar University (LU) met in the Spindletop Room, Gray Library, Lamar University, Beaumont. Items on the agenda included approval of the December 13, 1984, minutes; the chancellor's report and announcements; and approval of Finance/Audit Committee recommendations, Building and Grounds Committee recommendations, Academic Affairs Committee recommendations, and Personnel Committee recommendations. The board also met in executive session.

**Contact:** Dr. George McLaughlin, P.O. Box 11915, Beaumont, Texas 77710, (409) 880-2304.

**Filed:** January 24, 1985, 3:52 p.m.  
TRD-850801

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### Texas Commission on Law Enforcement Officer Standards and Education

**Wednesday, February 6, 1985, 10 a.m.** The Texas Commission on Law Enforcement Officer Standards and Education will meet in the conference room, 1606 Headway Circle, Austin. Items on the agenda include reading of the minutes, board action on contested cases pending before the commission, a motion for rehearing filed under a contested case styled in the matter of Raymond Strahan, amendments to reserve officer training regulations, applications for academy certification pending before the commission, and staff activity reports.

**Contact:** Alfredo Villarreal, 1606 Headway Circle, Suite 100, Austin, Texas, (512) 834-9222.

**Filed:** January 24, 1985, 1:33 p.m.  
TRD-850787

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### Legislative Audit Committee

**Tuesday, January 29, 1985, 8 a.m.** The Search Committee of the Legislative Audit Committee met in emergency session in the speaker's committee room, State Capitol, Austin. According to the agenda, the committee considered candidates for the position of state auditor. The emergency status was necessary due to the press of committee schedules.

**Contact:** Daryl Dorcy, P.O. Box 2910, Austin, Texas 78769, (512) 475-4341.

**Filed:** January 24, 1985, 3:18 p.m.  
TRD-850794

**Wednesday, January 30, 1985, 9 a.m.** The Legislative Audit Committee met in emer-

gency session in Room 301, State Capitol, Austin. According to the agenda, the committee heard a report of the Search Committee and considered a special audit. The emergency status was necessary due to the press of committee schedules.

**Contact:** Daryl Dorcy, P.O. Box 2910, Austin, Texas 78769, (512) 475-4341.

**Filed:** January 29, 1985, 2:25 p.m.  
TRD-850957

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### Legislative Budget Board

**Wednesday, January 30, 1985, 8:30 a.m.** The Legislative Budget Board met in emergency session in Room 301, State Capitol, Austin. According to the agenda, the board reviewed options for modifications to the budget recommendations for the 1986-1987 biennium. The emergency status was necessary to initiate action on 1986-1987 appropriations as soon as possible.

**Contact:** Jim Oliver, State Capitol, Room 207-A, Austin, Texas, (512) 475-3426.

**Filed:** January 28, 1985, 3:57 p.m.  
TRD-850908

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### Legislative Council

**Friday and Saturday, February 8 and 9, 1985, 9 a.m. daily.** The Legislative Oversight Committee on Mental Health and Mental Retardation of the Legislative Council will meet at the Mental Health Association, 1111 West 24th Street, Austin. According to the agenda, the committee will consider presentations concerning legal issues in the delivery of mental retardation services, zoning, ICFMR, a Texas Department of Mental Health and Mental Retardation assessment, and education services; and subcommittee reports concerning continuity, priority populations, services, and community residential alternatives.

**Contact:** Karen F. Hale, 1111 West 24th Street, Austin, Texas 78705, (512) 476-0611.

**Filed:** January 30, 1985, 11:53 a.m.  
TRD-850985

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### Long-Term Care Coordinating Council for the Elderly

**Friday, February 8, 1985, 9 a.m.** The Long-Term Care Coordinating Council for the Elderly will meet in Conference Room 5-W, fifth floor, West Tower, John Winters Complex, Texas Department of Human Re-

sources, 51st Street and North Lamar Boulevard, Austin. According to the agenda summary, the council will approve the October 23, 1984, minutes; hear a report of the Legislative Committee; and consider legislative issues and strategies; discuss a coalition for elders and a forum, reappointment of council members, the Texas Long-Term Care Plan for the Elderly for 1984-1986, and the future meeting schedule.

Contact: Peggy Davidson, P.O. Box 12786, Austin, Texas 78711, (512) 475-2717.

Filed: January 25, 1985, 4:43 p.m.  
TRD-850858

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### Texas State Board of Medical Examiners

**Sunday, February 3, 1985, 12:15 p.m.** The District Review Committee of District Four of the Texas State Board of Medical Examiners met at 208 Barton Springs Road, Austin. According to the agenda, the committee conducted reorganization and met in executive session under authority of Texas Civil Statutes, Article 6252-17, as related to Article 4495b, §4.05(d), §5.06(e)(1), and Attorney General Opinion H-484, 1974.

Contact: Jean Davis, 1101 Camino La Costa, Suite 201, Austin, Texas 78701, (512) 452-1078.

Filed: January 24, 1985, 3:40 p.m.  
TRD-850806

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### Board of Pardons and Paroles

**Monday-Friday, February 4-8, 1985, 1:30 p.m. daily Monday-Thursday and 11 a.m. Friday.** 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 prisoners and inmates and administrative releases 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: January 25, 1985, 10:17 a.m.  
TRD-850813

**Tuesday, February 5, 1985, 1:30 p.m.** The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will consider executive clemency recommendations and related actions (other than out-of-country additional pardons), including full

pardons and restoration of civil rights of citizenship; emergency medical reprieves; commutations of sentence; and other reprieves, remissions, and executive clemency actions.

Contact: Gladys Sommers, 8610 Shoal Creek Boulevard, Austin, Texas, (512) 459-2704.

Filed: January 25, 1985, 10:17 a.m.  
TRD-850814

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### State Pension Review Board

**Wednesday, January 30, 1985, 9 a.m.** The State Pension Review Board met in emergency session in Conference Room 403, fourth floor, Employees Retirement System Building, 18th and Brazos Streets, Austin. According to the agenda, the board heard and discussed legislation and legislative procedures. The emergency status was necessary to secure a quorum. The prior board meeting was canceled due to poor weather conditions.

Contact: Benette Meadows, Employees Retirement System Building, Room 501, 18th and Brazos Streets, Austin, Texas, (512) 475-8332.

Filed: January 24, 1985, 2:12 p.m.  
TRD-850789

**Wednesday, February 6, 1985, 8:30 a.m.** The Legislative Advisory Committee of the State Pension Review Board will meet in Room G-35-B, State Capitol, Austin. According to the agenda, the committee will discuss upcoming legislation.

Contact: Benette Meadows, P.O. Box 13498, Austin, Texas 78711, (512) 475-8332.

Filed: January 29, 1985, 1:14 p.m.  
TRD-850892

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### 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.

**Tuesday, February 5, 1985, 10 a.m.** A second prehearing conference in Docket 5852—application of the City of Gatesville to amend its certificate of convenience and necessity for dual certification with Creek Cliff Estates, Inc., within Coryell County.

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

Filed: January 24, 1985, 3:41 p.m.  
TRD-850802

**Wednesday, February 6, 1985, 3 p.m.** A prehearing conference in Docket 6075—application of Cherokee County Electric Cooperative Association for a systemwide rate increase.

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

Filed: January 29, 1985, 1:39 p.m.  
TRD-850953

**Tuesday, February 12, 1985, 10 a.m.** A prehearing conference in Docket 6090—application of Sky Enterprises, Inc., doing business as Sky Harbour Water Department for a rate increase within Hood County.

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

Filed: January 24, 1985, 3:42 p.m.  
TRD-850803

**Thursday, February 14, 1985, 10 a.m.** A prehearing conference in Docket 6016—petition of AT&T Communications of the Southwest, Inc., for a change in access charge methodology.

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

Filed: January 30, 1985, 9:51 a.m.  
TRD-850979

**Tuesday, March 5, 1985, 10 a.m.** A hearing on the merits in Docket 5749—inquiry into the service rendered by Community Water and Sewer Corporation in Denton, Hood, Johnson, Parker, Tarrant, and Wise Counties.

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

Filed: January 25, 1985, 1:45 p.m.  
TRD-850822

**Friday, March 22, 1985, 10 a.m.** A rescheduled hearing in Docket 5854—petition of Herman Walker to terminate water service in Waco. The meeting originally was scheduled for January 23, 1985, as published at 9 TexReg 5852.

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

Filed: January 25, 1985, 1:46 p.m.  
TRD-850821

**Thursday, April 4, 1985, 9 a.m.** A rescheduled hearing in Docket 5616—application of Lake Country Water Company to amend a water certificate of convenience and necessity within Denton County, and Docket 5859—application of Terra Southwest, Inc., to amend a water certificate of convenience and necessity within Denton County. The meeting originally was scheduled for Janu-

ary 22, 1985, at 9 a.m., as published at 9 TexReg 5939.

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

Filed: January 30, 1985, 1:43 p.m.  
TRD-850988

Monday, April 8, 1985, 10 a.m. A final pre-hearing in Docket 6055—notice of intent of Southwestern Public Service Company to construct a generation facility.

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

Filed: January 25, 1985, 1:44 p.m.  
TRD-850823

Tuesday, April 9, 1985, 10 a.m. A hearing on the merits in Docket 6055—notice of intent of Southwestern Public Service Company to construct a generation facility.

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

Filed: January 25, 1985, 1:44 p.m.  
TRD-850824

Addition to the previous agenda:

A hearing on the merits in Docket 6054—application of McLennan County Electric Cooperative, Inc., for authority to change rates.

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

Filed: January 28, 1985, 2:01 p.m.  
TRD-850896

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### Railroad Commission of Texas

Monday, January 28, 1985, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas submitted an emergency revised agenda for a meeting held in Room 309, 1124 IH 35 South, Austin. According to the agenda, the division considered protested Oil and Gas Docket 97,182—Texas United Oil and Gas, Inc., Rule 37, Sruteville Lease, Well 1, Sherman, East and Wildcat Fields, Grayson County; and a protested motion for rehearing in Oil and Gas Docket 8A-83,105—ITR Petroleum, Inc., to consider reinstatement of all volumes of under-production and to increase the allowable for the Schotts Lease, Well 1, Opal Lease, Well 1, and Jones Lease, Well 1, Independent (Bend Conglomerate) Field, Cottle County. The emergency status was necessary because these items were properly noticed for the January 21, 1985, meeting and were passed.

Contact: Meredith Kawaguchi or Doug Johnson, respectively, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1180.

Filed: January 25, 1985, 12:36 p.m.  
TRD-850846

Monday, February 4, 1985, 9 a.m. The Railroad Commission of Texas met in Room 309, 1124 IH 35 South, Austin. The commission considered and acted on division agendas as follows.

The Administrative Services 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: January 25, 1985, 12:34 p.m.  
TRD-850851

The Automatic Data Processing 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: January 25, 1985, 12:39 p.m.  
TRD-850826

The Flight 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: January 25, 1985, 12:38 p.m.  
TRD-850834

Various matters falling within the Gas Utilities Division's regulatory jurisdiction.

Contact: Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, (512) 475-0461.

Filed: January 25, 1985, 12:34 p.m.  
TRD-850852

The Office of Information Services director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Drawer 12967, Austin, Texas 78711.

Filed: January 25, 1985, 12:39 p.m.  
TRD-850831

The LP-Gas Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Thomas D. Petru, P.O. Drawer 12967, Austin, Texas 78711.

Filed: January 25, 1985, 12:34 p.m.  
TRD-850850

Various matters falling within the Oil and Gas Division's regulatory jurisdiction.

Contact: Liz Nauert, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1307.

Filed: January 25, 1985, 12:37 p.m.  
TRD-850844

Additions 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: January 25, 1985, 12:36 p.m.  
TRD-850847

Consideration of Oil and Gas Docket 3-81,363—a protested application of South-west Mineral, Inc., under the Mineral Interest Pooling Act to pool into the American Operating Company Lobit Gas Unit 1 Well in the League City Townsite (Andrau U.) Field, Galveston County.

Contact: Patrick Patterson, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1238.

Filed: January 25, 1985, 12:37 p.m.  
TRD-850845

The Personnel Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Mark Bogan, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1120.

Filed: January 25, 1985, 12:38 p.m.  
TRD-850843

The Office of Research and Statistical Analysis director's report on division administration, budget, procedures, and personnel matters.

Contact: Gail Gemberling, P.O. Drawer 12967, Austin, Texas 78711.

Filed: January 25, 1985, 12:38 p.m.  
TRD-850832

The Office of Special Counsel director's report relating to pending litigation, state and federal legislation, and other budget, administrative, and personnel matters.

Contact: Walter Earl Lilie, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1186.

Filed: January 25, 1985, 12:38 p.m.  
TRD-850833

The Surface Mining and Reclamation Division director's report on division administration, budget, procedures, and personnel matters and consideration of acceptance of an incremental bond for Northwestern Resources Company for its coal mining operation under Permit 15 (Jewett Mine) in Leon, Freestone, and Limestone Counties, proposed amendments to commission regulations concerning lands unsuitable for mining, and proposed amendments concerning notices of violation.

Contact: J. Randel (Jerry) Hill, 105 West Riverside Drive, Austin, Texas, (512) 475-8751.

Filed: January 25, 1985, 12:35 p.m.  
TRD-850849

Various matters falling within the Transportation Division's regulatory jurisdiction.

Contact: Michael A. James, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1330.

Filed: January 25, 1985, 12:35 p.m.  
TRD-850848

**Tuesday, February 19, 1985, 1:30 p.m.** The Oil and Gas Division of the Railroad Commission of Texas will meet in Room 309, 1124 IH 35 South, Austin. According to the agenda summary, the division will conduct a statewide oil and gas hearing.

Contact: Paula C. Middleton, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1297.

Filed: January 25, 1985, 12:33 p.m.  
TRD-850853

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### Texas Savings and Loan Department

The Texas Savings and Loan Department will meet at 1004 Lavaca Street, Austin. Days, times, and agendas follow.

**Friday, February 8, 1985, 9 a.m.** The department will accumulate a record of evidence in regard to the application for an interim charter to be known as new Mount Pleasant Savings Association, with the principal office to be located at 801 North Jefferson, Mount Pleasant, Titus County, from which record the commissioner shall grant or deny the application.

**Tuesday, February 12, 1985, 9 a.m.** The department will accumulate a record of evidence in regard to the application of Western Savings Association, Gatesville, for a branch officer at the northeast corner of U. S. Highway 281 at Encino Park Boulevard, San Antonio, Bexar County, from which record the commissioner shall grant or deny the application.

Contact: Russell R. Oliver, 1004 Lavaca Street, Austin, Texas 78701, (512) 475-7991.

Filed: January 25, 1985, 2:53 p.m.  
TRD-850828, 850829

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### School Land Board

**Tuesday, February 5, 1985, 10 a.m.** The School Land Board will meet in Room 831, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Items on the agenda include approval of the previous board meeting minutes, the opening of bids for land sale, an application for lease suspension, discussion of Exxon lease suspensions, pooling applications, pooling agree-

ment amendments, good faith claimant applications, coastal public lands easement applications, and cabin permit assignment requests.

Contact: Linda K. Fisher, Stephen F. Austin Building, Room 837, 1700 North Congress Avenue, Austin, Texas 78701, (512) 475-0352.

Filed: January 28, 1985, 11:32 a.m.  
TRD-850891

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### Structural Pest Control Board

The Structural Pest Control Board will meet in Suite 250, Building C, 1300 East Anderson Lane, Austin. Days, times, and agendas follow.

**Monday, February 11, 1985, 8:30 a.m.** The board will approve the December 13, 1984, minutes; conduct appearances before the board of Wilson T. Carter, doing business as Crystal Exterminating Company, and James H. Danzy, doing business as Interstate Exterminators; review the Auten v. Allied Pest Control complaint; consider miscellaneous items; and conduct a meeting of the Termite Treatment Standard Committee.

**Tuesday, February 12, 1985, 8:30 a.m.** The board will hear a report of the Termite Treatment Standard Committee, review operating procedures of board field staff, discuss ideas for reducing agency expenses and the next board meeting place and date, and consider miscellaneous items.

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

Filed: January 25, 1985, 8:58 a.m.  
TRD-850809, 850810

Addition to the previous agenda:

The board will conduct an appearance of Barbara Baird, doing business as AA Exterminators, at her request.

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

Filed: January 29, 1985, 9:30 a.m.  
TRD-850912

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### Board of Tax Professional Examiners

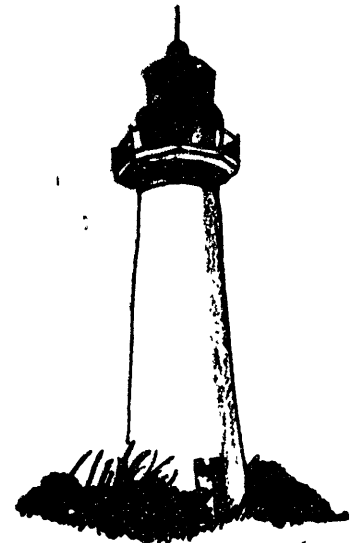
**Monday, February 11, 1985, 2:30 p.m.** The Board of Tax Professional Examiners will meet in the conference room, 9501 IH 35 North, Austin. According to the agenda

summary, the board will elect officers for 1985 and approve the December 14, 1984, minutes and consider certification and recertification of qualified registrants, a request for exception to the law, increasing time allowed for the registered professional appraiser (RPA) exam, and updating policy and procedure items and initiation of a requirements update study; discuss a letter regarding course requirements, enforcement deadlines and lists, class size standards, a proposed informal meeting with the State Property Tax Board, and the 1986-1987 bi-ennium budget request and the 1985 operating budget; and an administrative report by the executive director including cancellations, a renewal program, projected activities, special certification programs, and the status of complaints.

Contact: Sam H. Smith, P.O. Box 15920, Austin, Texas 78761, (512) 834-4981 or (800) 252-9304.

Filed: January 24, 1985, 3:42 p.m.  
TRD-850804

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### Teacher Retirement System of Texas

**Tuesday, February 5, 1985, 11 a.m.** The Board of Trustees of the Teacher Retirement System of Texas changed the location of a meeting to be held in the Williams Room, 36th floor, Southland Life Building, Bryan and Pearl Streets, Dallas. According to the agenda, the board will review actuarial studies and consider legislation. The meeting originally was scheduled for Room 3 and Room 4, eighth floor, Republic Bank Building, Dallas.

Contact: Mary Godzik, 1001 Trinity Street, Austin, Texas 78701, (512) 397-6400.

Filed: January 25, 1985, 3:15 p.m.  
TRD-850830

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## Advisory Council for Technical-Vocational Education in Texas

**Thursday, February 7, 1985, 10 a.m.** The Planning and Evaluation Committee of the Advisory Council for Technical-Vocational Education in Texas will meet in the Anderson Room, Holiday Inn Northwest Plaza, 8901 Business Park Drive, Austin. According to the agenda, the committee will review the state plan for vocational education for possible input in the public hearing when the state plan is reviewed by the State Board of Education on February 8, 1985.

**Contact:** Val Blaschke, P.O. Box 1886, Austin, Texas 78767, (512) 475-2046.

**Filed:** January 25, 1985, 1:48 p.m.  
TRD-850820

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## Texas Water Commission

The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Days, times, and agendas follow.

**Tuesday, February 5, 1985, 10 a.m.** The commission will consider water district bond issues, release from escrow, use of surplus funds, setting creation hearings, water quality proposed permits, amendments and renewals, and the filing and setting of hearing dates for water use applications.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** January 24, 1985, 11:17 a.m.  
TRD-850777

**Tuesday, February 5, 1985, 2 p.m.** The commission will conduct a hearing to determine whether a temporary order, pursuant to the Texas Water Code, §26.0191, and 31 TAC §§341.92-341.94, should be issued; and whether an emergency authorization to discharge wastewater from the retention ponds granted by the executive director of the Texas Department of Water Resources on November 30, 1984, to Texas Utilities Generating Company, Division of Texas Utilities Electric Company, Skyway Tower, 400 North Olive Street, L.B. 81, Dallas, Texas 75201, should be affirmed, modified, or set aside by the commission. The authorization permitted Texas Utilities Generating Company, Division of Texas Utilities Electric Company, to discharge low volume wastes, including plant and yard drains, neutralized denitrifier regenerant, stormwater runoff, "powdex" blowdown and auxiliary boiler blowdown, and metal cleaning wastes into or adjacent to waters in the state from its retention ponds located at the DeCordova Steam Electric Station, located approximately 6.8 miles southeast

of the intersection of U.S. Highway 377 and State Highway 144, Granbury, Hood County, until the commission acts upon the applicant's request for a temporary order.

**Contact:** Paula Hilsenbeck, P.O. Box 13087, Austin, Texas 78711, (512) 475-7851.

**Filed:** January 28, 1985, 3:17 p.m.  
TRD-850904

**Tuesday, February 12, 1985, 10 a.m.** The commission will consider water district applications for release from escrow, change in plans, use of surplus funds, setting a hearing date for district creation, water quality proposed permits, amendments and renewals, water use applications, extension of time applications, and the filing and setting of hearing dates.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** January 30, 1985, 3:47 p.m.  
TRD-850992

**Wednesday, February 13, 1985, 10 a.m.** The Texas Water Commission will meet in Room 215, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will conduct hearings on contests to the preliminary determination of water right claims in the Middle Trinity Segment of the Trinity River Basin.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** January 30, 1985, 3:48 p.m.  
TRD-850993

The Texas Water Commission will conduct public hearings in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Days, times and agendas follow.

**Wednesday, February 20, 1985, 9:30 a.m.** Application TA-5127 of Reese Albert, Inc., for a permit to divert and use 50 acre-feet of water for a three-year period from the South Concho River, tributary of the Concho River, tributary of the Colorado River, Colorado River Basin, for industrial purposes in Tom Green County.

Additions to the previous agenda:

Application TA-5122 of South Texas Construction Company for a permit to divert and use 50 acre-feet of water for a two-year period from Coletto Creek, tributary of the Guadalupe River, Guadalupe River Basin, for industrial purposes in Victoria County.

Application TA-5130 of A. M. Vogel, Inc., for a permit to divert and use two acre-feet of water for a two-year period from Keegan's Bayou, tributary of Bray's Bayou, tributary of Buffalo Bayou, tributary of the San Jacinto River, San Jacinto River Basin, for industrial purposes in Harris County.

Application TA-5124 of Ailan Construction Company, Inc., for a permit to divert and

use 50 acre-feet of water for a two-year period from West Fork Elm Creek, tributary of Little Elm Creek, tributary of Elm Creek, tributary of the Colorado River, Colorado River Basin, for industrial purposes in McCulloch County.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** January 24, 1985, 11:17 a.m.  
TRD-850778-850781

**Wednesday, February 20, 1985, 2 p.m.** Application 4472 of Pauline D. Burnitt, trustee of the estate of Pauline Doremus, deceased, Brazos River Basin, Robertson County; application of Robert A. Mezger and wife, Frances F. Mezger, for amendment to Certificate of Adjudication 12-2281, Brazos River Basin, Bosque County; and Application 1975G of the Upper Neches River Municipal Water Authority for an amendment to Permit 1832, Anderson County.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** January 30, 1985, 3:48 p.m.  
TRD-850994

**Wednesday, February 27, 1985, 10 a.m.** Applications of William Walls, Jr., and wife, Irene C. Walls, Application 4495, San Antonio River Basin, Wilson County; Application 4496 of William Walls, Jr., San Antonio River Basin, Bexar County; Application 4497 of Carl Ray Drzymalla, et al., San Antonio River Basin, Bexar County; Application 4498 of Virginia Jaksik, San Antonio River Basin, Bexar County; and Application 4499 of Joseph M. Stanush, Jr., and wife, Suzanne S. Stanush, and Susie Stanush, San Antonio River Basin, Bexar County.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** January 30, 1985, 3:48 p.m.  
TRD-850995

**Wednesday, March 6, 1985, 9 a.m.** The Texas Water Commission will meet in Room 601, Administration and Conference Tower, Texas Woman's University, Denton. According to the agenda summary, the commission will consider an application of Chinn-Bar Development Company, Inc., 386 West Main Street, Lewisville, Texas 75067, to the Texas Department of Water Resources for proposed Permit 13069-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 300,000 gallons per day from the proposed Oak Creek Park Wastewater Treatment Plant, which is to serve a planned, premanufactured housing project.

Addition to the previous agenda:

The commission will consider an application of Chinn-Bar Development Company, Inc., 386 West Main Street, Lewisville, Texas 75067, to the Texas Department of

**Water Resources for proposed Permit 12977-01 to authorize the disposal by irrigation of treated domestic sewage effluent at a volume not to exceed an average flow of 90,000 gallons per day. The applicant proposes to provide wastewater treatment and collection for a proposed 400 unit mobile home park. The treatment facility will consist of extended aeration activated sludge with chlorine disinfection and sludge drying beds and a 6.7 acre-foot capacity holding pond. The irrigated acreage shall be 45 acres. Application rates for the irrigated land shall not exceed 2.2 acre-feet per acre per year. No discharge of pollutants to water in the state is authorized.**

**Contact:** Michael Field, P.O. Box 13087, Austin, Texas 78711, (512) 475-1418.

**Filed:** January 24, 1985, 11:18 a.m.  
TRD-850782, 850783

**Wednesday, March 6, 1985, 10 a.m.** The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will conduct a public hearing on a petition for creation of Fort Bend County Municipal Utility District 67, containing 424.684 acres of land.

**Addition to the previous Agenda:**

Petition for creation of Northwest Harris County Municipal Utility District 27, containing 78.925 acres of land.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** January 24, 1985, 11:19 a.m.  
TRD-850784, 850785

**Tuesday, March 12, 1985, 9 a.m.** The Texas Water Commission will meet in the boardroom, Suite 500, Houston-Galveston Area Council, Keplinger Building, 3555 Timmons, Houston. According to the agenda summary, the commission will consider an application of Pete G. Santikos and Timothy M. Ballantyne, 3521 Montrose Boulevard, Houston, Texas 77006, to the Texas Department of Water Resources for proposed Permit 13042-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 160,000 gallons per day from the proposed Apollo West Park Sewage Treatment Plant which is to serve a proposed multifamily, commercial, and light industrial park.

**Addition to the previous agenda:**

Application of J. M. Tipps, Managing Partner, Point West Associates, a Texas joint venture, 2500 City West Boulevard, Suite 270, Houston, Texas 77042, to the Texas Department of Water Resources for an amendment to Permit 12189-01 to authorize a change in the discharge route from the Point West Wastewater Treatment Plant. The existing permit authorizes a final dis-

charge of treated domestic wastewater effluent at a volume not to exceed an average flow of 200,000 gallons per day which will remain the same. The effluent is currently discharged into South Mayde Creek, thence to Buffalo Bayou, thence to the Houston Ship Channel in Segment 1007 of the San Jacinto River Basin. The proposed amendment also would add requirements for monitoring nitrogen levels.

**Contact:** Carl X. Forrester, P.O. Box 13087, Austin, Texas 78711.

**Filed:** January 25, 1985, 2:19 p.m.  
TRD-850818

**Wednesday, March 13, 1985, 10 a.m.** The Texas Water Commission will meet in the commissioners courtroom, Brazoria County Courthouse, Angleton. According to the agenda summary, the commission will consider an application of Rancho Isabella Municipal Utility District, in care of Winslow and Associates, Inc., 10500 Northwest Freeway, Suite 100, Houston, Texas 77092, to the Texas Department of Water Resources for proposed Permit 13026-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 850,000 gallons per day from a proposed wastewater treatment plant which is to provide wastewater service for a residential/commercial land development.

**Addition to the previous agenda:**

An amended application of Frankie Oliver, P.O. Box 1507, Brazoria, Texas 77422, to the Texas Department of Water Resources for proposed Permit 12836-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 5,000 gallons per day from the proposed Royal Oak Subdivision Sewage Treatment Plant, which is to serve a proposed residential subdivision. The original meeting was scheduled for November 29, 1984, as published at 9TexReg 5554.

**Contact:** Robert A. Caine, P.O. Box 13087, Austin, Texas 78701, (512) 475-1468.

**Filed:** January 25, 1985, 2:20 p.m.  
TRD-850817, 850819

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### **West Texas State University**

**Tuesday, February 5, 1985, 9 a.m.** The Board of Regents of West Texas State University (WTSU) will meet in Room 211, Virgil Henson Activities Center, WTSU, Canyon. Items on the agenda include reports of the student body president and the WTSU president; approval of the August 8, 1985, minutes; subdelegation of signatory authority of the president; authority to approve hiring employees and purchases of capital equipment; business and finance

items concerning budget changes, contracts, and contract change orders; and faculty and staff and curriculum items concerning retirement, resignations, leave of absence, and approval to change the name of the Applied Science Building to the Industrial Technology Building. The board also will meet in executive session as authorized by Texas Civil Statutes, Article 6252-17, §2g.

**Contact:** Texas Smith, West Texas State University, Canyon, Texas 79016, (806) 656-3962.

**Filed:** January 28, 1985, 2:01 p.m.  
TRD-850897

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### **Regional Agencies**

#### **Meetings Filed January 24**

**The Bastrop County Appraisal District, Board of Directors, met in emergency session at 1200 Cedar Street, Bastrop, on January 29, 1985, at 1 p.m.** Information may be obtained from Lorraine Perry, P.O. Drawer 578, Bastrop, Texas 78602, (512) 321-3925.

**The Bexar Appraisal District, Board of Directors, met at 535 South Main, San Antonio, on January 31, 1985, at noon.** Information may be obtained from Bill Burnette, 535 South Main, San Antonio, Texas 78204, (512) 224-8511.

**The Deep East Texas Council of Governments, Board of Directors, met at the Fairway Farms and Hunting Resort, Highway 21 East, San Augustine, on January 31, 1985, at 1:30 p.m.** Information may be obtained from Rhonda Ruckel, 274 East Lamar, Jasper, Texas 75951, (409) 384-5704.  
TRD-850776

#### **Meetings Filed January 25**

**The Ark-Tex Council of Governments, Executive Committee, met at the Casa Blanco Restaurant, Mount Pleasant, on January 31, 1985, at 5:30 p.m.** Information may be obtained from Vivienne Arvine, P.O. Box 5307, Texarkana, Texas 75501, (501) 774-3481.

**The Burnet County Appraisal District will meet at 215 South Pierce, Burnet, on February 7, 1985, at 6:30 p.m.** Information may be obtained from Alvin C. Williams, Drawer E, Burnet, Texas 78611, (512) 756-8291.

**The Dallas Area Rapid Transit Authority, Budget and Finance Committee met at 601 Pacific Avenue, Dallas, on January 28, 1985, at 4 p.m.** The Legal Committee met at the same location on January 29, 1985, at 8 a.m. The Special Needs Committee met at the same location on January 29, 1985, at 4 p.m. Information may be obtained

from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 748-3278.

**The Lower Colorado River Authority, Board of Directors,** met in emergency session at 3700 Lake Austin Boulevard, Austin, on January 29, 1985, at 1:30 p.m. Information may be obtained from Elof H. Soderberg, P.O. Box 220, Austin, Texas 78767, (512) 473-3200.

**The Sabine Valley Regional Mental Health and Mental Retardation Center, Board of Trustees,** met at the Ware Home, Harrison County Facility, 2006 West Grande Avenue, Marshall, on February 4, 1985, at 7 p.m. Information may be obtained from Ronald R. Cookston, Ed.D., P.O. Box 6800, Longview, Texas 75608, (214) 297-2191.

**The West Central Texas Municipal Water District** revised the agenda for a meeting held in Room 320, Cypress Building, 174 Cypress Street, Abilene, on January 31, 1985, at 9:30 a.m. Information may be obtained from Virginia Duncan, P.O. Box 2362, Abilene, Texas 79604, (915) 673-8254.

TRD-850808

#### Meetings Filed January 28

**The Brown County Appraisal District** met at 403 Fisk Avenue, on February 4, 1985, at 7 p.m. Information may be obtained from Alvis Sewalt, 403 Fisk Avenue, Brownwood, Texas 76801, (915) 643-5676.

**The Dallas Area Rapid Transit Authority, Budget and Finance Committee,** submitted an emergency revised agenda for a meeting held at 601 Pacific Avenue, Dallas, on January 28, 1985, at 4 p.m. Information may be obtained from Nancy McKethan,

601 Pacific Avenue, Dallas, Texas 75202, (214) 748-3278.

**The Lavaca County Central Appraisal District, Board of Directors,** will meet at 113 North Main Street, Hallettsville, on February 11, 1985, at 4 p.m. Information may be obtained from Joe Pat Davis, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396.

TRD-850878

#### Meetings Filed January 29

**The Dawson County Central Appraisal District, Board of Directors,** will meet at 611 North Dallas Avenue, Lamesa, on February 6, 1985, at 7 a.m. Information may be obtained from Tom Anderson, P.O. Box 797, Lamesa, Texas 79331.

**The Deep East Texas Private Industry Council** will meet at the Cedar Tree Restaurant, Highway 96 South, Jasper, on February 5, 1985, at 1 p.m. Information may be obtained from Charlene Meadows, P.O. Box 1463, Lufkin, Texas 75901, (409) 634-4432.

**The Hays County Central Appraisal District, Board of Directors,** met on the first floor, courthouse annex, San Marcos, on February 4, 1985, at 5 p.m. Information may be obtained from Lynnell Sedlar, 102 LBJ Drive, San Marcos, Texas 78666.

**The High Plains Underground Water Conservation District 1, Board of Directors,** met in the conference room, 2930 Avenue Q, Lubbock, on February 4, 1985, at 10 a.m. Information may be obtained from A. Wayne Wyatt, 2930 Avenue Q, Lubbock, Texas 79405, (806) 762-0181.

TRD-850913

#### Meetings Filed January 30

**The Bexar-Medina-Atascosa Counties Water Control and Improvement District 1, Board of Directors,** met at the district office, Highway 81, Natalia, on February 4, 1985, at 10 a.m. Information may be obtained from C. A. Mueller, P.O. Box 170, Natalia, Texas 78059, (512) 663-2132.

**The Central Appraisal District of Erath County, Appraisal Review Board,** met in emergency session at 1390 Harbin Drive, Stephenville, on February 1, 1985, at 1 p.m. Information may be obtained from Treccia Perales, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434.

**The Hamilton County Appraisal District** will meet at the Hamilton County Courthouse, Hamilton, on February 7, 1985, at 7 p.m. Information may be obtained from Doyle Roberts, P.O. Box 446, Hamilton, Texas 76531, (817) 386-8945 or 386-8946.

**The Lower Colorado River Authority, Committee on Planning and Public Policy,** will meet in the Rio Grande Room, Village of Lakeway, on February 5, 1985, at 9 a.m. Information may be obtained from Elof H. Soderberg, 3700 Lake Austin Boulevard, Austin, Texas, (512) 473-3200.

**The Parmer County Tax Appraisal Office, Board of Directors,** will meet at 305 Third Street, Bovina, on February 11, 1985, at 7 p.m. Information may be obtained from Ron Procter, R.P.A., P.O. Box 56, Bovina, Texas 79009, (806) 238-1405.

TRD-850981

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# In Addition

The *Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows

## Texas Air Control Board Applications for Construction Permits

The Texas Air Control Board gives notice of applications for construction permits received during the period of January 14-18, 1985.

Information relative to the following applications, including projected emissions and the opportunity to comment or to request a hearing, may be obtained by contacting the office of the executive director at the central office of the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

A copy of all material submitted by the applicant is available for public inspection at the central office of the Texas Air Control Board at the previously mentioned address, and at the regional office for the air quality control region within which the proposed facility will be located.

Listed are the names of the applicants and the cities in which the facilities are located; type of facilities; location of the facilities (if available); permit numbers; and type of application--new source or modification.

Four Winns of Texas, Inc., Athens; fiberglass boat manufacturing facility; #4 Winn Way, Henderson County; 9591; new source

Burzinski Research Institute, Inc., Houston; peptide isolation plant; 6226 Westline, Harris County; 9592; new source

Kerley Industries, Pasadena; xanthate plant; Pasadena, Harris County; 9593; new source

E. I. Dupont de Nemours and Company, Inc., Beaumont; ammonia plant modifications; Beaumont, Jefferson County; 9594; new source

H.B. Zachry Company, San Antonio; rock crushing plant; San Antonio, Bexar County; 9595; new source

Natural Gas Pipeline Company of America, Chico; I.C. engine; FM Road 1810, Wise County; 9596; new source

Issued in Austin, Texas, on January 22, 1985.

TRD-850738 Paul M. Shinkawa  
Director of Hearings  
Texas Air Control Board

Filed: January 23, 1985  
For further information, please call (512) 451-5711,  
ext. 354.

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## Banking Department of Texas Application to Acquire Control of a State Bank

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 January 22, 1985, the banking commissioner received an application to acquire control of Charter Bank-Northwest, Corpus Christi, by Ernest W. Lentschke, Jr.; Helen A. Royal; and Thomas E. Rack; all of Corpus Christi.

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

Issued in Austin, Texas, on January 22, 1985.

TRD-850739 William F. Aldridge  
Director of Corporate  
Activities  
Banking Department of  
Texas

Filed: January 23, 1985  
For further information, please call (512) 475-4451.

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## Comptroller of Public Accounts Decision 14,743

For copies of the following opinion, contact Bob Bullock, Comptroller of Public Accounts, Attention: Administrative Law Judges, 111 East 17th Street, Austin, Texas 78774. Copies will be furnished without charge and edited to comply with confidentiality statutes.

**Summary of Decision.** The taxpayer converts scrap steel into reinforcing rods (rebar). In its plant, it uses cranes to sort through incoming scrap metal (80.9% of the use, according to the taxpayer's time-use study) and to load finished rebar onto trucks for delivery. The taxpayer also uses a conveyor system to move steel being processed from one work station to the next. The taxpayer sought exemption from tax for repair parts for the conveyor system; however, there was no proof the useful life of the repair parts was less than six months.

The comptroller held that tax was due on the purchase price of the crane repair parts. Since no pro rata fair market rental value was established for their divergent use, the Tax Code, §151.155(a), requires tax to be paid on the full purchase price. The comptroller also held that tax was due on repair parts for the conveyor belt, which was used not in processing but in conveying material from one process to the next.

Issued in Austin, Texas, on January 25, 1985.

TRD-850874      Bob Bullock  
Comptroller of Public Accounts

Filed: January 28, 1985  
For further information, please call (512) 475-1913.

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### Decision 15,688

**Summary of Decision.** The petitioner manufactures aluminum products from billets that are homogenized by heating at high temperatures in a furnace. For 10 months, the petitioner operated its own furnace for processing billets. Capacity of the furnace was 45,000 pounds per cycle; the furnace processed 1.9 million pounds of aluminum. At that time the petitioner decided it could purchase homogenized aluminum from a private vendor at less than the cost of doing the job itself. The petitioner dismantled the furnace and offered it for sale. Exemption was sought for the furnace as manufacturing equipment with a useful life of less than six months. The comptroller held that the sale was exempt. The furnace was used in 42 10-hour runs. The rest of the time was standby. Economic obsolescence is a form of depleted useful life. Therefore, the nonexcluded (standby) time was far less than six months.

Issued in Austin, Texas, on January 25, 1985.

TRD-850875      Bob Bullock  
Comptroller of Public Accounts

Filed: January 28, 1985  
For further information, please call (512) 475-1913.

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### 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>(3)</sup> Agricul- tural/Commercial <sup>(4)</sup> thru \$250,000	Commercial <sup>(4)</sup> over \$250,000
Indicated (Weekly) Rate—Article 1.04(a)(1) 02/04/85-02/10/84	18%	18%
Monthly Rate— Article 1.04(c) <sup>(1)</sup> 02/01/85-02/28/85	18%	18%

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
Standard Quarterly Rate—Article 1.04(a)(2) 01/01/85-03/31/85	19.60%	19.60%
Retail Credit Card Quarterly Rate— Article 1.11 <sup>(3)</sup> 01/01/85-03/31/85	19.60%	N/A
Lender Credit Card Quarterly Rate— Article 15.02(d) <sup>(3)</sup> 01/01/85-03/31/85	19.60%	N/A
Standard Annual Rate— Article 1.04(a)(2) <sup>(2)</sup> 01/01/85-03/31/85	19.60%	19.60%
Retail Credit Card Annual Rate— Article 1.11 <sup>(3)</sup> 01/01/85-03/31/85	19.60%	N/A
Annual Rate Applica- ble to Pre-July 1, 1983, Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from 01/01/85-03/31/85	19.74%	N/A
Judgment Rate— Article 1.05, §2 02/01/85-02/28/85	10.00%	10.00%

- (1) For variable rate commercial transactions only  
(2) Only for open-end credit as defined in Texas Civil Statutes, Article 5069-1.01(f).  
(3) Credit for personal, family, or household use  
(4) Credit for business, commercial, investment, or other similar purpose.

Issued in Austin, Texas, on January 28, 1985.

TRD-850878      Sam Kelley  
Consumer Credit  
Commissioner

Filed: January 28, 1985  
For further information, please call (512) 475-2111.

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### Court Reporters Certification Board Certification of Court Reporters

Following examination of applicants on January 11, 1985, the Court Reporters Certification Board has certified to the Supreme Court that the following persons are qualified in the method indicated to practice reporting pursuant to Texas Civil Statutes, Article 2324b, §12(e):

#### Machine Shorthand

Bonnie J. Allnutt - Dallas;  
Lee Christine Bickers - Arlington;  
Lori Ann Bodnar - Carrollton;  
Kelly Bonneau - Sugar Land;  
Lynda Marie Bryant - Corpus Christi;  
Vanessa Pelayo Chap - San Antonio;  
Michael David Clepper - Houston;  
Judy Catherine Conley - Houston;  
Robin M. Cooksey - Houston;

Colleen Copeland - Dallas;  
Jane Ellen Demars - Corpus Christi;  
Betty Ann Donato - Minotola, New Jersey;  
Susan Louise Gray - Euless;  
Niki Dianne Hightower - Dallas;  
Kathleen Hilbrant - Houston;  
Brenda Kysar McCoy - Midland;  
Annette Swinson Newman - Dallas;  
Cathy S. Nichols - Rosharon;  
Karin Nickell - Duncanville;  
Elaine Pound - Mabelvale, Arizona;  
Catalina Reyes - Hamlin;  
Susan Diane Roberts - El Paso;  
Jill Sandel - Huntsville;  
Sylvia Diane Trevino - Corpus Christi;  
Brenda Rae Weldy - Dallas.

Issued in Austin, Texas, on January 28, 1985.

TRD-850909 Jim Hutcheson  
General Counsel  
Court Reporters Certification Board

Filed: January 28, 1985  
For further information, please call (512) 475-3404.

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## Texas Commission for the Deaf Consultant Contract Awards

In compliance with Texas Civil Statutes, Article 6252-11c, the Texas Commission for the Deaf furnishes this notice of contract award. The consultant proposal request appeared in the September 28, 1984, issue of the *Texas Register* (9 TexReg 5070). The contract consists of providing a one-week outdoor training program for 50 deaf-blind multihandicapped individuals.

The contractor is Camp Soroptomist, 7411 Hines Place, Suite 123, Dallas, Texas 75235. The total value of the contract is \$17,500. The contract will begin July 6, 1985, and has an ending date of July 15, 1985.

The final report(s) prepared by Camp Soroptomist under this contract shall be submitted by August 15, 1985.

Issued in Austin, Texas, on January 16, 1985.

TRD-850740 Fred R. Tammen  
Executive Director  
Texas Commission for the Deaf

Filed: January 23, 1985  
For further information, please call (512) 475-2492.

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In compliance with Texas Civil Statutes, Article 6252-11c, the Texas Commission for the Deaf furnishes this notice of contract award. The consultant proposal request appeared in the September 28, 1984, issue of the *Texas Register* (9 TexReg 5071). The contract consists of providing a one-week outdoor training program for approximately 150 deaf and hearing-impaired students.

The contractor is Camp Stewart for Boys, Inc., Hunt, Texas 78024. The total value of the contract is \$32,100. The contract will begin August 14, 1985, and has an ending date of August 26, 1985.

The final report(s) prepared by Camp Stewart for Boys, Inc., under this contract shall be submitted by September 26, 1985.

Issued in Austin, Texas, on January 16, 1985.

TRD-850741 Fred R. Tammen  
Executive Director  
Texas Commission for the Deaf

Filed: January 23, 1985

For further information, please call (512) 475-2492.

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In compliance with Texas Civil Statutes, Article 6252-11c, the Texas Commission for the Deaf furnishes this notice of contract award. The consultant proposal request appeared in the July 24, 1984, issue of the *Texas Register* (9 TexReg 4037). The contract consists of providing a statewide telecommunication network for deaf persons who have a special communication need.

The contractor is Texas Deafnet Association, Inc., P.O. Box 26384, Fort Worth, Texas 76121. The contract will begin September 1, 1984, and has an ending date of August 31, 1985.

The final report prepared by the Texas Deafnet Association under this contract shall be submitted by September 20, 1985.

Issued in Austin, Texas, on January 16, 1985.

TRD-850742 Fred R. Tammen  
Executive Director  
Texas Commission for the Deaf

Filed: January 23, 1985

For further information, please call (512) 475-2492.

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## Texas Economic Development Commission Consultant Contract Award

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Economic Development Commission (TEDC) furnishes this notice of consultant contract award. The consultant proposal request was published in the December 14, 1984, issue of the *Texas Register* (9 TexReg 6347).

**Description of Services, Name of Contractor, and Value of Contract.** The computer programmer will convert all TEDC-owned data and programs from an IBM environment to a Data General environment. The name and address of the consultant are Dan Suiber, 1306 Saddle Horn Cove, Austin, Texas 78748. The value of the contract is \$9,185.

**Beginning and Ending Dates.** The contract began on January 15, 1985, and ends on or before March 31, 1985, depending on completion of project.

**Due Dates of Documents/Reports.** Documents will be filed within established time frames according to the plan of operation and as requested by TEDC staff.

Issued in Austin, Texas, on January 23, 1985.

TRD-850805 Harden H. Wiedemann  
Executive Director  
Texas Economic Development  
Commission

Filed: January 24, 1985

For further information, please call (512) 472-5059.

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## Private Activity Bond Allocation Reports

Private activity bonds (PABs) which were induced on or after June 19, 1984, are subject to a cap, as stipulated in the Federal Deficit Reduction Act of 1984. This cap is equal to \$150 per capita or approximately \$2.3 billion for the State of Texas for calendar year 1985.

Executive Order MW-27A states that the procedure for allocating this cap will be on a first-come, first-served basis, with the Texas Economic Development Commission (TEDC) being the tracking agency for the program. The information that follows is a summary report of the allocation activity January 14 through January 18, 1985, as is required by MW-27A.

Total allocated principal amount of private activity bonds authorized to be allocated by MW-27A through January 18, 1985:

\$668,296

Comprehensive listing of bond issues which have received a reservation date as per MW-27A January 14 through January 18, 1985:

<u>ISSUER</u>	<u>USER</u>	<u>AMOUNT</u>
Industrial Development Corporation of Port of Corpus Christi	Koch Refining Company	\$68,296
Splendora Industrial Development Corporation	A.L. Barrilleaux	\$600,000

Issued in Austin, Texas, on January 23, 1985.

TRD-850732      Harden H. Weidemann  
Executive Director  
Texas Economic Development  
Commission

Filed: January 23, 1985  
For further information, please call (512) 472-5059.

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Executive Order MW-27A states that the procedure for allocating this cap will be on a first-come, first-served basis, with the Texas Economic Development Commission (TEDC) being the tracking agency for the program. The information that follows is a summary report of the allocation activity January 21 through January 25, 1985, as is required by MW-27A.

Total allocated principal amount of private activity bonds authorized to be allocated by MW-27A through January 25, 1985:

\$2,168,296

Comprehensive listing of bond issues which have received a reservation date as per MW-27A during the week of January 21-January 25, 1985:

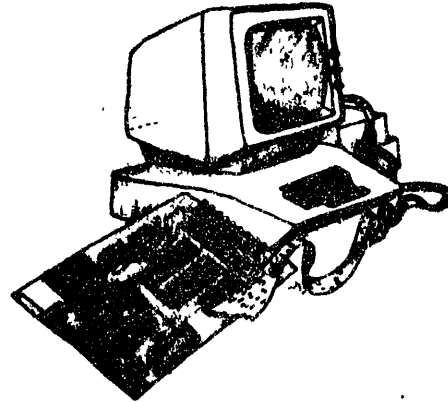
<u>ISSUER</u>	<u>USER</u>	<u>AMOUNT</u>
McAllen Industrial Development Authority	Circular Packaging Corporation	\$1,500,000

Issued in Austin, Texas, on January 30, 1985.

TRD-850885      Harden H. Weidemann  
Executive Director  
Texas Economic Development  
Commission

Filed: January 30, 1985  
For further information, please call (512) 472-5059.

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## Office of the Governor Public Information

The Criminal Justice Division (CJD), Office of the Governor, announces that limited funds are available for selected local criminal justice programs for the fiscal year beginning September 1, 1985.

Under the governor's 1986 Criminal Justice Plan for Texas, the following types of local programs may be considered for funding: crime prevention, community relations, and citizen involvement; victim/witness services; law enforcement training and education; organized crime and dangerous drug control programs; special law enforcement units and programs; alternative classrooms for disruptive youth; juvenile law enforcement officer projects; purchase of juvenile services; juvenile corrections programs for serious and repeat offenders; replications of model juvenile justice projects; prosecution assistance; community-based prevention programs that provide alternatives to incarceration or probation; system planning for and renovation of county correctional detention facilities; and automated information systems.

Eligible applicants include local units of government, school districts, and regional education service centers. Applications may be submitted for criminal justice projects that service individual municipal or county jurisdictions, or for projects that are multijurisdictional. All applications must comply with the program criteria and the requirements outlined in the 1986 Criminal Justice Plan for Texas.

The CJD does not accept direct applications for funds from local applicants. All applications requesting funds for local programs must be submitted to the regional councils of government for screening, review, and assignment of a regional priority designation.

Additional information may be obtained from the appropriate regional council of government or by contacting Gilbert Pena, Executive Director, Criminal Justice

Division, P.O. Box 12428, Austin, Texas 78711, (512) 475-3001.

Issued in Austin, Texas, on January 23, 1985.

TRD-850744 Gilbert J. Pena  
Executive Director  
Criminal Justice Division  
Office of the Governor

Filed: January 23, 1985  
For further information, please call (512) 475-3001.



## Texas Department of Health Licensing Action for Radioactive Materials

The Texas Department of Health has taken actions regarding licenses for the possession and use of radioactive materials as listed in the following table. The sub-heading labeled "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

### NEW LICENSES ISSUED:

Location	Name	License #	City	Amend-ment #	Date of Action
Hurst	Allied Clinical Labs Inc.	05-3759	Hurst	0	01/04/85
Richardson	H-R Industries, Inc	05-3742	Richardson	0	01/09/85

### AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License #	City	Amend-ment #	Date of Action
Austin	Holy Cross Hospital	06-2751	Austin	13	01/03/85
Cameron	Cameron Community Hospital	06-3249	Cameron	4	01/11/85
Corpus Christi	Corpus Christi-Nueces County Hospital	08-1908	Corpus Christi	5	01/09/85
Corsicana	Navarro Regional Hospital	05-2458	Corsicana	11	01/04/85
Dallas	Optic-Electronic Corporation	05-2155	Dallas	9	12/21/84
Dallas	Medical City Dallas Hospital	05-1976	Dallas	39	01/04/85
Dumas	Memorial Hospital	01-3540	Dumas	2	01/08/85
Fort Worth	Harris Hospital	05-1837	Fort Worth	26	01/03/85
Froer	Mobil Oil Corporation	08-2485	Denver, CO	15	01/14/85
Friendswood	Iso-Tex Diagnostics	11-2999	Friendswood	5	12/28/84
Galveston	The University of Texas Medical Branch	11-1299	Galveston	22	01/10/85
Grapevine	Grapevine Medical Center	05-3320	Grapevine	2	01/11/84
Hazelwood, MO	Mallinckrodt, Inc.	11-3008	Hazelwood, MO	7	01/14/85
Houston	University of Houston	11-1886	Houston	24	01/04/85
Houston	Houston Northwest Medical Center	11-2253	Houston	20	01/10/85
Houston	Park Plaza Hospital	11-2071	Houston	16	01/10/85
Humble	Northeast Medical Center Hospital	11-2412	Humble	14	01/11/85
Irving	Frito-lay, Inc	05-3705	Dallas	0	12/21/84
Longview	Gond Shepherd Medical Center	07-2411	Longview	18	01/03/85
Missouri City	Fort Bend Community Hospital	00-3457	Missouri City	2	01/10/85
Pasadena	Velsicol Chemical Corporation	10-2016	Beaumont	4	12/21/84
Port Lavaca	Champ Traylor Memorial Hospital	08-3637	Port Lavaca	2	01/03/85
Rockdale	Richards Memorial Hospital	06-3218	Rockdale	4	01/11/85

Round Rock	Round Rock Community Hospital	06-3469	Round Rock	5	12/28/84
San Antonio	The University of Texas at San Antonio	09-1962	San Antonio	18	12/28/84
San Antonio	Severance Reference Laboratory, Inc.	09-2417	San Antonio	12	01/09/85
Sherman	Wilson N. Jones Memorial Hospital	05-2384	Sherman	9	01/08/85
Texas City	Monsanto Fibers and Intermediates Company	11-219	Alvin	43	01/07/85
Throughout Texas	Smith Wireline Services, Inc.	04-3178	Snyder	2	12/21/84
Throughout Texas	Pengo Wireline	05-3079	Fort Worth	18	12/21/84
Throughout Texas	Dowell Schlumberger, Inc.	00-764	Tulsa, OK	43	12/31/84
Throughout Texas	Texaco, Inc	11-247	Bellaire	48	12/31/84
Throughout Texas	Well Analysis Company, Inc	07-3682	Tyler	1	12/31/84
Throughout Texas	Tubular Inspectors, Inc	08-3083	Corpus Christi	5	12/31/84
Throughout Texas	OTI, Inc	11-2610	Farmington, NM	8	12/31/84
Throughout Texas	Weldtest, Inc	10-3560	Port Arthur	5	12/31/84
Throughout Texas	Manahan Enterprises, Inc.	11-3573	Houston	2	12/31/84
Throughout Texas	Coastal Inspection Company	08-3716	Corpus Christi	2	12/31/84
Throughout Texas	Dresser Atlas	11-446	Houston	75	01/09/85
Throughout Texas	Phillips Petroleum Company	01-2459	Bartlesville, OK	6	01/09/85
Throughout Texas	Gearhart Industries, Inc	05-2113	Fort Worth	36	01/09/85
Throughout Texas	Schlumberger Well Services	11-1833	Houston	39	01/09/85
Throughout Texas	The Lane Construction Corporation	05-3278	Fort Worth	4	01/09/85
Throughout Texas	North Plains Underground Water District #2	01-2620	Dumas	4	10/25/84

### TERMINATIONS OF LICENSES ISSUED:

Location	Name	License #	City	Amend-ment #	Date of Action
Three Rivers	Signor Refining Company	08-2820	Three Rivers	5	01/09/85
Throughout Texas	Pierce and Associates	11-2867	Houston	2	12/21/84
Throughout Texas	Corpus Christi Fire Department	08-2955	Corpus Christi	1	12/31/84
Throughout Texas	Permian Tracers, Inc.	12-3161	Gardendale	2	12/31/84
Throughout Texas	Twin Pines Exploration	05-2791	Dallas	2	01/09/85

### NEW LICENSES DENIED:

Location	Name	License #	City	Amend-ment #	Date of Action
Alice	Perfection Wireline Services		Alice	0	01/09/85

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



This notice affords the opportunity for a hearing on written request of a licensee, applicant, or "person affected" within 30 days of the date of publication of this notice. A "person affected" is defined as a person who is resident of a county, or a county adjacent to the county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation. A licensee, applicant, or "person affected" may request a hearing by writing David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189.

Any request for a hearing must contain the name and address of the person who considers himself affected by Agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated.

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

Issued in Austin, Texas, on January 28, 1985.

TRD-850893 Robert A. MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Filed: January 28, 1985  
For further information, please call (512) 835-7000.

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## Public Hearings

The Texas Department of Health will conduct public hearings on the following two applications for solid waste disposal sites:

(1) Duval County has filed Application 1481 with the department to operate a proposed Type I municipal solid waste disposal facility to be located 1.6 miles northwest of San Diego, 2.25 miles northwest of the junction of State Highway 359 with State Highway 44, and 3,700 feet north of State Highway 44 in Duval County.

The hearing will be held at 9 a.m. on Tuesday, February 26, 1985, in the commissioner's courtroom, Duval County Courthouse, San Diego.

(2) SEGO Company has filed Application 1716 with the department to operate a proposed Type IV municipal solid waste disposal site (for brush, construction-demolition waste, and rubbish only) to be located north of Arlington, on the south side of and adjacent to the Rock Island Railroad, approximately 0.75 mile east of FM Road 157, in the southwest quadrant of the intersection of Colloway Cemetery Road and Euless Main Street, in Tarrant County.

The hearing will be held at 9 a.m. on Tuesday, March 5, 1985, in the council chambers, City Hall, 101 West Abram Street, Arlington.

Issued in Austin, Texas, on January 28, 1985.

TRD-850954 Robert A. MacLean, M.D.  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Filed: January 29, 1985  
For further information, please call (512) 458-7000.

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## Proposed Renewal of Radioactive Material License

Notice is hereby given that the Texas Department of Health proposes to renew Radioactive Material License No. 6-1825 issued to Texas Nuclear Corporation—Ramsey Engineering Company for their facility located in Austin, Travis County, (mailing address: Texas Nuclear Corporation—Ramsey Engineering Company, P.O. Box 9267, Austin, Texas 78766). The proposed renewal of this license is summarized as follows.

The licensee is authorized to receive radioactive waste from other persons for processing and storage subject to the following limitations:

- (1) the total volume of radioactive waste processed in any one year shall not exceed 50 cubic feet; and
- (2) the total radioactivity of all unsealed (dispersible) radionuclides in the waste processed at any one time shall not exceed the following:

Groups defined in 44.5 of the *Texas Regulations for Control of Radiation* (TRCR).

<u>Group I</u>	<u>Group II</u>	<u>Group III</u>	<u>Group IV</u>
10 mCi	100 mCi	1 Ci	10 Ci

Such processing and storage operations are therefore exempt from the major requirements of Part 44 of the TRCR; and

- (3) the total possession limit for sealed sources shall not exceed 100 Ci.

The license details certain procedures for the handling and storing of radioactive materials.

The Texas Department of Health, Bureau of Radiation Control, has determined that the amendment has no significant impact on the human environment; the licensee is qualified by reason of training and experience to use the material in question for the purpose requested in accordance with these regulations in such a manner as to minimize danger to public health and safety and the environment; the licensee's equipment, facilities, and procedures are adequate to minimize danger to public health and safety and the environment; the issuance of the license amendment will not be inimical to public health and safety or have a detrimental impact on the environment; and the licensee satisfies any applicable special requirements in Part 41 of the TRCR.

This notice affords the opportunity for a public hearing upon written request by person affected as required by Texas Civil Statutes, Article 4590f, §11B(a) as amended. A written hearing request must be received by David K. Lacker, Director, Radiation Control Program, 1100 West 49th Street, Austin, Texas 78756, within 30 days of pub-

A written hearing request must be received by David K. Lacker, Director, Radiation Control Program, 1100 West 49th Street, Austin, Texas 78756, within 30 days of publication of this notice in the *Texas Register*. Should no request for a public hearing be timely filed, the license amendment will be issued 14 days following the end of the 30-day period of notice. A "person affected" is defined as a person who is resident of a county, or a county adjacent to a county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation.

A copy of all material submitted is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Texas. Information relative to the amendment of this specific radioactive material license may be obtained by contacting David K. Lacker, Director, Radiation Control Program, 1100 West 49th Street, Austin, Texas 78756. For further information, please call (512) 835-7000.

Issued in Austin, Texas, on January 28, 1985.

TRD-850954 Robert A. MacLean, M.D.  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Filed: January 29, 1985  
For further information, please call (512) 458-7000.

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## Radioactive Material License Amendment

Notice is hereby given that the Texas Department of Health has amended the following radioactive material license.

Radioactive Material License No. 11-1937 issued to Iso-Tex, Inc., for their facility located in Brazoria County, Texas (mailing address: Iso-Tex, Inc., P.O. Box 909, Friendswood, Texas 77541).

This amendment prohibits the licensee from disposing of radioactive waste at municipal landfills. This amendment action confirms provisional order of license modification issued on November 29, 1984, signed by Edgar D. Bailey.

This notice affords the opportunity for a public hearing upon written request within 30 days of the date of publication of this notice by a person affected as required by Texas Civil Statutes, Article 4590f, §11B(b), as amended and as set out in Texas Regulations for Control of Radiation 13.6(b). A "person affected" is defined as a person who is resident of a county, or a county adjacent to a county, in which the radioactive materials are or will be, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation. A person affected may request a hearing by writing David K. Lacker, Chief, Radiation Control Program (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756. Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person con-

siders himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agency must be stated.

A copy of all material submitted is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Texas. Information relative to the amendment of this specific radioactive material license may be obtained by contacting David K. Lacker, Director, Radiation Control Program, 1100 West 49th Street, Austin, Texas 78756. For further information, please call (512) 835-7000.

Issued in Austin, Texas, on January 27, 1985.

TRD-850955 Robert A. MacLean, M.D.  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Filed: January 29, 1985  
For further information, please call (512) 835-7000.

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## Texas Health Facilities Commission Applications Accepted for Amendment, Declaratory Ruling, Notices of Intent, and Petition for Reissuance of Certificate of Need

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 or interested person to any of the previously stated applications, that person must file a proper request to become a party or interested person to the application within 10 days after the date of this publication of notice. If the 10th day is a Saturday, Sunday, or state holiday, the last day shall be extended to 5 p.m. of the next day that is not a Saturday, Sunday, or state holiday. A request to become a party or interested person 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 or interested person.

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

HCA Health Services of Texas, Inc., for Spring  
Branch Memorial Hospital, Houston  
AH79-0622-025A(100984  
CN/AMD—Request for an increase in the total  
project cost from \$35,815,863 to \$36,232,663 in

Certificate of Need AH79-0622-025, which authorized the certificate holder to conduct a major construction and renovation project.

Olson Manor Nursing Home, Amarillo  
AN84-1031-696

DR—Request for a declaratory ruling that a certificate of need is not required for Olson Manor Nursing Home to convert 60 custodial care beds to nonparticipating ICF beds in an existing 120-bed facility (160 ICF beds and 60 custodial care beds).

Beverly Enterprises-Texas, Inc., Fort Smith,  
Arkansas

AN84-1207-786

NIEH—Request for a declaratory ruling that a certificate of need is not required for Beverly Enterprises-Texas, Inc., to exercise its option to purchase Mesquite Tree Nursing Center, an existing 148-bed ICF nursing facility located in Mesquite, from Griffin-Horine Investments, Inc., lessor. Beverly Enterprises-Texas, Inc., currently subleases the facility from Mesquite Tree Nursing Center, Inc., which leases the facility from Griffin-Horine Investments, Inc.

Beverly Enterprises-Texas, Inc., Fort  
Smith, Arkansas

AN84-1207-787

NIEH—Request for a declaratory ruling that a certificate of need is not required for Beverly Enterprises-Texas, Inc., to exercise its option to purchase Plano Nursing Center, an existing 120-bed ICF nursing facility located in Plano, from Lloyd Hobbs, lessor. Beverly Enterprises-Texas, Inc., currently subleases the facility from Mesquite Tree Nursing Center, Inc. which leases the facility from Lloyd Hobbs.

Clear Lake Imaging, a limited partnership,  
Webster

AO84-1210-788

NIE—Request for declaratory ruling that a certificate of need is not required for Clear Lake Imaging, a limited partnership, to acquire an MRI scanner. The proposed equipment will be located at Clear Lake Imaging, 450 Blossom, Webster, and will be utilized on an outpatient basis only.

Baylor Health Care System, Baylor ASC Facility  
Ltd., and Baylor Health Services, Dallas

AS84-1227-821

NIEH—Request for a declaratory ruling that a certificate of need is not required for Baylor Health Care System to acquire real estate from Baylor University Medical Center and Baylor Medical Plaza, Inc.; and for Baylor ASC Facility, Ltd., to lease the real estate from Baylor Health Care System; and for Baylor Health Services to lease the ambulatory care center built thereon from Baylor ASC Facility, Ltd. Baylor Health Services Ambulatory Surgery Center is an existing ambulatory surgery facility to be constructed pursuant to Certificate of Need AS83-0808-088, issued August 30, 1984, to Baylor Health Services.

Oncology Associates of South Texas, San Antonio  
AO84-1231-871

NIE—Request for a declaratory ruling that a certificate of need is not required for Oncology Associates of South Texas to acquire a linear accelerator and a treatment simulator. The proposed equipment will be located in the vicinity of Wurzbach and Medical Drive, San Antonio, and will be utilized on an outpatient basis only.

Oncology Associates of South Texas, San Antonio  
AO84-1231-872

NIE—Request for a declaratory ruling that a certificate of need is not required for Oncology Associates of South Texas to acquire a linear accelerator and a treatment simulator. The proposed equipment will be located in the vicinity of 7400-7600 Barlite Road, San Antonio, and will be utilized on an outpatient basis only.

Oncology Associates of South Texas, San Antonio  
AO84-1231-873

NIE—Request for a declaratory ruling that a certificate of need is not required for Oncology Associates of South Texas to acquire a linear accelerator and a treatment simulator. The proposed equipment will be located in the vicinity of 9500 IH 35 North, San Antonio, and will be utilized on an outpatient basis only.

Oncology Associates of South Texas, San Antonio  
AO84-1231-874

NIE—Request for a declaratory ruling that a certificate of need is not required for Oncology Associates of South Texas to acquire a linear accelerator and a treatment simulator. The proposed equipment will be located in the vicinity of 1300 McCullough, San Antonio, and will be utilized on an outpatient basis only.

Louisiana Nursing Homes, Inc., Shreveport,  
Louisiana

AN85-0111-018

NIEH—Request for a declaratory ruling that a certificate of need is not required for Louisiana Nursing Homes, Inc., to acquire by purchase Terrell Convalescent Center 1, an existing 129-bed nursing facility with 101-ICF and 28 personal care beds located in Terrell, from Olive Tree Partnership, a Texas general partnership.

Louisiana Nursing Homes, Inc., Shreveport,  
Louisiana

AN85-0111-023

NIEH—Request for a declaratory ruling that a certificate of need is not required for Louisiana Nursing Homes, Inc., to acquire by purchase University Park Heritage Manor, an existing 100-bed ICF nursing facility located in Wichita Falls, from Shirley S. Cooper.

Real Properties, Inc., and Beverly Enterprises for  
Coronado Nursing Center, Pampa

AN84-0312-158R(011685)

PFR—Petition for Reissuance of Certificate of Need AN84-0312-158, which authorized the certificate holder to offer skilled nursing care by reclassifying 16 existing intermediate care beds to skilled beds. The certificate holder also requests an extension of the completion deadline from February 28, 1985 to July 31, 1985.

First Texas Medical, Inc. for Lewisville Memorial  
Hospital, Inc., Lewisville

AH82-0305-017A(011885)

CN/AMD—Request for an extension of the completion deadline from January 31, 1985, to September 30, 1985, in Certificate of Need AH82-0305-017, which authorized the certificate holder to conduct a major construction and renovation project involving the addition of 26 medical/surgical beds, a dedicated 12-bed obstetrical unit and four ICU/CCU beds through the construction of a

61,350 square-foot, two-story addition and the renovation of 13,000 square feet.

**Cañon Medical Investors, Ltd., and Beverly Enterprises for Physicians Nursing and Convalescent**

**Center, Mount Pleasant**  
AN84-0222-120R(011885)  
PFR—Petition for reissuance of Certificate of Need AN84-0222-120, which authorized the certificate holder to provide skilled nursing services through the reclassification of 36 ICF beds to skilled. The certificate holder also requests an extension of the completion deadline from January 19, 1985 to July 31, 1985.

**Doctor's Nursing Center Foundation, Inc., Dallas**  
AN80-1028-002A(011885)  
CN/AMD—Request for an extension of the completion deadline from February 28, 1985, to June 1, 1985, in Certificate of Need AN80-1028-002, as amended by AN80-1028-002A(039184), which authorized the certificate holder to construct and operate a 65,000 square-foot, one-story addition to the present 52,000 square-foot facility for the addition of 70 private-pay and 55 skilled nursing beds, and the replacement of 40 existing beds.

**Mother Frances Hospital, East Texas Hospital Foundation, and Horizon Health Corporation for Tyler Psychiatric Hospital, Inc., Tyler**  
AH81-1027-013A(012285)

CN/AMD—Request for an increase in the total project cost from \$5,378,250 to \$6,286,993 in Certificate of Need AH81-1027-013, which authorized the certificate holder to construct, equip and operate a new 80-bed psychiatric hospital in Tyler, to be known as Tyler Psychiatric Hospital, Inc.

**Beverly Enterprises for Courtyard Convalescent Center, Houston**  
AN84-0327-187R(012385)

PFR—Petition for reissuance of Certificate of Need AN84-0327-187, which authorized the certificate holder to provide skilled nursing services through the reclassification of 54 ICF beds to skilled. The certificate holder also requests an extension of the completion deadline from January 31, 1985 to July 31, 1985.

**Wesleyan Homes, Inc., doing business as Wesleyan Nursing Home**  
AN83-0104-3274A(012385)

CN/AMD—Request for an increase in the project cost from \$2.079 million to \$2.241 million and an extension of the completion deadline from January 23, 1985, to July 23, 1986, in Certificate of Need AN83-0104-327, which authorized the certificate holder to construct, equip, and operate a 29,113 square-foot addition to the existing facility.

**Richardson Medical Center, Inc., Richardson**  
AH84-0123-056

NIEH—Request for a declaratory ruling that a certificate of need is not required for Richardson Medical Center, Inc., to acquire by lease Richardson Medical Center (also known as B. B. Owen Memorial Hospital), an existing 242-bed general acute care hospital located in Richardson, from Richardson Hospital Authority.

**Edinburgh General Hospital Authority for Edinburgh General Hospital, Edinburgh**  
AH82-1112-177R(012485)

PFR—Petition for reissuance of Certificate of Need AH82-1112-177R(042084), which authorized the certificate holder to conduct a construction and renovation program involving 34,054 square feet of new construction and 23,350 square feet of renovation.

**Irving Medical Plaza Associates, a Texas general partnership, Dallas**  
AO85-0124-057

DR—Request for a declaratory ruling that a certificate of need is not required for Irving Medical Plaza Associates, a Texas general partnership, to construct an 82,982 square-foot, three-level medical office building. The medical office building will replace, and be located on the site of, the existing medical offices of Irving Community Hospital, Irving.

**Kappa Investments, Inc., Amarillo**  
AN84-0124-058

NIEH—Request for a declaratory ruling that a certificate of need is not required for Kappa Investments, Inc., to acquire by sublease Golden Plains Care Center, an existing 75-bed ICF nursing facility located in Post, from Golden Plains Care Center, Inc., sublessor. The legal owner and lessor of the facility is Jewell Enterprises.

**Central Bishop Imaging Center, Austin**  
AO85-0125-059

NIE—Request for a declaratory ruling that a certificate of need is not required for Central Bishop Imaging Clinic to acquire two fluoroscopic units, two mammographic units, two radiographic units, one ultrasound unit, two mobile CT units and one stationary CT unit. The proposed equipment will be located at Central Bishop Imaging Clinic, 1204 Bishop Street, Dallas, and will be utilized on an outpatient basis and for inpatients on a temporary basis as defined by commission rules.

**AlternaCare Corporation, Los Angeles, California**  
AS85-0125-060

NIEH—Request for a declaratory ruling that a certificate of need is not required for AlternaCare Corporation to purchase 90% of the outstanding capital stock of Mid-Cities Surgi-Center, Inc., lessee of Mid-Cities Surgi-Center, Inc., an existing ambulatory surgical center located in Bedford. Mid-Cities Surgi-Center Partnership is the legal owner and lessor of the ambulatory surgical center.

**Cherokee County Health Facilities Development Corporation for Newburn Memorial Hospital, Inc., Jacksonville**  
AH81-0529-027A(012585)

CN/AMD—Request for an extension of the completion deadline from December 15, 1984, to January 1, 1986, in Certificate of Need AH81-0529-027, as amended by AH81-0529-027A(081282) and AH81-0529-027A(051283), which authorized the certificate holder to construct, equip, and operate a 69-bed general hospital as a replacement facility.

Issued in Austin, Texas, on January 30, 1985.

TRD-850982      John R. Neel  
                            General Counsel  
                            Texas Health Facilities  
                            Commission

Filed: January 30, 1985  
For further information, please call (512) 475-6940.

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## Show Cause Hearing

The Texas Health Facilities Commission has found that sufficient grounds exist to require a show cause hearing regarding the matter of Northeast Hospital Authority and Northeast Medical Center, Humble. It has, therefore, been ordered that Northeast Hospital Authority and Northeast Medical Center appear before the commission at Suite 305, Jefferson Building, 1600 West 38th Street, Austin, at 9 a.m. on Monday, February 25, 1985, and show cause why Certificate of Need AH83-1107-288 should not be forfeited for certificate holder's failure to comply with the conditions in Certificate of Need AH83-1107-288 by not acquiring the CT scanner authorized by this certificate and intending to acquire a CT scanner not authorized by the certificate of need order and to show cause why Northeast Hospital Authority and Northeast Medical Center should not thereby be found in violation of the Texas Health Planning and Development Act, Texas Civil Statutes, Article 4418h, and the commission rules.

Issued in Austin, Texas, on January 30, 1985.

TRD-850983      John R. Neel  
                    General Counsel  
                    Texas Health Facilities Commission

Filed: January 30, 1985

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

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## Texas Department of Human Resources Consultant Contract Awards

In compliance with Texas Civil Statutes, Article 6251-11c, the Texas Department of Human Resources announces the award of a consultant contract. The request for offers was published in the August 24, 1984, issue of the *Texas Register* (9 TexReg 4603).

**Description.** The consultant will provide psychological evaluation and treatment services to abused and neglected children. These services are provided as part of the service plan for families to both remediate the effects of abuse and neglect and to prevent further harm.

**Consultant Name.** The contractor selected is Amarillo Guidance and Counselling, 900 South Lincoln, Amarillo, Texas 79101.

**Cost of Contract and Effective Dates.** The total cost of the contract is \$8,000. The contract began January 1, 1985, and ends August 31, 1986.

**Due Dates of Reports.** Reports are due within time frames stated in the contract.

Issued in Austin, Texas, on January 29, 1985

TRD-850850      Marlin W. Johnston  
                    Commissioner  
                    Texas Department of Human  
                    Resources

Filed: January 29, 1985

For further information, please call (512) 450-3766.

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In compliance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Human Resources announces the award of a consultant contract. The request for offers was published in the October 23, 1984, issue of the *Texas Register* (9 TexReg 5492).

**Description.** The consultant will review and compare certain inpatient hospital reimbursement systems and recommend an appropriate system to be used in the Texas Medical Assistance Program Consultant Name. The contractor selected is Arthur Young and Company, 2121 San Jacinto Street, Suite 600, Dallas, Texas 75221.

**Cost.** Value of the contract for Phase I is \$106,435, with a maximum not to exceed \$150,000 for all phases of the contract.

**Effective Date.** The contract began on January 7, 1985, and ends on December 31, 1985.

**Due Dates of Reports.** The major report is due by May 31, 1985.

Issued in Austin, Texas, on January 29, 1985.

TRD-850951      Marlin W. Johnston  
                    Commissioner  
                    Texas Department of Human  
                    Resources

Filed: January 29, 1985

For further information, please call (512) 450-3766.

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## Texas Department of Public Safety Consultant Contract Award

Pursuant to Texas Civil Statutes, Article 6252-11c, the Nuclear Waste Programs Office (NWPO) announces the award of a consultant contract. The required consultant proposal request appeared in the November 20, 1984, issue of the *Texas Register* (9 TexReg 5975).

Under the terms of the contract the consultant will provide the following services:

(1) Review and provide written technical comment to NWPO on the geological and hydrological data and interpretations presented in U.S. Department of Energy, reports and plans, including, but not limited to:

(a) Permian Basin site recommendation report;  
(b) guidelines for recommendation of sites for nuclear waste repositories;

(c) environmental assessments for Permian Basin sites, Gulf interior region sites, Paradox Basin sites, Nevada test site, and Hanford Reservation site;

(d) Permian Basin Site Characterization Plan;  
(e) Permian Basin Site Characterization Analysis;

and

(f) Nuclear Waste Policy Act Mission Plan;  
(2) Provide briefings on geological and hydrological investigations undertaken by U.S. Department of Energy Salt Repository Project Office and Office of Civilian Radioactive Waste Management to NWPO staff, staff of other selected agencies, NWPO advisory committees, and public officials;

(3) Consult with NWPO staff on geological and hydrological aspects of high-level nuclear waste management and disposal;

(4) Assist other state agencies, as needed, in requested state reviews of Department of Energy reports and plans, including those previously listed;

(5) Attend and file reports on technical meetings as requested by NWPO; and

(6) Assist NWPO staff in evaluation of geological and hydrological aspects of state and federal technical rules related to high-level nuclear waste management and disposal.

The contract was awarded to L. Edwin Garner, Geologist, P.O. Box 13252, Austin, Texas 78711. The beginning date of the contract is January 1, 1985; the ending date is August 31, 1985; the total value of the contract is \$40,000.

The due dates for any written and verbal reports prepared in providing the services described will be established based on the availability of written reports and notification of plans and decisions of the U.S. Department of Energy.

Issued in Austin, Texas, on January 23, 1985.

TRD-850758      John C. West, Jr.  
General Counsel  
Texas Department of  
Public Safety

Filed: January 24, 1985

For further information, please call (512) 475-1577.

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## Railroad Commission of Texas Public Hearing and Extension of Comment Period

The Railroad Commission of Texas will hold a public hearing to receive comments concerning the proposed amendments to 16 TAC §3.37, relating to oil, gas or geothermal resource operation in hydrogen sulfide areas, published in the December 21, 1984, issue of the *Texas Register* (9 TexReg 6407).

The hearing will be at 9 a.m. on Wednesday, February 27, 1985, in Room 221, Railroad Commission Building, 1124 IH 35 South, Austin.

At the hearing, comments should be presented in narrative and exhibit form. Witnesses may present testimony orally or in writing. There will be no cross-examination of witnesses other than by the examiners to ensure a complete record. The commission's rules regarding contested cases will not be applicable. The comment period for the proposed amendments to 16 TAC §3.36 has been extended through February 28, 1985.

Questions regarding the proposed amendments to this section should be addressed to Kimberly L. Kiplin, Legal Section, Oil and Gas Division, Railroad Commission of Texas, (512) 445-1180.

Issued in Austin, Texas, on January 28, 1985.

TRD-850879      Walter E. Lillie  
Special Counsel  
Railroad Commission of Texas

Filed: January 28, 1985

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

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## Texas Tourist Development Agency Consultant Proposal Requests

In accordance with the provisions of Texas Civil Statutes, Article 6252-11c, the Texas Tourist Development Agency (TTDA) invites proposals for calendar year 1985 for the complete production (including script) of four to six different audio visuals (AVs), each being up to 20 minutes with six carousel projectors and taped sound track.

The Texas Tourist Development Agency will participate in several travel missions in 1985 both in the United States and abroad. An AV is taken along on each mission and is shown at least once daily during the mission. The producer providing these services will accompany the mission and will be responsible for the following:

- (1) providing all equipment required to successfully show the production;
- (2) showing the presentation at least once daily, and
- (3) his own travel expenses (for which he will be reimbursed at the conclusion of the mission).

Airline tickets will be provided (maximum of two tickets per mission); however, the producer's proposal will need to accommodate his time spent on the mission.

In addition to producing approximately four AVs for travel missions, the producer may be required to also produce up to two AVs during calendar 1985 for use during TTDA's annual tourism conference or for a similar-type occasion. In these instances, the producer would again be responsible for the three items previously mentioned. Again, the bid proposal should take into account the producer's time spent in this regard, as well as any additional charges pertaining to the production of the AVs for travel missions or conferences/seminars.

For planning purposes, each of the four proposed travel missions would last a maximum of eight days including travel time.

On the two other occasions when the producer's services would be required, a maximum of three days would be involved.

Subject matter for each AV will pertain to Texas as a travel destination and, on each occasion, will be submitted to TTDA's executive director for his approval before actual production begins.

**Contact Person.** Interested persons should submit proposals to Frank Hildebrand, Executive Director, Texas Tourist Development Agency, P.O. Box 12008, Austin, Texas 78711, (512) 475-4326.

**Closing Date.** Proposals must be received in the TTDA office by 10 a.m. on Friday, February 15, 1985.

The Texas Tourist Development Agency reserves the right to reject any or all bids.

Issued in Austin, Texas, on January 25, 1985.

TRD-850914      Frank Hildebrand  
Executive Director  
Texas Tourist Development Agency

Filed: January 29, 1985

For further information, please call (512) 475-4326.

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In accordance with the provisions of Texas Civil Statutes, Article 6252-11c, the Texas Tourist Development Agency serves notice of invitation for offers of consulting services on the project described below.

**Contact Person:** Persons wishing to make an offer on this project should contact Frank Hildebrand, Executive Director, Texas Tourist Development Agency, P.O. Box 12008, Austin, Texas 78711, (512) 475-4326.

**Closing Date.** Consultant proposals must be received by March 1, 1985.

**Method of Selection.** Interested parties will need to demonstrate the capability of providing 1984 calendar year estimates of the economic impact of travel on each of the 254 counties of Texas as well as a statewide total. The research must include estimates of travel expenditures, travel generated payroll, travel generated employment, state and local tax receipts for each county, as well as the state as a whole. In addition, the percent change in each category for each county (based on the 1983 results) will be needed. Also required is an estimate of the impact of travel by business and personal trips, out-of-state and resident travelers, travel industry categories, and types of lodging used.

**Completion Date.** The study must be delivered to the Texas Tourist Development Agency no later than mid-September 1985.

issued in Austin, Texas, on January 25, 1985.

TRD-850898      Frank Hildebrand  
                         Executive Director  
                         Texas Tourist Development Agency

Filed: January 28, 1985

For further information, please call (512) 475-4328.

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## Texas Water Commission Applications for Waste Disposal Permits

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of January 21-25, 1985.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 475-2678.

Listed is the name of the applicant and the city in which each facility is located; type of facility; location of the facility; permit number; and type of application—new permit, amendment, or renewal.

Period of January 21-25, 1985

General Home Corporation, Houston; sewage treatment plant; approximately 3,000 feet north of Spears Road and adjacent on one side to Harris County Flood Control Ditch P-145-00-00 in Harris County; 13052-01; new permit

Northeast Texas Community College District, Mount Pleasant; wastewater treatment plant; 100 yards northwest of the campus entrance, which is west of FM Road 1735 and approximately six miles southeast of the City of Mount Pleasant in Titus County; 13070-01; new permit

Clarence W. Diehl, Houston; wastewater treatment plant; at 1202 Spears Road, approximately one mile west of the intersection of Rankin Road and IH 45, where Rankin Road changes to Spears Road, in Harris County; 13065-01; new permit

Joseph J. Tamburine, La Marque; borrow pit; on the west side of IH 45 between the Texas City "Y" and the Santa Fe railroad tracks in Galveston County; 02746; new permit

Nicole Development Corporation, Magnolia; sewage treatment plant; approximately 2.5 miles southeast of the city of Magnolia and one mile north of FM Road 1774 in Montgomery County; 12992-01; new permit

The City of Jacksonville; wastewater treatment plant; approximately 1.6 miles southeast of the intersection of State Highway 204 and Loop 456 along State Highway 204 and 3,500 feet south of State Highway 204 in Cherokee County; 10693-03; new permit

Pioneer Aggregates, a division of Pioneer Concrete of Texas, Bedford; limestone crushing and washing plant; approximately 3½ miles northwest of the City of Bridgeport, Wise County, and approximately 1¼ miles north of FM Road 1658; 01406; amendment

Texas National Municipal Utility District, Willis; wastewater treatment plant; north of Camp Creek approximately three miles east of Willis and one mile north of FM Road 2432 in Montgomery County; 11715-01; amendment

Cardox Corporation, La Porte; carbon dioxide plant; at 11604 Strang Road, approximately three miles northwest of the City of La Porte, Harris County; 02402; renewal

Kwik-Kopy Corporation, Houston; wastewater treatment plant; at 12715 Telge Road, which is approximately 1¼ miles north of the intersection of Telge Road and State Highway 6 and U.S. Highway 290 in Harris County; 13059-01; new permit

John Frias, Brownsville; planned residential development; approximately 3.7 miles west-southwest of the City of Los Fresnos and approximately 1,800 feet west and 8,400 feet south of the intersection of State Highway 100 and FM Road 803 in Cameron County; 13041-01; new permit

Danny and Juanita Moreau, doing business as Judges Mobile Home Park, Houston; wastewater treatment plant; at 7521 John Ralston Road, approximately ½ mile north-northwest of the intersection of John Ralston Road and U.S. Highway 90, on the east bank of Greens Bayou in Harris County; 13060-01; new permit

**City of La Porte; sewage treatment plant; at 1301 South Fourth Street near the intersection of South Fourth Street and West L Street in the southern portion of the City of La Porte in Harris County; 10206-01; amendment**

**Issued in Austin, Texas, on January 25, 1985.**

**TRD-850905      Mary Ann Hafner  
Chief Clerk  
Texas Water Commission**

**Filed: January 28, 1985  
For further information, please call (512) 475-4514.**

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