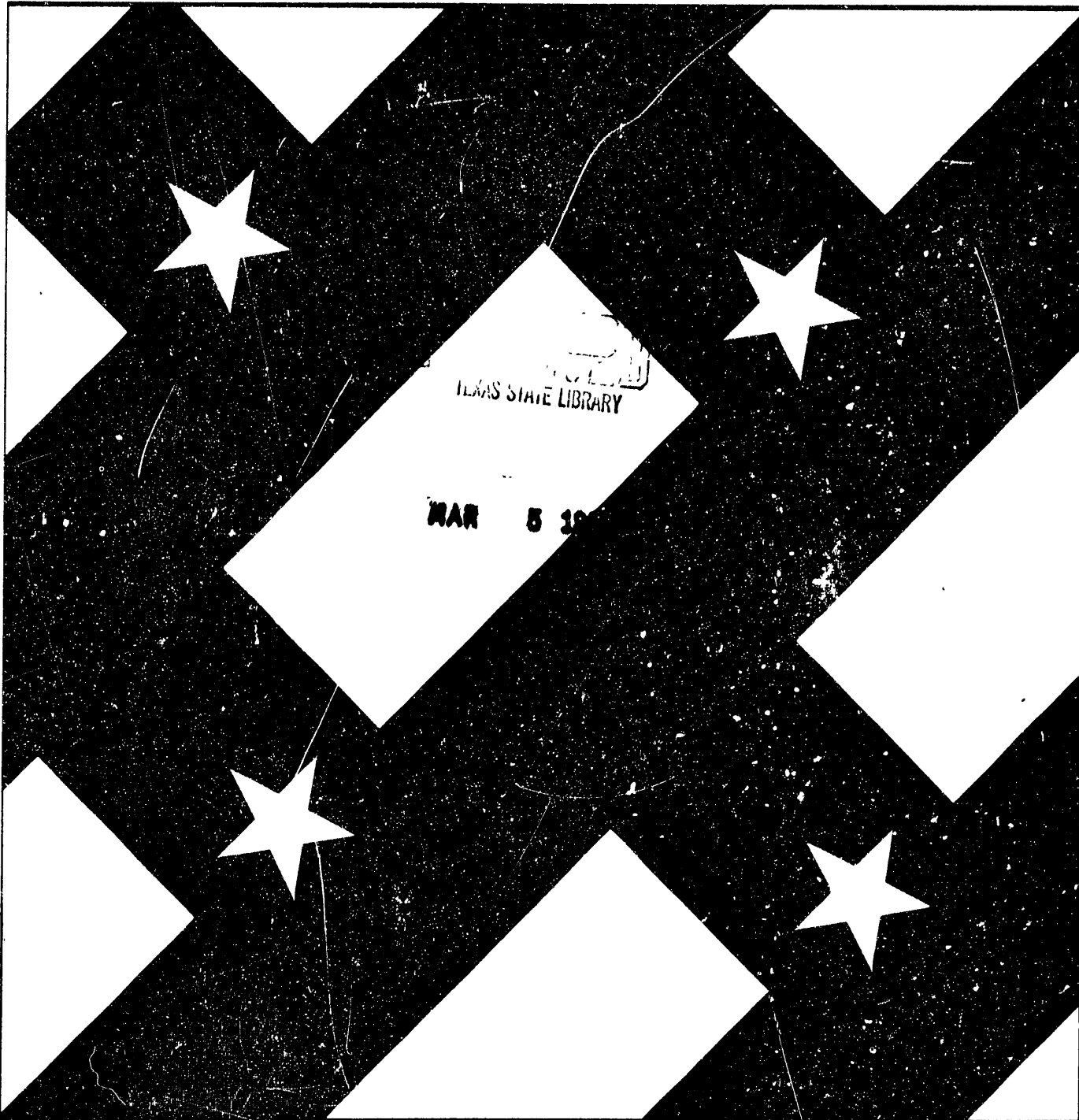


Texas Register

Volume 10, Number 17, March 1, 1985

Pages 719 - 766



Highlights

The **State Board of Insurance** adopts on an emergency basis amendments in a chapter concerning powers and duties
 Effective date - February 21 **page 721**

The **Comptroller of Public Accounts** adopts on

an emergency basis amendments concerning bingo regulation and tax
 Effective date - February 25 **page 722**

The **Texas Air Control Board** proposes amendments and new sections in a chapter concerning volatile organic compounds Proposed date of adoption - July 31 **page 728**

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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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

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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).



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

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

TITLE 25. HEALTH SERVICES

Part V. Texas Health

Facilities Commission

Chapter 507. Certificate of Need Requirements

★ 25 TAC §507.5

The Texas Health Facilities Commission is renewing the effectiveness of the emergency adoption of amended §507.5 for a 60-day period effective March 16, 1985. The text of the amended section originally was published in the November 23, 1984, issue of the *Texas Register* (9 TexReg 5985).

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

TRD-851698

John R. Neel
General Counsel
Texas Health Facilities
Commission

Effective date: March 16, 1985
Expiration date: May 15, 1985
For further information, please call
(512) 475-6940.

★ ★ ★

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-.044

The State Board of Insurance adopts on an emergency basis amendments to

Rules 059.01.11.041-.044, concerning procedures for summary disposition of certain routine matters coming before the board.

These rules were adopted by Board Order 46129 dated January 24, 1985. The rules are adopted under the Insurance Code, Article 1.33, which authorizes the board to create a summary procedure for certain activities, including the matters addressed in these rules. The activities which are subject to this 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 agency action.

The board finds that an imminent peril to the public welfare requires these rules to be amended on an emergency basis, for the smooth and reasonable functioning of the agency under the rules and the feasibility of complying with the rules by certain departments within the agency.

Certain matters necessary to be included for summary disposition were inadvertently left out of the rules adopted by Board Order 46129. Those matters are added in Rule 059.01.11.042(1) and (2) and Rule 059.01.11.043(1). In addition, the notice procedure prescribed in Rule 059.01.11.044(a) and (b) must be amended immediately for certain departments within the agency to function in a reasonable and smooth manner. It is also necessary to amend Rule 059.01.11.041 to add a provision that these rules become effective on April 1, 1985. This change also is necessary for feasible functioning of these rules. The board believes these rule changes are necessary for reasonable, smooth, and feasible regulation. Effective regulation and the ability to effectively comply with the rules is extremely important to the regulatory process and, therefore, is of immediate concern to the public welfare.

The amendments are adopted on an emergency basis under the Insurance Code, Article 1.33, and Texas Civil Statutes, Article 6252-13a, which provide the State Board of Insurance with the authority to adopt rules to create a sum-

mary procedure and designate certain activities as routine matters which should be handled by a summary procedure as authorized by that statute.

.041. Purpose and Scope. The intent of Rules 059.01.11.041-.044 of this title (relating to Summary Procedures for Routine Matters) [these rules] is to formalize agency decision-making channels and to facilitate agency review of routine matters, pursuant to the Insurance Code, Article 1.33. The board has determined the activities designated in Rule 059.01.11.042 of this title (relating to Designated Activities) to be routine, voluminous, repetitive, noncontroversial, and of limited interest to persons other than those immediately involved in or affected by the proposed agency decision. **These rules are effective on and after April 1, 1985.**

.042. Designated Activities. The following statutorily prescribed applications are designated for summary procedure disposition.

(1) Life, accident, [or] health, health maintenance organizations, or prepaid legal services forms or filings. Filings of life, accident, or health insurance policy forms or prepaid legal services contracts, and [form] applications for approval or disapproval, but not for withdrawal of approval, made pursuant to the Insurance Code, Article 3.42, or filings of health maintenance organization evidence of coverage applications or filings of health maintenance organizations for amendments to original application for approval or disapproval, but not for withdrawal of approval, made pursuant to the Insurance Code, Chapter 20A, or prepaid legal services forms for approval or disapproval but not for withdrawal of approval made pursuant to the Insurance Code, Article 5.13-1, and Chapter 23.

(2) Agents licenses. Filings of application or renewal for agents and adjusters 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, and insurance premium finance licenses pursuant to the Insurance Code, Article 24.03.

(3)-(10) (No change.)

.043. Delegation. The State Board of Insurance hereby delegates to the following

deputy commissioners administration over the filings designated in paragraphs (1)-(3) [(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, health maintenance organizations or prepaid legal services forms or filings, [forms] and Rule 059.01.11.042(2) of this title (relating to Designated Activities) [agents] licenses.

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

.044. Summary Procedure; Notice.

(a) Notice regarding Rule 059.01.11.042(1)-(6). Before taking any action under subsection (c) and subsection (d) [subsection (b)] of this rule with regard to any delegated activities designated under Rule 059.01.11.052(1)-(6) 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 the State Board of Insurance Annex (211 East 11th Street, Austin, Texas). The notice shall be posted not less than five days before any action is taken, and each notice shall contain:

(1) (No change.)

(2) for matters listed in Rule 059.01.11.042(1) of this title (relating to Designated Activities), the notice shall list the name of the insurer and shall identify the [type of] filing, form, or application number and the proposed disposition of the matter; and

(3) for matters listed in Rule 059.01.11.042(2) of this title (relating to Designated Activities), the notice shall list the name of the applicant, the [business] address of record 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 Rule 059.01.11.042(3)-(6) [(7)] 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) (No change.)

(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 Rule 059.01.11.042(1) and (3)-(10) [(1)-(10)] of this title (relating to Designated Activities), the appropriate deputy commissioner shall re-

cord his or her decision by causing the appropriate filing, application, or form to be stamped either "approved by" or "disapproved by" (name of appropriate deputy) deputy commissioner of insurance (appropriate division) and the date and by causing the decision to be recorded by a like stamp on a file copy, a microfilm or microfiche copy, or by recording said decision in the agency's computer files and causing said stamped filing, application, or form to be mailed to the applicant. [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 Rule 059.01.11.042(2) 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.

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

TRD-851615 James W. Norman
Chief Clerk
State Board of
Insurance

Effective date: February 21, 1985
Expiration date: June 21, 1985
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 §3.543

The Comptroller of Public Accounts adopts on an emergency basis amendments to §3.543, concerning denials, suspensions, revocations, violations, and hearings. The amendments provide standards for summary suspensions of bingo licenses and specify that a summary suspension is effective at the time the notice of suspension is served. The amendments authorize preliminary and final hearings in connection with summary suspensions, and reformat the summary suspension provisions. Further, the amendments list additional grounds for suspension: failure or refusal to provide

information required or requested by the comptroller, use of proceeds for other than charitable purposes, and use of proceeds to influence elections or legislation.

The amendments are adopted on an emergency basis 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.

§3.543. Denials; Suspension; Revocations; Violations; Hearings.

(a) (No change.)

(b) **Suspension and revocation** [Violations and penalties].

(1) **Grounds.** The comptroller may suspend or revoke a license or temporary authorization when the holder or any other person with any interest in an organization holding a license or authorization:

(A)-(K) (No change.)

(I) fails or refuses to provide the comptroller with any information required or requested under the Bingo Enabling Act or rules promulgated thereunder within the time period set by the comptroller, or if no time limit is set, then within 10 days after the request by the comptroller for information;

(M) devotes, uses, or allows the use of net proceeds derived from bingo games for purposes other than charitable purposes;

(N) uses or allows the use of net proceeds derived from bingo games to support or oppose a particular candidate or slate of candidates for public office, to support or oppose any measure submitted to a vote of the people, or to influence or attempt to influence legislation.

(2) **Summary suspension.** [Upon receipt of information concerning a violation of the Act or this section, the comptroller may suspend, without hearing, a license or temporary authorization until a hearing on the violation is held. The period of summary suspension may not exceed 90 days.]

(A) Upon a finding by the comptroller that an immediate and irreparable harm will result from a licensee exercising his privileges under a license, the comptroller may summarily suspend the license. Upon summary suspension, the comptroller shall notify the licensee in writing of the suspension and the specific reasons for the suspension.

(B) A summary suspension is effective at the time of service of the notice.

(C) A preliminary hearing to show cause why the license should not be suspended pending a final hearing will be provided if requested within two days. The notice shall so inform the licensee.

(D) If requested, a preliminary hearing must be provided within three days.

If requested, a final hearing must be provided within 20 days.

(3) (No change.)

(4) Hearing. After a notice of suspension or revocation has been served, the licensee or holder will have an opportunity for a hearing upon the question of [the summary action, upon] renewal of a license or temporary authorization if it would expire within the period of temporary suspension or upon any proposed suspension or revocation. If a hearing is requested, it will be held within 20 days from the date the comptroller receives the request. If the licensee or holder does not request a hearing within 30 days after the date of the notice of suspension or revocation, the hearing is waived and a final order will be issued.

(5) (No change.)

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

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

TRD-851705 Bob Bullock
 Comptroller of Public
 Accounts

Effective date: February 25, 1985
Expiration date: June 25, 1985
For further information, please call
(512) 475-1913

★ ★ ★



★ 34 TAC §3.548

The Comptroller of Public Accounts adopts on an emergency basis amendments to §3.548, concerning general restrictions on the conduct of bingo. The amendments clearly state that bingo games must be run by members or employees of the licensed organization. An authorized commercial lessor may not run bingo games. People running the game may not be regular or temporary employees of a commercial lessor. The amendments also add a specific prohibition against the practice of reserving bingo cards for use by players. This prohibition is added in the interest of ensuring that bingo games are fairly conducted and in response to complaints that the practice of reserving cards is occurring. Further, the amendments provide standards for determining the county in which an organization is principally located for purposes of the restriction against conducting bingo outside such county.

The amendments are adopted on an emergency basis 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.

§3.548. *General Restrictions on the Conduct of Bingo.*

(a)-(t) (No change.)

(u) Workers as players. No licensee or holder of a temporary authorization may permit any person who is conducting or assisting in the conduct of bingo to participate as a player when the person is conducting or assisting in the conduct of bingo. All callers, ushers, cashiers, bookkeepers, and accountants must be members of the authorized organization or hired by the authorized organization but may not be employees of or hired by a commercial lessor.

(v) (No change)

(w) Location. A licensee may conduct bingo only in the county in which it is principally located. A licensee will be considered to be principally located in the county in which it has its primary business office. If the licensee has no business office, the organization will be considered to be principally located in the county of the principal residence of its chief executive officer.

(x) (No change)

(y) No licensed organization may reserve, or allow to be reserved, any bingo card or cards for use by players.

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

TRD 851707 Bob Bullock
 Comptroller of Public
 Accounts

Effective date: February 25, 1985
Expiration date: June 25, 1985
For further information, please call
(512) 475-1913.

★ ★ ★

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 7. BANKING AND SECURITIES

Part VII. State Securities Board

Chapter 109. Transactions Exempt from Registration

★ 7 TAC §109.3

The State Securities Board proposes an amendment to §109.3, concerning sales to financial institutions, to exempt the offer and sale of certain unregistered securities to certain institutional investors.

Richard D. Latham, securities commissioner, 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. Latham 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 the creation of an exemption from registration, which will facilitate offers and sales of unregistered securities to institutional investors. At the present time, such purchasers are not able to purchase certain securities because of the fact that such securities have not been and will not be registered under the Act, §7. It is believed that some securities are not registered under the Act because of the necessary delays and costs involved in registration. Nonetheless, some such securities may be desirable investments from the points of view of the prospective purchasers. The amendment assumes that the purchasers within the named categories are of at least the same level of sophistication as accredited investors within the meaning of the Federal Securities Act of 1933, Regulation D. 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 Denise Voigt Crawford, State Securities Board, P O Box 13167, Austin, Texas 78711-3167.

The amendment is proposed under Texas Civil Statutes, Article 581, §28-1 and §5.T, which provide respectively that the board may adopt rules and regulations governing registration statements and applications, classify securities, persons, and matters within its jurisdiction, prescribe different requirements for different classes, and prescribe new exemptions by rule.

§109.3. Sales to Financial Institutions.

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

(c) Sales to certain institutions. The State Securities Board, pursuant to the Securities Act, §5.T, exempts from the securities registration requirements of the Securities Act, §7, the offer and sale of any securities, provided the following conditions are met.

(1) Such securities are not part of the same distribution or offering as securities of the same issuer which have been registered or are proposed to be registered under the Securities Act, §7, and, if rated by either Moody's Investors Service, Inc., or Standard and Poor's Corporation, have been assigned one of the four highest generic ratings (within which there may be sub-categories or gradations indicating relative standing) conferred by such rating organization upon that type security, or, if not rated, are senior to or upon a parity with securities of the same issuer which have been so rated, and provided further that the purchaser of such securities:

(A) pays cash consideration for such securities amounting to not less than \$150,000;

(B) is not a natural person or the individual retirement account of a natural person; and

(C) is one or more of the following:

(i) an employee benefit plan within the meaning of the Employee Retirement Income Security Act of 1974, Title I, with total assets in excess of \$5 million;

(ii) a private business development company as defined in the Investment Advisers Act of 1940, §202(a)(22);

(iii) an organization described in the Internal Revenue Code, §501(c)(3), with total assets in excess of \$5 million; or

(iv) a corporation or other entity having net worth of not less than \$5 mil-

lion, or a wholly owned subsidiary of such a corporation or other entity.

(2) For purposes of determining a purchaser's total assets or net worth under this section, the issuer and the seller may rely upon the entity's most recent annual balance sheet or other financial statement which shall have been audited by an independent accountant or which shall have been verified by a principal or the purchaser. The exemption provided by this section shall not be available for the sale of securities by an open-end company as that term is defined in the Investment Company Act of 1940.

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

Issued in Austin, Texas, on
February 20, 1985.

TRD-851592 Richard D. Latham
Commissioner
State Securities Board

Earliest possible date of adoption:
April 1, 1985
For further information, please call
(512) 474-2233

★ ★ ★

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.)

Rating and Policy Forms General Liability Insurance

★ 059.05.15.201

The State Board of Insurance proposes new Rule 059.05.15.201, concerning

liability insurance, including automobile liability insurance, which is in excess of specified or hereafter determined requisite minimum limits if written on a basis of indemnification or payment to the insured. This rule relates to insurance coverages under the Insurance Code, Chapter 5, Subchapter A and Subchapter B.

Milton S. Troxell, General Liability Section manager, 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 anticipated effect on state government is an estimated reduction in cost in staff time, equipment, and material of \$10,068 each year from 1985-1989. There is no anticipated economic effect on local government or small businesses.

Mr. Troxell also has determined that for each year of the first five years the proposed rule is in effect the public benefit anticipated as a result of enforcing the rule is the elimination of unnecessary individual filings which will reduce the costs of the board and of the individual insurers. There is an anticipated reduction in costs to insurers because of a reduction in the filing requirements currently required by the board. The amount of reduction will depend on the number and character of a filing that an insurer would otherwise have made and the time and nature of review of the filing by the State Board of Insurance.

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

The new rule is proposed under the Insurance Code, Articles 1.04 and 5.13-5.15, which provides the State Board of Insurance with the authority to approve or disapprove all rates, rules, and policy forms for all general liability lines of insurance.

.201. Regulation of Excess Liability Insurance Including Automobile Liability Insurance.

(a) For the purposes of this rule, the type or class of insurance regulated under the terms and provisions of the Insurance Code, Chapter 5, Subchapter B, and excluded from regulation under the Code, Chapter 5, Subchapter A, is liability insurance, including automobile liability insurance, written in combination with, merged into, or losing its identity in general, or other liability insurance issued only on an excess loss basis, wherein the insurer agrees only to either indemnify the insured or pay to the insured as follows:

(1) the ultimate net loss sustained by the insured in excess of the retained or

otherwise insured requisite minimum limit(s) when written on the basis of indemnity; or
(2) the ultimate net insured liability incurred by the insured in excess of the retained or otherwise insured requisite minimum limit(s) when written on the basis of payment to the insured;

(3) provided, that in addition to the requirements, including reclassification, stated in paragraph (1) or paragraph (2) of this subsection, such liability insurance may be written only upon the conditions that:

(A) it is written against the insured's liability which is in excess of the specific and general requisite minimum retention(s) or underlying insurance(s); or

(B) it is written to indemnify for losses in excess of the specific and general requisite minimum retention(s) or underlying insurance(s); and

(C) it is written in conformity with any other applicable requirements of this rule; and

(D) only if such liability insurance is written so as not to pay on behalf of the insured.

(b) With the exception that the board may require higher minimums upon any application made to it, the retained or otherwise insured automobile liability minimums shall be one of the following:

(1) primary insurance written on prescribed forms of not less than \$100,000 each person, \$300,000 each accident or occurrence as respects bodily injury liability, and \$50,000 each accident or occurrence as respects property damage liability (combined bodily injury and property damage liability single limit of \$350,000), except, however, as respects automobiles eligible for personal automobile coverage, the minimum property damage liability limit shall not be less than \$25,000 each accident or occurrence (combined bodily injury and property damage liability single limit of \$325,000);

(2) a retention of liability by the insured of not less than \$25,000 per accident or occurrence as respects automobile bodily injury liability and, if automobile property damage liability is covered or effected in the excess policy written, primary automobile insurance on property damage of not less than \$50,000;

(3) a retention of liability by the insured of not less than \$25,000 per accident or occurrence as respects automobile property damage liability and, if automobile bodily injury liability is included or effected in the coverage provided by the excess policy written, primary automobile insurance on bodily injury liability of not less than \$100,000 each person, \$300,000 each accident or occurrence;

(4) a retention of liability by the insured of not less than \$25,000 per accident or occurrence as respects automobile bodily injury liability and a retention of liability by the insured of not less than \$25,000 per

accident or occurrence as respects automobile property damage liability; or

(5) a retention of liability by the insured of not less than \$25,000 per accident or occurrence as respects the insured's liability arising from automobile bodily injury and property damage so that the sum of the bodily injury liability and property damage liability is retained up to \$25,000 (or such larger retention as is required in the policy) and that the excess insurance covers the liability over \$25,000 (or such larger retention as is required in the policy) whether or not it was bodily liability or property damage liability or any combination of the two.

(c) Excess loss liability policies shall provide coverage for exposures not provided by primary insurance subject to a self-retained limit of not less than \$10,000 for commercial excess loss liability policies and not less than \$1,000 for personal excess loss liability policies.

(d) On all commercial excess loss insurance coverage, other than automobile liability insurance, the minimum requisite retentions and other requirements and conditions will be determined upon each application. The administrative procedures and requirements for approval will be those used by the board in the determination of approval or rejection of excess insurance applications.

(e) The following paragraphs apply to personal liability insurance.

(1) Each insurer that contemplates affording personal liability insurance on a risk in the category of this rule shall file with the board a rating plan, including the policy and endorsement forms proposed to be used with such rating plan. Statistics on such insurance shall be maintained in accordance with the prescribed statistical requirements. These filings will be processed in accordance with the board's requirements and the requirements of the Insurance Code, Chapter 5, Subchapter B.

(2) When such personal liability insurance rating plan, including the policy and endorsements forms, has been approved by the board, no application for approval of an individual (a) rate under such rating plan need be submitted for an individual risk unless it involves a departure from the insurer's approved rating plan for this class of insurance.

(3) Insurers affording personal liability insurance shall continue to file an (a) rate application on each risk in the same manner followed prior to the adoption of this rule until the insurer's rating plan, including the policy and endorsement forms provided in this subsection, has been approved.

(f) Each insurer that contemplates affording commercial liability insurance on a risk in a category of this rule shall file with the board for each individual risk an (a) rate application which shall clearly indicate the proposed rates or premiums together with a complete description of the exposures in-

involved and all pertinent data concerning the rating. An (a) rate application shall include the policy and endorsement forms proposed to be used, or make specific reference to a previously approved policy or endorsement form. Any amendments or changes to a previously approved policy or endorsement form shall be clearly and specifically stated in the (a) rate application. Statistics on such insurance shall be maintained in accordance with prescribed statistical requirements. The (a) rate application will be processed in accordance with the board's requirements and the requirements of the Insurance Code, Chapter 5, Subchapter B.

(g) Wherever the term "primary insurance" is used in this rule, the board may require that such insurance be on prescribed or approved forms and may require that such insurance be furnished by a company authorized to do business in this state.

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

Issued in Austin, Texas, on
February 21, 1985

TRD-851616 James W. Norman
Chief Clerk
State Board of
Insurance

Earliest possible date of adoption:
April 1, 1985

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

★ ★ ★

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part III. Texas Air Control Board

Chapter 114. Motor Vehicles

★31 TAC §§114.1, 114.3, 114.5

The Texas Air Control Board (TACB) proposes amendments to §§114.1, 114.3, and 114.5, concerning motor vehicles. In §114.1, concerning maintenance and operation of air pollution control systems or devices used to control emissions from motor vehicles, the proposed amendments extend the provisions of subsection (c) to include any person offering for sale a motor vehicle in the State of Texas and add a new paragraph (3) to require motor vehicle facilities in Dallas, El Paso, Harris, and Tarrant Counties to display a notice of the prohibitions and requirements of this subsection. The proposed amendments also extend the provisions of subsection (e), which requires posting of a notice of the prohibition and require-

ments on the dispensing of leaded gasoline at motor vehicle dispensing facilities, to include facilities in Dallas, El Paso, and Tarrant Counties. The proposed amendments also require persons affected by subsection (f) in Dallas, El Paso, Harris, and Tarrant Counties to display a notice of the prohibitions and requirements regarding the sale, offering for sale, or use of any system or device to circumvent any pollution control system or device originally designed by the manufacturer for use in motor vehicles.

In §114.3, concerning inspection requirements, the proposed amendments delete subsection (b) which requires the seller of any 1980 or newer model year motor vehicle to provide upon transfer of ownership to any resident of Harris County a certification that the vehicle complies with the air pollution emission control related requirements included in the annual vehicle safety inspection administered in Harris County by the Texas Department of Public Safety.

In §114.5, concerning exclusions and exceptions, the proposed amendments more precisely identify the vehicles used solely or primarily on a farm or ranch which are exempted from the requirements of this chapter by subsection (a), as those vehicles registered as farm vehicles with the Motor Vehicle Division of the Texas Department of Highways and Public Transportation. The proposed amendments also add oxygen sensors to the list of devices which may be removed in accordance with the provisions of subsection (b) for vehicles belonging to members of the U.S. Department of Defense (DOD) participating in the DOD Privately Owned Vehicle Import Program. The provisions of subsection (b) are also expanded to include vehicles belonging to other federal government employees being transferred overseas. The proposed amendments add subsection (d), which establishes procedures and requirements for applying to the executive director for a waiver from §114.1(a) and (b), regarding the operation and sale of a motor vehicle without specified pollution control systems or devices; subsection (e), which establishes an exemption for registered farm vehicles and vehicles which have been granted a waiver in accordance with the provisions of the new subsection (d) from the requirements of §114.3, regarding annual inspection of pollution control systems or devices; subsection (f), which exempts vehicle service or repair facilities from the provisions of §114.1(b), regarding removal or alteration of any pollution control system or device on any vehicle which is exempted in accordance with the provisions of subsections (a), (b), or (d) of this section; subsection (g), which exempts municipi-

palities from the provision of §114.1(c), regarding the sale of abandoned vehicles; and a subsection (h), which exempts a vehicle owner from the provisions of §114.1(c), regarding the sale of a motor vehicle which has been totally disabled and would no longer be operated.

These proposed amendments are intended to clarify the intent, improve the enforceability, and remedy the inequities and inconsistencies in Regulation IV. The proposed amendments also provide supplemental measures in support of the motor vehicle emission control and inspection programs in Dallas, El Paso, Harris, and Tarrant Counties.

Bennie L. Engelke, management and staff services director, has determined that for the first five-year period the rules as proposed are in effect there will be a cost savings to state and local units of government resulting from the deletion of the requirement to provide certification of conformance forms to used car dealers in Harris County. The anticipated economic credit is \$2,400 in 1985, \$2,600 in 1986, \$2,800 in 1987, \$3,000 in 1988, and \$3,300 in 1989, for all government units affected, adjusting for 5.4% annual inflation and a 2.8% annual population increase in Harris County. There are no fiscal implications to any small business identified in the 1982 Small Business Directory.

Steve Spaw, P.E., Central Regulatory Operations Program director, has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed is improved air quality as a result of increased public awareness, acceptance and compliance with existing motor vehicle emission control programs. In addition, the removal of certain inequities within the regulation may provide some relief for persons unfairly impacted by the regulation. The anticipated economic credit to individuals who are required to comply with the rule as proposed is \$7,500 in 1985, \$52,200 in 1986, \$56,600 in 1987, \$61,200 in 1988, and \$66,300 in 1989 for all facilities affected, adjusting for 5.4% annual inflation, a 2.2% average annual population increase in all affected counties, and a 2.8% annual population increase in Harris County. Additional capital costs associated with the placement of signs at used car dealers, parts and service facilities, and gasoline dispensing facilities in Dallas, El Paso, Harris, and Tarrant Counties are offset after the first year by the savings resulting from the deletion of the annual administrative requirement for certification of conformance upon resale of 1980 and newer model year vehicles in Harris County.

Public hearings on this proposal are scheduled for 7 p.m. on March 25, 1985, in the auditorium, Bureau of Air Quality Control, 7411 Park Place, Houston; at 8:30 p.m. on March 27, 1985, in Room N-401, Dallas Convention Center, 650 South Griffin Street, Dallas; at 8:30 p.m. on March 27, 1985, in the city council chambers, second floor 2 Civic Center Plaza, El Paso; and at 8:30 p.m. on March 28, 1985, in the city council chambers, 1000 Throckmorton Street, Fort Worth.

Copies of the proposed changes are available at the central office of the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723, and at all TACB regional offices. Public comment, both oral and written, on the proposed changes is invited at the hearings. The TACB would appreciate receiving five copies of testimony prior to or at the hearing. Written testimony received by 4 p.m. on April 12, 1985, at the TACB central office will be included in the hearing record. Written comments should be sent to the Regulation Development Division, Texas Air Control Board, 6330 U.S. Highway 290 East, Austin, Texas 78723.

These amendments are proposed under Texas Civil Statutes, Article 4477-5, §3.09(a), which provide the Texas Air Control Board with the authority to make rules and regulations consistent with the general intent and purposes of the Texas Clean Air Act and to amend any rule or regulation the Texas Air Control Board makes.

§114.1 Maintenance and Operation of Air Pollution Control Systems or Devices Used to Control Emissions from Motor Vehicles.

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

(c) No person may sell or offer for sale in the State of Texas any motor vehicle which was originally equipped with a control system in accordance with federal requirements unless all of the following conditions are met.

(1) The motor vehicle shall be equipped with either the emission control systems or devices that were a part of the motor vehicle or motor vehicle engine when sold by the manufacturer in accordance with federal requirements or an alternate control system or device as designated in subsection (b) of this section.

(2) (No change.)

(3) A notice of the prohibition and requirements of this subsection shall be displayed at any motor vehicle sales facility in Dallas, El Paso, Harris, and Tarrant Counties which sells or offers for sale more than three used vehicles. The notice shall be displayed in a conspicuous and prominent location near each customer entrance way and in each sales office. The notice shall read:

State law prohibits any person from selling or offering for sale any vehicle not

equipped with all emission control systems or devices in good operable condition. Violators are subject to penalties under the Texas Clean Air Act of up to \$1,000 per violation.

This notice shall be no smaller than eight inches by 10 inches (20.32 centimeters by 25.4 centimeters) and shall be clearly visible to all customers.

(d)* (No change.)

(e) No person may introduce leaded gasoline into a motor vehicle certified by the Environmental Protection Agency for use of unleaded gasoline. A notice of the prohibitions and requirements of this subsection shall be prominently displayed at all facilities in Dallas, El Paso, Harris, and Tarrant Counties [County], which dispense motor vehicle fuel. The notice shall be displayed in the immediate area of each gasoline pump island, and shall be posted in a prominent and conspicuous location. The notice shall read.

State law prohibits any person from introducing any gasoline containing lead into any motor vehicle certified for use of 'unleaded gasoline only'. Violators are subject to a penalty of up to \$1,000 per violation.

This notice shall be no smaller than eight inches by 10 inches (20.32 centimeters by 25.4 centimeters) and shall be clearly visible from each refueling location.

(f) No person may sell, offer for sale, or use any system or device for the purpose of circumventing any system or device, or any part thereof, installed by a vehicle manufacturer to comply with the Federal Motor Vehicle Control Program. A notice of the prohibitions and requirements of this subsection shall be displayed at all motor vehicle parts, supply, repair, or service facilities in Dallas, El Paso, Harris, and Tarrant Counties which sell, offer for sale, install, or offer to install any vehicle emission control or exhaust system or device. The notice shall be displayed in a prominent and conspicuous location near each customer entrance way and service counter. The notice shall read:

State law prohibits any person from selling, offering for sale, or using any system or device for the purpose of circumventing any emission control device on a vehicle or vehicle engine. State law also prohibits any person from removing or disconnecting any part of the emission control system of a motor vehicle, except to install replacement parts which are equally effective in reducing emissions. Violators are subject to penalties under the Texas Clean Air Act of up to \$1,000 per violation.

This notice shall be no smaller than eight inches by 10 inches (20.32 centimeters by 25.4 centimeters) and shall be clearly visible to all customers.

§114.3 Inspection Requirements.

[(a)] All motor vehicles must comply with air pollution emission control related requirements included in the annual vehi-

cle safety inspection requirements administered by the Texas Department of Public Safety.

[(b) At the time of resale of a 1984 or newer model year motor vehicle to a resident of Harris County, the seller of the vehicle must, prior to transfer of ownership, provide to the purchaser of such vehicle, certification that the vehicle complies with the air pollution emission control related requirements applicable to Harris County administered by the Texas Department of Public Safety under the provisions of the Uniform Act Regulating Traffic on Highways, Article XV, Texas Civil Statutes, Article 670ld.]

§114.5 Exclusions and Exceptions.

(a) This chapter does not apply to motor vehicles or motor vehicle engines which are registered as farm vehicles with the Motor Vehicle Division of the Texas Department of Highways and Public Transportation and are intended solely or primarily for use on a farm or ranch; or are intended solely or primarily for legally sanctioned motor competitions, or [;] for research and development uses, [;] or for instruction in a bona-fide vocational training program where the use of a system or device would be detrimental to the purpose for which the vehicle or engine is intended to be used.

(b) Vehicles belonging to members of the U.S. Department of Defense (DOD) participating in the DOD Privately Owned Vehicle Import Program or other federal government employees being transferred overseas are exempt from the provisions of §114.1 of this title (relating to Maintenance and Operation of Air Pollution Control Systems or Devices Used to Control Emissions from Motor Vehicles) if the following conditions are met.

(1) Only the catalytic converter, oxygen sensor, and/or the fuel filler inlet restrictor [inlet] are removed from the vehicle.

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

(c) (No change.)

(d) Any person owning or operating a motor vehicle or motor vehicle engine may apply to the executive director for a waiver from the provisions of §114.1(a)-(b) of this title (relating to Maintenance and Operation of Air Pollution Control Systems or Devices Used to Control Emissions from Motor Vehicles). Such a waiver may be granted if the following conditions are met.

(1) A single vehicle and vehicle engine shall be specified in the application and must be identified by the unique vehicle identification number assigned to that vehicle by the manufacturer and by the unique engine serial number.

(2) The air pollution control systems or devices on the vehicle or vehicle engine which would be covered by the waiver shall be specified in the application.

(3) A demonstration shall be made in the application that the use of the specified pollution control systems or devices on the identified vehicle would result in a clear danger to persons or property or would be detrimental to the purpose for which the vehicle or engine is intended to be used.

(4) The applicant shall agree and ensure that a copy of the waiver shall be kept with the vehicle at all times and shall be available for inspection by representatives of the Texas Air Control Board, the Texas Department of Public Safety, or any other law enforcement agency upon request. The approved waiver shall also be presented to the certified vehicle inspector before each annual vehicle safety inspection of the vehicle as administered by the Texas Department of Public Safety.

(5) The applicant shall agree and ensure that the waiver shall be void and all pollution control systems and devices replaced on the vehicle and/or engine covered by the waiver when the vehicle changes ownership or is no longer used for the purpose identified in the waiver application. The executive director shall be informed in writing prior to the change of ownership of usage.

(e) A motor vehicle is exempt from §114.3 of this title (relating to Inspection Requirements) if the vehicle is registered with the Motor Vehicle Division of the Texas Department of Highways and Public Transportation as a farm vehicle or has been granted a waiver from the executive director in accordance with subsection (d) of this section.

(f) A vehicle service or repair facility is exempt from the provisions of §114.1(b) of this title (relating to Maintenance and Operation of Air Pollution Control Systems or Devices Used to Control Emissions from Motor Vehicles) if the following conditions are met.

(1) Removal or alteration of any pollution control system or device shall be performed only on those vehicles which are exempted by the provisions of subsection (a) or subsection (b) of this section, or have received a waiver from the executive director in accordance with subsection (d) of this section.

(2) The vehicle service or repair facility shall keep a copy of the vehicle registration document or approved waiver required for each vehicle affected by this subsection on file for three years and shall make such documentation available to representatives of the Texas Air Control Board or any local air pollution control agency upon request.

(g) Municipalities selling abandoned vehicles are exempt from the provisions of §114.1(c) of this title (relating to Maintenance and Operation of Air Pollution Control Systems or Devices Used to Control Emissions from Motor Vehicles) if the following conditions are met.

(1) The inspection certificate must be removed from the vehicle and destroyed before the vehicle may be offered for sale or displayed for public examination.

(2) All potential buyers of the vehicle must be informed of all deficiencies in the vehicle pollution control systems on the vehicle and all liabilities to the buyer under §114.1 of this title (relating to Maintenance and Operation of Air Pollution Control Systems or Devices Used to Control Emissions from Motor Vehicles), and §114.3 of this title (relating to Inspection Requirements) of operating the vehicle prior to the adequate restoration of all pollution control systems or devices on the vehicle in compliance with federal motor vehicle rules.

(h) The owner of a motor vehicle which has been totally disabled by accident, age, or malfunction and which will no longer be operated, is exempt from the provisions of §114.1(c) of this title (relating to Maintenance and Operation of Air Pollution Control Systems or Devices Used to Control Emissions from Motor Vehicles) if the inspection certificate is removed and destroyed before the vehicle is offered for sale or displayed for public examination.

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

Issued in Austin, Texas, on
February 20, 1985

TRD-851595 Bill Stewart, P.E.
Executive Director
Texas Air Control
Board

Proposed date of adoption:
July 31, 1985

For further information, please call
(512) 451-5711, ext 354

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Chapter 115. Volatile Organic Compounds Facilities for Loading and Unloading of Volatile Organic Compounds in Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

★ 31 TAC §115.111, §115.113

The Texas Air Control Board (TACB) proposes amendments to §115.111 and §115.113, concerning facilities for loading and unloading of volatile organic compounds in Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties. In §115.111, concerning throughput and control requirements, the

proposed amendments add new subparagraph (E) to §115.111(2) which limits gasoline terminals in Dallas, El Paso, and Tarrant Counties having 100,000 gallons or more throughput per day to an emission limitation of 0.33 pounds of volatile organic compounds per 1,000 gallons of gasoline transferred. The proposed amendments also add new subparagraph (F) to §115.111(2) to ensure that after December 31, 1982, but before December 31, 1987, gasoline terminals affected by new paragraph (2)(E) remain in compliance with paragraph (2)(A). In §115.113, concerning compliance schedule and counties, the proposed amendments add a final compliance date of December 31, 1987, and a final control plan submittal date of December 31, 1985, for new control requirements of §115.111(2)(E) and §115.111(2)(F) that apply to affected gasoline terminals in Dallas, El Paso, and Tarrant Counties.

These proposed amendments are part of a series of proposed revisions to Chapter 115 to provide in Dallas, El Paso, and Tarrant Counties the additional volatile organic compound (VOC) emission reductions needed to satisfy the U.S. Environmental Protection Agency (EPA) requirements for post-1982 state implementation plan (SIP) revisions.

Eennie L. Engelke, management and staff services director, has determined that for the first five-year period the rules as proposed 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.

Steve Spaw, P.E., Central Regulatory Operations Program director, 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 is improved air quality as a result of a reduction of 390 tons per year of VOC emissions in Dallas, El Paso, and Tarrant Counties after December 31, 1987. In addition, these and other VOC emission reductions proposed elsewhere are necessary to satisfy EPA requirements for post-1982 SIPs and to avoid possible growth sanctions in Dallas, El Paso, and Tarrant Counties.

In 1985 and 1986 there will be no economic cost to individuals who are required to comply with the proposed rules; however, the cost will be \$254,000 in 1987, \$258,000 in 1988, and \$263,000 in 1989 for all facilities affected, adjusting for 5.4% annual inflation.

Public hearings on the proposed amendments will be held at 2:30 and 6:30 p.m. on March 27, 1985, in the city council chambers, second floor, 2 Civic Center Plaza, El Paso; at 2:30 and 6:30 p.m. on

March 27, 1985, in Room N-401, Convention Center, 560 South Griffin Street, Dallas; and at 2:30 and 6:30 p.m. on March 28, 1985, city council chambers, 1000 Throckmorton Street, Fort Worth.

Copies of the proposed amendments are available at the central office the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723, and at all TACB regional offices. Oral and written public comment on the proposed amendments is invited at the hearings. The TACB prefers receiving five copies of testimony prior to or at the hearing. Written testimony received by 4 p.m. on April 12, 1985, at the TACB central office will be included in the hearing record and should be mailed to the Regulation Development Division, Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

These amendments are proposed under Texas Civil Statutes, Article 4477-5, §3.09(a), which provide the TACB with

the authority to make rules and regulations consistent with the general intent and purposes of the Texas Clean Air Act and to amend any rule or regulation the TACB makes.

§115.111. Throughput and Control Requirements. No person shall permit the loading or unloading to or from any facility having 20,000 gallons (75,708 liters) or more throughput per day (averaged over any consecutive 30-day period) of volatile organic compounds with a true vapor pressure equal to or greater than 1.5 psia (10.3 kPa) under actual storage conditions, unless the following emission control requirements are met by the dates specified in §115.113 of this title (relating to Compliance Schedule and Counties

(1) (No change.)

(2) Gasoline terminal size and additional emission control requirements are as follows.

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

(E) Volatile organic compound vapors from gasoline terminals located in Dallas, El Paso, and Tarrant Counties and having 100,000 gallons (378,541 liters) or more throughput per day (averaged over any consecutive 30-day period) shall be reduced to a level not to exceed 0.33 pounds of volatile organic compounds from the vapor recovery system vent per 1,000 gallons (40 mg/liter) of gasoline transferred.

(F) After December 31, 1982, but before December 31, 1987, gasoline terminals located in Dallas, El Paso, and Tarrant Counties and affected by paragraph (2)(E) of this section shall remain in compliance with paragraph (2)(E) of this section.

(3) (5) (No change.)

§115.113. Compliance Schedule and Counties. All affected persons in the counties and for the facilities specified in the following shall be in compliance with the rule paragraphs specified as soon as practicable but no later than the date shown.

Rule Paragraphs	Affected Facility	Counties Where Rule Is Applicable	Final Compliance Date	Final Control Plan Submittal Date
Paragraphs (1) and (3) of §115.111 of this title (relating to Throughput and Control Requirements).	Volatile Organic Compound Loading Facilities	Brazoria, Dallas, El Paso, Galveston, Harris, Jefferson, Nueces, Orange, and Victoria.	12/31/73	Previously Submitted
		Tarrant	2/29/80	Previously Submitted
Paragraphs (2)(A), (2)(C), and (3) of §115.111 of this title (relating to Throughput and Control Requirements).	Gasoline Terminals	Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria.	12/31/82	12/31/79

Rule Paragraphs	Affected Facility	Counties Where Rule Is Applicable	Final Compliance Date	Final Control Plan Submittal Date
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Paragraph (4) of §115.111 of this title (relating to Throughput and Control Requirements).	Gasoline Terminals	Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria.	12/31/82	7/1/81
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Paragraph (5) of §115.111 of this title (relating to Throughput and Control Requirements).	Gasoline Terminals	Harris	12/31/82	7/1/81
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Paragraphs (2)(B) and (2)(D) of §115.111 of this title (relating to Throughput and Control Requirements).	Gasoline Terminals 500,000 gal (1,892,706 L) Throughput per day	Harris	12/31/86	12/31/83
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<u>PARAGRAPHS (2)(E) AND (2)(F) OF §115.111 OF THIS TITLE (RELATING TO THROUGHPUT AND CONTROL REQUIREMENTS).</u>	<u>GASOLINE TERMINALS 100,000 GAL (378,541 L) THROUGHPUT PER DAY</u>	<u>DALLAS, EL PASO, AND TARRANT.</u>	<u>12/31/87</u>	<u>12/31/85</u>
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This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

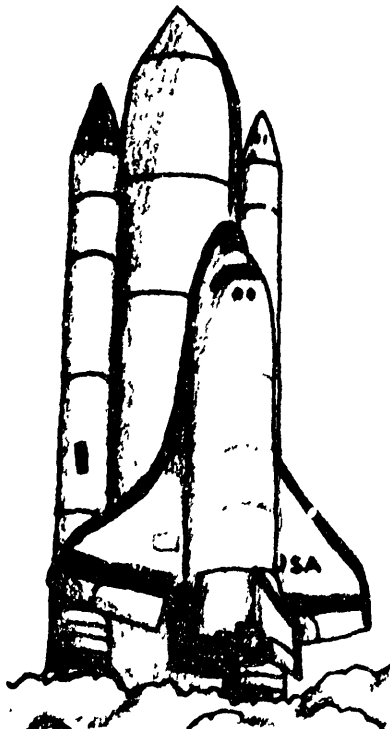
Issued in Austin, Texas, on
February 20, 1986.

TRD-851596 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Earliest possible date of adoption:
July 31, 1986

For further information, please call
(512) 461-5711, ext 354.

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Filling of Gasoline Storage Vessels (Stage I) for Motor Vehicle Fuel Dispensing Facilities in Brazoria, Dallas, El Paso, Harris, and Tarrant Counties

★ 31 TAC §§115.131-115.135

The Texas Air Control Board (TACB) proposes amendments to §§115.131-115.135, concerning the filling of gasoline storage vessels (Stage I) for motor vehicle fuel dispensing facilities in Brazoria, Dallas, Galveston, Harris, and Tarrant Counties.

The amendments add El Paso County to the requirements of the undesignated head. In addition, the amendments incorporate revisions to §115.131, concerning control requirements; and §115.132, concerning approved vapor balance sys-

tem, consistent with the amendment proposed elsewhere to the undesignated head concerning control of volatile organic compound (VOC) leaks from gasoline tank trucks in Harris County for Dallas, El Paso, and Tarrant Counties. In §115.135, concerning compliance schedule and counties, the proposed amendments add a final compliance date of December 31, 1987, for new control requirements of §§115.131-115.134 that apply to affected motor vehicle dispensing facilities in Dallas, El Paso, and Tarrant Counties.

The proposed amendments are part of a series of proposed revisions to Chapter 115 to provide in Dallas, El Paso, and Tarrant Counties the additional VOC emission reductions needed to satisfy the U.S. Environmental Protection Agency (EPA) requirements for post-1982 state implementation plan (SIP) revisions.

Bennie L. Engelke, management and staff services 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.

Steven Spaw, P.E., Central Regulatory Operations Program director, 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 improved air quality as a result of a reduction of 889 tons per year of VOC emissions in Dallas, El Paso, and Tarrant Counties after December 31, 1987. In addition, these and other VOC emission reductions proposed elsewhere are necessary to satisfy EPA requirements for post-1982 SIPs and to avoid possible growth sanctions in Dallas, El Paso, and Tarrant Counties. The anticipated economic cost to individuals who are required to comply with the rules as proposed is \$0 each year in 1985 and 1986, \$424,000 in 1987, \$432,000 in 1988, and \$439,000 in 1989 for all facilities affected, adjusting for 5.4% annual inflation.

Public hearings on this proposal are scheduled at 2:30 and 6:30 p.m. on March 27, 1985, in the city council chambers, second floor, 2 Civic Center Plaza, El Paso; at 2:30 and 6:30 p.m. on March 27, 1985, Room N-401, Convention Center, 650 South Griffin Street, Dallas; and at 2:30 and 6:30 p.m. on March 28, 1985, in the city council chambers, 1000 Throckmorton Street, Fort Worth.

Copies of the proposed rule changes are available at the central office of the Texas Air Control Board, 6330 U.S. Highway 290 East, Austin, Texas 78723, and at

all TACB regional offices. Public comment, both oral and written, on the proposed changes is invited at the hearings. The TACB would appreciate receiving five copies of testimony prior to or at the hearing. Written testimony received by 4 p.m. on April 12, 1985, at the TACB central office will be included in the hearing record. Written comments should be sent to the Regulation Development Division, Texas Air Control Board, 6330 U.S. Highway 290 East, Austin, Texas 78723

The amendments are proposed under Texas Civil Statutes, Article 4477-5, §3.09(a), which provide the Texas Air Control Board with the authority to make rules and regulations consistent with the general intent and purposes of the Texas Clean Air Act and to amend any rule or regulation the Texas Air Control Board makes.

§115.131. Control Requirements. No person shall transfer, or allow the transfer of, gasoline from any delivery vessel into a stationary storage container with a nominal capacity greater than 1,000 gallons (3,785 liters) which is located at a motor vehicle fuel dispensing facility unless the following conditions are met:

(1)-(2) (No change)

(3) in Dallas, El Paso, Harris, and Tarrant Counties [County], the gasoline tank truck tank has been inspected for leaks within one year, as evidenced by a prominently displayed certification affixed near the DOT certification plate.

§115.132. Approved Vapor Balance System. When a vapor balance system is used to comply with the provisions of §115.131 of this title (relating to Control Requirements), the balance system will be assumed to meet the specified emission limitations if the following conditions are met:

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

(6) in Dallas, El Paso, Harris, and Tarrant Counties [County], gauge pressure in the tank truck tank does not exceed 18 inches of water (4.5 kPa) or vacuum exceed six inches of water (1.5 kPa);

(7) in Dallas, El Paso, Harris, and Tarrant Counties [County], readings are less than 100% of the lower explosive limit (LEL, measured as propane) at one inch (2.5 centimeters) from potential leak sources when measured with a combustible gas detector.

§115.135. Compliance Schedule and Counties. All affected persons in the counties shown in the following table will be in compliance with the provisions of §115.131 of this title (relating to Control Requirements) and §115.132 of this title (relating to Approved Vapor Balance System) as soon as practicable but no later than the dates shown:

<u>Rule Paragraphs</u>	<u>Counties Where Applicable</u>	<u>Final Compliance Date</u>
All except §115.131(3), §115.132(4), §115.132(6), and §115.132(7)	Brazoria Galveston, Harris	Aug. 31, 1978
	Dallas, Tarrant	Feb. 29, 1980
§115.132(4)	Brazoria Dallas, Galveston Harris, Tarrant	Dec. 31, 1981
§115.131(3), §115.132(6), and §115.132(7)	Harris	Dec. 31, 1982
	<u>DALLAS, TARRANT</u>	<u>DEC. 31, 1987</u>
<u>ALL</u>	<u>EL PASO</u>	<u>DEC. 31, 1987</u>

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
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TRD-851597 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Proposed date of adoption:
July 31, 1985

For further information, please call
(512) 451-5711, ext 354.

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Vent Gas Control in Brazoria,
Dallas, El Paso, Galveston,
Harris, Jefferson, Nueces,
Orange, Tarrant, and Victoria
Counties

★31 TAC §§115.162-115.164

The Texas Air Control Board proposes amendments to §§115.162-115.164, concerning vent gas control in Brazoria, Dallas, El Paso, Galveston, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties.

In §115.162, concerning general vent gas streams, the proposed amendments change the reference to §115.163, concerning general vent gas streams in Harris County, to include the addition of Dallas County and Tarrant County. In §115.163, concerning general vent gas streams in Harris County, the proposed amendments add the more stringent vent gas control requirements currently ap-

plicable in Harris County to Dallas and Tarrant Counties.

The exemption for vent gas streams having a combined weight of volatile organic compounds (VOC) greater than 100 pounds in any consecutive 24-hour period, but less than 250 pounds per hour averaged over any consecutive 24-hour period, and having a true vapor pressure of VOC of less than 0.44 pounds per square inch absolute (psia) would be retained for facilities in Harris County. An additional more restrictive exemption for vent gas streams having a combined weight of VOC greater than 100 pounds in any consecutive 24-hour period, but less than 250 pounds per hour averaged over any consecutive 24-hour period, and having a true vapor pressure of less than 0.009 psia is proposed for facilities in Dallas and Tarrant Counties. In §115.164, concerning compliance schedule and counties, proposed amendments add a final compliance date of December 31, 1987, and a final control plan submittal date of June 30, 1986, for the new control requirements of §115.163 that apply to affected facilities in Dallas and Tarrant Counties.

These proposed amendments are part of a series of proposed revisions to Chapter 115 to provide in Dallas, El Paso, and Tarrant Counties the additional VOC emission reductions needed to satisfy the U.S. Environmental Protection Agency (EPA) requirements for post-1982 state implementation plan (SIP) revisions.

Bennie L. Engelke, management and staff services director, has determined that for

the first five-year period the rules are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rules.

Steve Spaw, Central Regulatory Operations Program director, 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 is improved air quality as a result of a reduction of 2,989 tons per year of VOC emissions in Dallas and Tarrant Counties after December 31, 1987. In addition, these and other VOC emission reductions proposed elsewhere are necessary to satisfy EPA requirements for post-1982 SIPs and to avoid possible growth sanctions in Dallas and Tarrant Counties.

The anticipated economic cost to individuals who are required to comply with the rules as proposed is \$0 in 1985 and 1986, \$2.134 million in 1987, \$2.215 million in 1988, and \$2.298 million in 1989 for all facilities affected, adjusting for 5.4% annual inflation.

Public hearings on this proposal are scheduled at 2:30 and 6:30 p.m. on March 27, 1985, in the city council chambers, second floor, 2 Civic Center Plaza, El Paso; at 2:30 and 6:30 p.m. on March 27, 1985, Room N-401, Convention Center, 650 South Griffin Street, Dallas; and 2:30 and 6:30 p.m. on March 27, 1985, in the city council chambers, 1000 Throckmorton Street, Fort Worth.

Copies of the proposed rules changes are available at the central office of the Texas

Air Control Board, 6330 Highway 290 East, Austin, Texas 78723, and at all TACB regional offices. Public comment, both oral and written, on the proposed changes is invited at the hearings. Written testimony received by 4 p.m. on April 12, 1985, at the TACB central office will be included in the hearing record. Written comments should be sent to the Regulation Development Division, Texas Air Control Board, 6330 Highway 290, Austin, Texas 78723.

This amendment is proposed under Texas Civil Statutes, Article 4477-5, §3.09(a), which provide the TACB with the authority to make rules and regulations consistent with the general intent and purposes of the Texas Clean Air Act, and to amend any rule or regulation the TACB makes.

§115.162. General Vent Gas Streams. Except for process vent gas streams affected by the provisions of §115.161 of this title (relating to Ethylene from Low Density Polyethylene Production) and §115.163 of this title (relating to General Vent Gas Streams in Dallas, Harris, and Tarrant Counties [County]), no person may allow a vent gas stream to be emitted from any process vent containing one or more of the specific volatile organic compounds listed in paragraph (1) of this section or more compounds which are members of one or more of the classes of volatile organic compounds listed in paragraph (2) of this section unless the vent gas stream is burned properly at a temperature equal to or greater than 1,300°F (704°C) in a smokeless flare or a direct flame incinerator before it is allowed to enter the atmosphere; alternate means of control may be approved by the executive director in accordance with §115.401 of this title (relating to Procedure).

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

§115.163. General Vent Gas Streams in Dallas, Harris, and Tarrant Counties [County].

(a) Except for process vent gas streams affected by the provisions of §115.161 of this title (relating to Ethylene from Low Density Polyethylene Production), no person may allow a vent gas stream to be emitted from any process vent located in Dallas, Harris, and Tarrant Counties [County] containing volatile organic compounds unless the vent gas stream is burned properly at a temperature equal to or greater than 1,300°F (704°C) in a smokeless flare or a direct flame incinerator before it is allowed to enter the atmosphere; alternate means of control may be approved by the executive director in accordance with §115.401 of this title (relating to Procedure).

(b) The following vent gas streams are exempt from the requirements of this section:

(1) (No change.)

(2) In Harris County, a vent gas stream having a combined weight of volatile organic compounds greater than 100 pounds (45.4 kg) in any consecutive 24-hour period, but less than 250 pounds (113.4 kg) per hour averaged over any consecutive 24-hour period and having a true vapor pressure of volatile organic compounds less than 0.44 psia (3.0 kPa);

(3) In Dallas and Tarrant Counties, a vent gas stream having a combined weight of volatile organic compounds greater than 100 pounds (45.4kg) in any consecutive 24-hour period but less than 250 pounds (113.4kg) per hour averaged over a 24-hour period and having a true vapor pressure of volatile organic compounds less than 0.009 psia (0.06 kPa).

§115.164. Compliance Schedule and Counties.

(a) (No change.)

(b) The provisions of §115.163 of this title (relating to General Vent Gas Streams in Dallas, Harris, and Tarrant Counties [County]) shall apply in Dallas, Harris, and Tarrant Counties [County].

(1)-(2) (No change)

(3) All persons in Dallas and Tarrant Counties affected by the provisions of §115.163 of this title (relating to General Vent Gas Streams in Dallas, Harris, and Tarrant Counties) shall submit a final control plan to the Texas Air Control Board no later than June 30, 1985, and shall be in compliance with this section as soon as practicable, but no later than December 31, 1987.

(4) All persons in Dallas and Tarrant Counties affected by the provisions of §115.163 of this title (relating to General Vent Gas Streams in Dallas, Harris, and Tarrant Counties) shall remain in compliance with the provisions of §115.162 of this title (relating to General Vent Gas Streams) until compliance is achieved with the provisions of §115.163.

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
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TRD-851598 Bill Stewart, P.E.
Executive Director
Texas Air Control
Board

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For further information, please call
(512) 476-5711, ext. 364.

Specified Solvent-Using Processes in Bexar, Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

★ 31 TAC §§115.171, 115.175, 115.176

The Texas Air Control Board (TACB) proposes amendments to §§115.171, 115.175, and 115.176, concerning specified solvent-using processes in Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties.

In §115.171, concerning cutback asphalt, the proposed amendments restructure the section and add subsection (b), which would limit the use of cutback asphalt in Dallas, El Paso, and Tarrant Counties to no more than 7.0% of total annual volume, averaged over a two-year period. The proposed amendment to §115.175, concerning exemptions, adds subsection (f) to reduce the exemption for volatile organic compound (VOC) emissions from degreasing operations in Dallas, El Paso, and Tarrant Counties from 550 pounds to three pounds in any consecutive 24-hour period after December 31, 1987. The proposed amendments to §115.176, concerning counties and compliance schedule, add a final compliance date of December 31, 1987, and a final control plan submittal date of December 31, 1985, for new control requirements of §115.171(b) that apply to cutback asphalt operations and §115.175(f) that apply to degreasing operations in Dallas, El Paso, and Tarrant Counties

The amendments are part of a series of proposed revisions to Chapter 115 to provide in Dallas, El Paso, and Tarrant Counties the additional VOC emission reductions needed to satisfy the U.S. Environmental Protection Agency (EPA) requirements for post-1982 state implementation plan (SIP) revisions.

Bennie L. Engelke, management and staff services 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.

Steve Spaw, P.E., Central Regulatory Operations Program director, 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 improved air quality as a result of a reduction of 2,908 tons per year of VOC emissions in Dallas, El Paso, and Tarrant Counties after December 31, 1987. In addition, these and other VOC emission reductions proposed elsewhere

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are necessary to satisfy EPA requirements for post-1982 SIPs and to avoid possible growth sanctions in Dallas, El Paso, and Tarrant Counties. The anticipated economic costs to individuals who are required to comply with the rules as proposed is \$0 each year in 1985 and 1986, \$977,000 in 1987, \$965,000 in 1988, and \$948,000 in 1989 for all facilities affected, adjusting for 5.4% annual inflation.

Public hearings on the proposal are scheduled for 2:30 and 6:30 p.m. on March 27, 1985, in the city council chambers, second floor, 2 Civic Center Plaza, El Paso; 2:30 and 6:30 p.m. on March 27, 1985, in Room N401, Convention Center, 650 South Griffin Street, Dallas; and 2:30 and 6:30 p.m. on March 28, 1985, in the city council chambers, 1000 Throckmorton Street, Fort Worth.

Copies of the proposed amendments are available at the central office of the TACB, 6330 U.S. Highway 290 East, Austin, Texas 78723, and at all TACB regional offices. Public comment, both oral and written, on the proposed change is invited at the hearings. The TACB would appreciate receiving five copies of testimony prior to or at the hearing. Written testimony received by 4 p.m. on April 12, 1985, at the TACB central office will be included in the hearing record. Written comments should be sent to the Regulation Development Division, Texas Air Control Board, 6330 U.S. Highway 290 East, Austin, Texas 78723.

The amendments are proposed under Texas Civil Statutes, Article 4477-5, §3.09(a), which provide the TACB with the authority to make rules and regulations consistent with the general intent and purposes of the Texas Clean Air Act and to amend any rule or regulation the TACB makes.

§115.171. *Cutback Asphalt.*

(a) The use of cutback asphalt containing volatile organic compound solvents for the paving of roadways, driveways, or parking lots is restricted to no more than 8.0% of the total annual volume averaged over a two-year period of asphalt used or specified for use by any state, municipal, or county agency who uses or specifies the type of asphalt application.

(b) The use of cutback asphalt containing volatile organic compound solvents for the paving of roadways, driveways, or parking lots in Dallas, El Paso, and Tarrant Counties after December 31, 1987, is further restricted to no more than 7.0% of the total annual volume averaged over a two-year period of asphalt used or specified for use by any state, municipal, or county agency who uses or specifies the type of asphalt application.

§115.175. *Exemptions.*

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

(f) After December 31, 1987, only those degreasing operations located on any property in Dallas, El Paso, and Tarrant Counties which, when combined, would emit, when uncontrolled, a combined weight of volatile organic compounds less than three pounds (1.4 kg) in any consecutive 24-hour period shall be exempt from the provisions of §115.172 of this title (relating to Cold Solvent Cleaning), §115.173 of this title (relating to Open-Top Vapor Degreasing), and §115.174 of this title (relating to Conveyorized Degreasing).

§115.176. *Counties and Compliance Schedule.*

(a) The provisions of §115.171 of this title (relating to Cutback Asphalt) shall apply only within Brazoria, Dallas, El Paso, Jefferson, Galveston, Harris, Nueces, Orange, and Tarrant Counties. All [affected] persons affected by §115.171(a) shall submit a final control plan to the Texas Air Control Board no later than December 31, 1980, and shall be in compliance with the rule as soon as practicable but no later than December 31, 1982. All persons affected by §115.171(b) shall also submit a supplemental final control plan to the Texas Air Control Board no later than December 31, 1985, and shall be in compliance with the rule as soon as practicable but no later than December 31, 1987.

(b) (No change.)

(c) The provisions of §115.175(f) of this title (relating to Exemptions) shall supercede and delete the provisions of §115.175(a) in Dallas, El Paso, and Tarrant Counties after December 31, 1987. All persons in Dallas, El Paso, and Tarrant Counties affected by §115.175(f) shall submit a final control plan for compliance by December 31, 1985, and shall be in compliance as soon as practicable but no later than December 31, 1987.

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

Issued in Austin, Texas, on
February 20, 1985

TRD-851599

Bill Stewart, P.E.
Executive Director
Texas Air Control
Board

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July 31, 1985

For further information, please call
(512) 476-5711, ext. 354.

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Surface Coating Processes in Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

★31 TAC §§115.191, 115.193, 115.194

The Texas Air Control Board (TACB) proposes amendments to §§115.191, 115.193, and 115.194, concerning surface coating processes in Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties.

One of the amendments proposed to §115.191, concerning emission limitations, adds subparagraph (C) to paragraph (8) to limit volatile organic compound (VOC) emissions from automobile and light-duty truck refinishing in Dallas, El Paso, and Tarrant Counties to 3.0 pounds per gallon of coating (minus water) applied. The other proposed revision to this section adds clause (v) to §115.191(9)(A) which limits the VOC content of coatings applied as a prime coat to the exterior of aircraft to 3.5 pounds per gallon (minus water) in Dallas and Tarrant Counties.

Consistent with the two proposed revisions to §115.191, concerning emission limitations, one of the proposed amendments to §115.193, concerning exemptions, revises the list of exemptions under subsection (c) for coating the exterior of aircraft and automobile refinishing. A third exemption for customized top coating of automobiles and trucks also is clarified to indicate that the word "customized" means the addition of decorative detail on top of the top coat. A second amendment to §115.193 adds new subsection (e) to reduce the exemption limit for surface coating operations located in Dallas and Tarrant Counties from 550 pounds to 100 pounds in any consecutive 24-hour period.

The proposed amendment to §115.194, concerning compliance schedule and counties, adds subsection (e) to require compliance with §115.191(8)(C) and (9)(A)(v), concerning emission limitations, no later than December 31, 1987, and to submit a control plan by December 31, 1985.

These proposed amendments are part of a series of proposed revisions to Chapter 115 to provide in Dallas, El Paso, and Tarrant Counties the additional VOC emission reductions needed to satisfy the U.S. Environmental Protection Agency (EPA) requirements for post-1982 state implementation plan (SIP) revisions.

Bennie L. Engelke, management and staff services director, has determined that for the first five-year period the proposed

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 as proposed.

Steve Spaw, P.E., Central Regulatory Operations Program director, has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed is improved air quality as a result of a reduction of 3,150 tons per year of VOC emissions in Dallas, El Paso, and Tarrant Counties after December 31, 1987. In addition, these and other VOC emission reductions proposed elsewhere are necessary to satisfy EPA requirements for post-1982 SIP's and to avoid possible growth sanctions in Dallas, El Paso, and Tarrant Counties.

The anticipated economic cost to individuals who are required to comply with the rules as proposed is \$0 each year in 1985 and 1986, \$1.861 million in 1987, \$1.89 million in 1988, and \$1.918 million in 1989 for all facilities affected, adjusting for 5.4% annual inflation.

Public hearings on this proposal are scheduled for 2:30 and 6:30 p.m. on March 27, 1985, in the city council chambers, second floor, 2 Civic Center Plaza, El Paso; 2:30 and 6:30 p.m. on March 17, 1985, in Room N-401, Convention Center, 650 South Griffin Street, Dallas; and 2:30 and 6:30 p.m. on March 28, 1985, in the city council chambers, 1000 Throckmorton Street, Fort Worth.

Copies of the proposed amendments are available at the central office of the Texas Air Control Board, 6330 290 East, Austin, Texas 78723, and at all TACB regional offices. Public comment, both oral and written, on the proposed amendments is invited at the hearing. Written comments should be sent to the Regulation Development Division, Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

The amendments are proposed under Texas Civil Statutes, Article 4477-5, §3.09(a), which provide the TACB with the authority to make rules and regulations consistent with the general intent and purposes of the Texas Clean Air Act and to amend any rule or regulation the TACB makes.

§115.191. Emission Limitations. No person may cause, suffer, allow, or permit volatile organic compound emissions from the surface coating processes (defined in §101.1 of this title (relating to Definitions)) affected by paragraphs (1)-(10) of this section to exceed the specified emission limits, which are based on a daily weighted average, except for those in paragraph (8) of this

section, as detailed, and for those in paragraph (10) of this section which are based on paneling surface area.

(1)-(7) (No change.)

(8) Automobile and light-duty truck coating.

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

(C) Volatile organic compound emissions from automobile refinishing in Dallas, El Paso, and Tarrant Counties shall not exceed 3.0 pounds per gallon of coating (minus water) applied (0.36 kg/liter) as determined by the weighted average of all coatings and solvents purchased for use in the process during any calendar month.

(9) Miscellaneous metal parts and products coating

(A) Volatile organic compound emissions from the coating (prime and top-coat, or single coat) of miscellaneous metal parts and products shall not exceed the following limits for each surface coating type:

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

(iii) 3.5 pounds per gallon (0.42 kg/liter) of coating (minus water) applied as an extreme performance coating; [and]

(iv) 3.0 pounds per gallon (0.36 kg/liter) of coating (minus water) applied for all other coating applications that pertain to miscellaneous metal parts and products; and

(v) 3.5 pounds per gallon (0.42 kg/liter) of coating (minus water) applied as a prime coat for the exterior of aircraft in Dallas and Tarrant Counties.

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

(10) (No change.)

§115.193. Exemptions.

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

(c) The following coating operations are exempt from the application of §115.191(9) of this title (relating to Emission Limitations):

(1) exterior of aircraft [airplanes] except as required by §115.191(9)(A)(v); of this title (relating to Emission Limitations);

(2) automobile refinishing except as required by §115.191(8)(C) of this title (relating to Emission Limitations);

(3) customized (decorative) top coating of automobiles and trucks, if production is less than 35 vehicles per day;

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

(d) (No change.)

(e) After December 31, 1987, only those surface coating operations located at any facility in Dallas, El Paso, and Tarrant Counties, except automobile refinishing facilities controlled by §115.191(8)(C) of this title (relating to Emission Limitations) and aircraft exterior prime coating controlled by §115.191(9)(A)(v), which when uncontrolled will emit a combined weight of volatile organic compounds less than 100 pounds (45.4 kg) in any consecutive 24-hour period shall be exempt from the provisions of §115.191.

§115.194. Compliance Schedule and Counties.

(a) All affected persons within Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties shall be in compliance with §§115.191-115.194 of this title (relating to Surface Coating Processes in Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties), except for §115.191(7)(B), [and] (8)(B), (8)(C), and (9)(A)(v) of this title (relating to Emission Limitations), as soon as practicable but no later than December 31, 1982, and shall submit to the Texas Air Control Board a final control plan for compliance no later than December 31, 1979.

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

(e) All affected persons in Dallas, El Paso, and Tarrant Counties shall be in compliance with §115.191(8)(C) of this title (relating to Emission Limitations), and all affected persons in Dallas and Tarrant Counties shall be in compliance with §115.191(9)(A)(v) as soon as practicable but no later than December 31, 1987, and shall submit to the Texas Air Control Board a final control plan for compliance no later than December 31, 1985.

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

Issued in Austin, Texas, on
February 20, 1985.

TRD-851600 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Proposed date of adoption:

July 31, 1985

For further information, please call
(512) 451-5711, ext. 354.

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Perchloroethylene Dry Cleaning Systems in Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

★ 31 TAC §115.223

The Texas Air Control Board (TACB) proposes amendments to §115.223, concerning perchloroethylene dry cleaning systems in Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties.

The proposed amendments restructure the section and add subsection (b) which eliminates the current exemption as specified in §115.222(c), concerning exemptions, for any perchloroethylene dry

cleaning facility located in Dallas, El Paso, and Tarrant Counties. The proposed subsection requires affected persons to submit a control plan for compliance with §115.221, concerning control requirements, by December 31, 1985, and to be in compliance with the section no later than December 31, 1987.

These amendments are part of a series of proposed revisions to Chapter 115 to provide in Dallas, El Paso, and Tarrant Counties the additional volatile organic compound (VOC) emission reductions needed to satisfy the U.S. Environmental Protection Agency (EPA) requirements for post-1982 state implementation plan (SIP) revisions.

Bennie L. Engelke, management and staff services 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.

Steve Spaw, P.E., Central Regulatory Operations Program director, 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 is improved air quality as a result of a reduction of 1,185 tons per year of VOC emissions in Dallas, El Paso, and Tarrant Counties after December 31, 1987. In addition, these and other VOC emission reductions proposed elsewhere are necessary to satisfy EPA requirements for post-1982 SIPs and to avoid possible growth sanctions in Dallas, El Paso, and Tarrant Counties.

The anticipated economic cost to individuals who are required to comply with the rules as proposed is \$0 in 1985 and 1986, \$574,000 in 1987, \$563,000 in 1988, and \$552,000 in 1989 for all facilities affected, adjusting for 5.4% annual inflation.

Public hearings on this proposal are scheduled at 2:30 and 6:30 p.m. on March 27, 1985, in the city council chambers, second floor, 2 Civic Center Plaza, El Paso; at 2:30 and 6:30 p.m. on March 27, 1985, in Room N-401, Convention Center, Room N401, 650 South Griffin Street, Dallas; and at 2:30 and 6:30 p.m. on March 28, 1985, in the city council chambers, 1000 Throckmorton Street, Fort Worth.

Copies of the proposed amendments are available at the central office of the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723, and at all TACB regional offices. Public comment, both oral and written, on the proposed changes is invited at the hearings. The TACB would appreciate receiving five

copies of testimony prior to or at the hearing. Written testimony received by 4 p.m. on April 12, 1985, at the TACB Central Office will be included in the hearing record. Written comments should be sent to the Regulation Development Division, Texas Air Control Board, 6330 U.S. Highway 290 East, Austin, Texas 78723.

This amendment is proposed under Texas Civil Statutes, Article 4477-5, §3.09(a), which provide the Texas Air Control Board with the authority to make rules and regulations consistent with the general intent and purposes of the Texas Clean Air Act and to amend any rule or regulation the Texas Air Control Board makes.

§115.223. Compliance Schedule and Counties.

(a) The provisions of §115.221 of this title (relating to Control Requirements) shall apply only within Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties. All affected persons shall submit to the Texas Air Control Board a control plan for compliance with these provisions no later than December 31, 1980, and shall be in compliance as soon as practicable, but no later than December 31, 1982.

(b) After December 31, 1987, §115.222(c) of this title (relating to Exemptions) shall no longer apply in Dallas, El Paso, and Tarrant Counties. All affected persons shall submit a control plan for compliance with the provisions of §115.221 of this title (relating to Control Requirements) no later than December 31, 1985, and shall be in compliance as soon as practicable, but no later than December 31, 1987.

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

Issued in Austin, Texas, on
February 20, 1985

TRD 851601 Bill Stewart, P.E.
Executive Director
Texas Air Control
Board

Proposed date of adoption
July 31, 1985

For further information, please call
(512) 451-7511, ext 354.

★ ★ ★

Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks in Harris County

★31 TAC §§115.261, 115.262, 115.264

The Texas Air Control Board (TACB) proposes amendments to §§115.261, 115.262, and 115.264, concerning control of volatile organic compound leaks

from gasoline tank trucks in Harris County. The proposed amendments extend these requirements to Dallas, El Paso, and Tarrant Counties and require compliance no later than December 31, 1987, with final control plan submittal no later than December 31, 1985.

The proposed amendments are part of a series of proposed revisions to Chapter 115 to provide in Dallas, El Paso, and Tarrant Counties the additional volatile organic compound (VOC) emission reductions needed to satisfy the U.S. Environmental Protection Agency (EPA) requirements for post-1982 state implementation plan (SIP) revisions

Bennie L. Engelke, management and staff services 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.

Steve Spaw, P.E., Central Regulatory Operations Program director, 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 improved air quality as a result of a reduction of 1,914 tons per year of VOC emissions in Dallas, El Paso, and Tarrant Counties after December 31, 1987. In addition, these and other VOC emission reductions proposed elsewhere are necessary to satisfy EPA requirements for post-1982 SIPs and to avoid possible growth sanctions in Dallas, El Paso, and Tarrant Counties. The anticipated economic cost to individuals who are required to comply with the rule as proposed is \$0 each year in 1985 and 1986, \$766,000 in 1987, \$771,000 in 1988, and \$779,000 in 1989 for all facilities affected, adjusting for 5.4% annual inflation.

Public hearings on this proposal are scheduled for 2:30 and 6:30 p.m. on March 27, 1985, in the city council chambers, second floor, 2 Civic Center Plaza, El Paso; 2:30 and 6:30 p.m. on March 27, 1985, in Room N401, Convention Center, 650 South Griffin Street, Dallas; and 2:30 and 6:30 p.m. on March 28, 1985, in the city council chambers, 1000 Throckmorton Street, Fort Worth.

Copies of the proposed amendments are available at the central office of the Texas Air Control Board, 6330 U.S. Highway 290 East, Austin, and at all TACB regional offices. Public comment, both oral and written, on the proposed changes is invited at the hearings. The TACB would appreciate receiving five copies of testimony prior to or at the hearing. Written testimony received by 4 p.m. on April 12, 1985, at the TACB central office will be included in the hearing record. Written

comments should be sent to the Regulation Development Division, Texas Air Control Board, 6330 U.S. Highway 290 East, Austin, Texas 78723.

The amendments are proposed under Texas Civil Statutes, Article 4477-5, §3.09(a), which provide the TACB with the authority to make rules and regulations consistent with the general intent and purposes of the Texas Clean Air Act and to amend any rule or regulation the TACB makes.

§115.261. Emission Control Requirements. No person in Dallas, El Paso, Harris, or Tarrant Counties [County] shall allow a gasoline tank truck subject to this regulation to be filled or emptied unless the tank being filled or emptied has passed a leak-tight test within the past year as evidenced by a prominently displayed certification affixed near the U.S. Department of Transportation certification plate which:

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

§115.262. Testing Requirements.

(a) The owner or operator of any gasoline tank truck which loads or unloads at any gasoline terminal, gasoline bulk plant, or motor vehicle fuel dispensing facility in Dallas, El Paso, Harris, or Tarrant Counties [County] shall cause each such tank truck tank to be tested annually to insure that the tank is vapor-tight.

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

§115.264. Compliance Schedule and Counties. All persons affected by §115.261 of this title (relating to Emission Control Requirements), §115.262 of this title (relating to Testing Requirements), and §115.263 of this title (relating to Recording Requirements) shall be in compliance as soon as practicable, but:

(1) in Harris County no later than December 31, 1982, and shall submit a final control plan for compliance to the Texas Air Control Board no later than March 31, 1981;

(2) in Dallas, El Paso, and Tarrant Counties no later than December 31, 1987, and shall submit a final control plan for compliance to the Texas Air Control Board no later than December 31, 1985.

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

issued in Austin, Texas, on
February 20, 1985.

TRD-851602 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Proposed date of adoption:
July 31, 1985

For further information, please call
(512) 451-5711, ext. 354.

★ ★ ★

Control of Reid Vapor Pressure of Gasoline in Collin, Dallas, Denton, Ellis, El Paso, Hood, Johnson, Kaufman, Parker, Rockwall, Tarrant, and Wise Counties

★31 TAC §§115.281-115.285

The Texas Air Control Board (TACB) proposes new §§115.281-115.285, concerning control of Reid vapor pressure of gasoline in Collin, Dallas, Denton, Ellis, El Paso, Hood, Johnson, Kaufman, Parker, Rockwall, Tarrant, and Wise Counties.

Proposed new §115.281, concerning control requirements, prohibits any person from placing, storing, holding, or transferring within the specified counties any gasoline with a Reid vapor pressure greater than nine pounds per square inch absolute (psia).

Proposed new §115.282, concerning seasonal requirements, limits the annual period for compliance with §115.281 to April 1-September 30 of each year.

Proposed new §115.283, concerning record-keeping requirements, requires the owner or operator of facilities affected by §115.281 to maintain records of the Reid vapor pressure for all gasoline transferred during the annual compliance period specified in §115.282 for a minimum period of two years.

Proposed new §115.284, concerning exemptions, exempts the fueling of implements of agriculture from the control requirements of §115.281 and the owner or operator of a motor vehicle fuel dispensing facility from the record-keeping requirements of §115.283.

Proposed new §115.285, concerning compliance schedule and counties, lists the counties affected by §§115.281-115.283 and requires submittal of a final compliance plan by December 31, 1985, with compliance no later than April 1, 1987.

The proposed new sections are part of a series of proposed revisions to Chapter 115 to provide in Dallas, El Paso, and Tarrant Counties the additional volatile organic compound (VOC) emission reductions needed to satisfy the U.S. Environmental Protection Agency (EPA) requirements for post-1982 state implementation plan (SIP) revisions.

Volatile Organic Compound emission reductions estimated from the control of the Reid vapor pressure of gasoline in these counties during the ozone season were computed using EPA area source and mobile three models and national average default values. As required by the EPA, base year Reid vapor pressure

of 11.4 psia was used for all affected counties. The TACB recognizes that different assumptions may be relevant for individual counties and that more locally specific data are available. Data for the Dallas/Fort Worth area indicate that the actual summertime Reid vapor pressure of gasoline is 10 to 10.5 psia. El Paso area data show values of approximately nine psia. Use of these lower actual Reid vapor pressures to calculate the emission reduction benefits from this proposed control measure would reduce the amount of emission reductions estimated. However, these lower actual pressures are not currently enforceable under state law and no method of calculating emissions at these pressures is currently available from or approved by the EPA. Therefore, the TACB is soliciting comments from interested parties to specifically identify the effect of EPA modeling approaches, default values, and other related information on emission reduction estimates.

Bennie L. Engelke, management and staff services 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.

Steve Spaw, P.E., Central Regulatory Operations Program director, 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 improved air quality as a result of a reduction of 16,935 tons per year of VOC emissions in Collin, Dallas, Denton, Ellis, El Paso, Hood, Johnson, Kaufman, Parker, Rockwall, Tarrant, and Wise Counties after December 31, 1987. In addition, these and other VOC emission reductions proposed elsewhere are necessary to satisfy EPA requirements for post-1982 SIPs and to avoid possible growth sanctions in Dallas, El Paso, and Tarrant Counties.

The anticipated economic cost to individuals who are required to comply with the rules as proposed is \$0 each year in 1985 and 1986, \$18.307 million in 1987, \$19.794 million in 1988, and \$21.402 million in 1989 for all facilities affected, adjusting for 5.4% annual inflation.

Public hearings on this proposal are scheduled for 2:30 and 6:30 p.m. on March 27, 1985, in the city council chambers, second floor, 2 Civic Center Plaza, El Paso; 2:30 and 6:30 p.m. on March 27, 1985, in Room N401, Convention Center, 650 South Griffin Street, Dallas; and 2:30 and 6:30 p.m. on March 28, 1985, in the city council chambers, 1000 Throckmorton Street, Fort Worth.

Copies of the proposed new sections are available at the central office of the TACB, 6330 U.S. Highway 290 East, Austin, and at all TACB regional offices. Public comment, both oral and written, on the proposed new sections is invited at the hearings. The TACB would appreciate receiving five copies of testimony prior to or at the hearing. Written testimony received by 4 p.m. on April 12, 1985, at the TACB central office will be included in the hearing record. Written comments should be sent to the Regulation Development Division, Texas Air Control Board, 6330 U.S. Highway 290 East, Austin, Texas 78723.

The new sections are proposed under Texas Civil Statutes, Article 4477-5, §3.09(a), which provide the TACB with the authority to make rules and regulations consistent with the general intent and purposes of the Texas Clean Air Act and to amend any rule or regulation the TACB makes.

§115.281. Control Requirements.

(a) No person shall place, store, or hold in any stationary tank, reservoir, or other container with a nominal capacity of greater than 500 gallons (1,893 liters) any gasoline with a Reid vapor pressure equal to or greater than nine psia (62 kPa) which may ultimately be used in a motor vehicle.

(b) No person shall transfer or allow the transfer of gasoline with a Reid vapor pressure equal to or greater than nine psia (62 kPa) to or from any storage vessel with a nominal capacity of greater than 500 gallons (1,893 liters) or tank truck tank at any gasoline terminal, bulk plant, or motor vehicle fuel dispensing facility.

§115.282. Seasonal Requirements. The provisions of §115.281 of this title (relating to Control Requirements) shall apply during the compliance period from April 1-September 30 of each year. All adjustments in the operation of affected facilities and all transfers or alterations of noncompliant gasolines necessary to conform with the provisions of this section must be completed prior to the beginning of each compliance period.

§115.283. Record-Keeping Requirements. The owner or operator of any gasoline storage vessel, gasoline terminal, or gasoline bulk plant affected by the provisions of §115.281 of this title (relating to Control Requirements) and §115.282 of this title (relating to Seasonal Requirements) shall maintain records of the Reid vapor pressure of all gasoline stored or transferred during the compliance period in the affected counties. All records shall be maintained for two years and be made available for review by authorized representatives of the Texas Air Control Board and/or local air pollution control agencies.

§115.284. Exemptions.

(a) Any stationary tank, reservoir, or other container used exclusively for the fueling of implements of agriculture is exempt from the requirements of §115.281 of this title (relating to Control Requirements).

(b) The owner or operator of a motor vehicle fuel dispensing facility is exempt from the requirements of §115.283 of this title (relating to Record-Keeping Requirements).

§115.285. Counties and Compliance Schedule.

(a) The provisions of §115.281 of this title (relating to Control Requirements), §115.282 of this title (relating to Seasonal Requirements), and §115.283 of this title (relating to Record-Keeping Requirements) shall apply to Collin, Dallas, Denton, Ellis, El Paso, Hood, Johnson, Kaufman, Parker, Rockwall, Tarrant, and Wise Counties.

(b) All persons affected by §115.281 of this title (relating to Control Requirements), §115.282 of this title (relating to Seasonal Requirements), or §115.283 of this title (relating to Record-Keeping Requirements) shall submit a final control plan for compliance no later than December 31, 1985, and shall be in compliance as soon as practicable but no later than April 1, 1987.

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

Issued in Austin, Texas, on
February 20, 1985.

TRD-851603

Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Proposed date of adoption:

July 31, 1985

For further information, please call
(512) 451-5711, ext. 354.

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Part XIII. Board for Lease of University Lands

Chapter 401. Organization of the Board

★ 31 TAC §401.1, §401.5

The Board for Lease of University Lands proposes amendments to §401.1 and §401.5, concerning the organization of the board and its meetings.

The amendment to §401.1 is intended to correct an error in the title of the Natural Resources Code. The amendments to §401.5 state concisely that the board shall choose its meeting sites and delete references to the vice-chancellor for

lands management, a position which no longer exists within the University of Texas System.

George Clark, University Lands Accounting Office 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.

Max Werkenthin, Office of General Counsel attorney, 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 a better understanding of the board's procedures by eliminating inaccurate and outdated language. 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 Max Werkenthin, Attorney, Office of General Counsel, University of Texas System, 201 West Seventh Street, Austin, Texas 78701.

The amendments are proposed under the Texas Education Code, §66.79, which provides the Board for Lease of University Lands with the authority to promulgate rules and regulations to effectuate the advantageous sale of oil and gas from university lands and to protect the university, its lands, and the income from the lands.

§401.1. Membership. The Board for Lease of University Lands shall consist of the commissioner of the General Land Office and two members of the Board of Regents of the University of Texas System, neither of whom is employed either directly or indirectly by any oil or gas company or is an officer or attorney thereof. Selection of the two regent members is to be made by the Board of Regents of the University of Texas System. Pursuant to the Natural [Texas] Resources Code, §31.015, the chief clerk of the General Land Office shall be authorized to perform all of the duties of the commissioner of the General Land Office in connection with the Board for Lease of University Lands, except the power to serve as acting chairman, in case of sickness, absence, death, or resignation of the commissioner. In the event of the absence or disability of either or both of the regent members, the board of regents may select interim replacements.

§401.5. Meetings.

(a) Time and place. The board shall hold meetings at such times as deemed necessary. Special meetings shall be upon the request of a majority of the members of the board or shall be at the request of the chairman. Two members of the board shall constitute a quorum for the transac-

tion of business and, should a quorum not be present on the day designated for any meeting, those present may adjourn from day to day until a quorum is present. The board shall determine the place where its meetings will be held. [Meetings of the board shall be held at the General Land Office or at such other place as determined by the board.] The date, time, and place of all meetings approved by the board shall be stated in the notice or call issued for the meeting by the secretary of the board.

(b) Docket. All matters to be presented to the board, except those presented by a board member, shall be referred to the secretary of the board for lease, who shall submit the agenda for consideration by the board. The agenda shall contain all items recommended by board members and by the chancellor of the University of Texas System [and the vice-chancellor for lands management of the University of Texas System]. The docket shall list all matters on the agenda and shall include a summary of review of each of these matters.

(c) Attendance at meetings. The members of the staff to be in attendance at each meeting of the board shall be designated by the chancellor of the University of Texas System and the chairman of the board [vice-chancellor for lands management of the University of Texas System]. Other persons who desire to be heard by the board may appear only with permission of the board.

(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
February 22, 1985.

TRD-851677 Maxine R. Dean
Secretary
Board for Lease of
University Lands

Earliest possible date of adoption:
April 1, 1985
For further information, please call
(512) 499-4462.

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★31 TAC §401.6

The Board for Lease of University Lands proposes an amendment to §401.6, concerning custody of the minutes of official meetings of the board. The amendment deletes the reference to the Office of Lands Management, which no longer exists within the University of Texas System. There is no change in the effect of this rule, as custody of the minutes remains with the secretary of the board.

George Clark, University Lands Accounting Office 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.

Max Werkenthin, Office of General Counsel attorney, 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 a better understanding of the board's procedures by eliminating inaccurate and outdated language. 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 Max Werkenthin, Attorney, Office of General Counsel, University of Texas System, 201 West Seventh Street, Austin, Texas 78701.

The amendment is proposed under the Texas Education Code, §66.79, which provides the Board for Lease of University Lands with the authority to promulgate rules and regulations to effectuate the advantageous sale of oil and gas from university lands and to protect the university, its lands, and the income from the lands.

§401.6. Minutes. The official minutes of the board shall be kept in bound volumes, properly indexed by the secretary and in the custody of the secretary [in the files of the Office of Lands Management, the University of Texas System], and shall be open to public inspection. The minutes shall reflect, as much as possible, only the action of the board, and the details of the proceedings relative to such action shall be kept in a separate file for reference purposes. After each meeting of the board for lease, the minutes shall be forwarded by mail to each member of the board for confirmation, who shall indicate his approval upon the carbon copy of the letter of transmittal. Such minutes shall be approved, if in order, according to parliamentary procedure, at the first subsequent meeting of the board. They shall be signed in the minute book by the chairman of the board and by the secretary. An approved copy of the minutes shall be furnished to the commissioner of the General Land Office.

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

Issued in Austin, Texas, on
February 22, 1985.

TRD-851678 Maxine R. Dean
Secretary
Board for Lease of
University Lands

Earliest possible date of adoption:
April 1, 1985
For further information, please call
(512) 499-4462.

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Chapter 403. Sale of Oil and Gas Leases

★31 TAC §403.1

The Board for Lease of University Lands proposes an amendment to §403.1, concerning the sale of oil and gas leases on permanent university fund lands. The amendment conforms this section to the changes in the Texas Education Code, §66.64, amended in 1983, to permit sale of leases by sealed bids as well as by public auction.

George Clark, University Lands Accounting Office 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.

Max Werkenthin, Office of General Counsel attorney, 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 more flexible and efficient procedures for the sale of oil and gas leases on permanent university fund lands. 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 Max Werkenthin, Attorney, Office of General Counsel, University of Texas System, 201 West Seventh Street, Austin, Texas 78701.

The amendment is proposed under the Texas Education Code, §66.79, which provides the Board for Lease of University Lands with the authority to promulgate rules and regulations to effectuate the advantageous sale of oil and gas from university lands and to protect the university, its lands, and the income from the lands.

§403.1. Time and Place. Whenever there shall be such demand for the purchase of oil and gas leases in any university lands as

will reasonably insure that said leases may be sold advantageously, the board shall place the oil and gas leases in said lands on the market for sale. The sale of oil and gas leases shall be made at public auction or by sealed bid, or through a combination of public auction and sealed bid, as the board elects. The sales [and] shall be held in Austin, Texas, or any other location designated by the board, at any hour between 10 a.m. and 5 p.m. A majority of the board shall be in session throughout the [auction] sale of oil and gas leases.

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

Issued in Austin, Texas, on
February 22, 1985.

TRD-851679 Maxine R. Dean
Secretary
Board for Lease of
University Lands

Earliest possible date of adoption:
April 1, 1985
For further information, please call
(512) 499-4462.

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★ 31 TAC §403.2, §403.3

The Board for Lease of University Lands proposes amendments to §403.2 and §403.3, concerning the sale of oil and gas leases on permanent university fund lands. These amendments set requirements for the notice of contemplated sale of oil and gas leases which the board may issue to operators and other interested persons and for the authorized brochure advertising the sale. The amendments also include editorial changes to make the rules more understandable without substantial change.

George Clark, University Lands Accounting Office 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.

Max Werkenhain, Office of General Counsel attorney, 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 better communication of oil and gas lease sale information by setting uniform requirements for contents of the notice of contemplated sale and the authorized brochure listing tracts for lease. 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 Max Werkenhain, Attorney, Office of General Counsel, University of Texas System, 201 West Seventh Street, Austin, Texas 78701.

The amendments are proposed under the Texas Education Code, §66.79, which provides the Board for Lease of University Lands with the authority to promulgate rules and regulations to effectuate the advantageous sale of oil and gas from university lands and to protect the university, its lands, and the income from the lands.

§403.2. Tracts.

(a) Manner of selection.

(1) Upon the recommendation of the university staff at a duly held board meeting, the board at its discretion may authorize the issuance of a notice of contemplated sale to its mailing list of operators and such other persons as appear interested, directing that nominations [requests] for tracts desired to be offered be sent to the University Lands Office at Midland, Texas. The notice of contemplated sale will state the amount of any nomination fee fixed by the board and will include a final date for receipt of nominations.

(2) Selection by the university staff of tracts to be recommended to the board for offering for lease shall be based upon nominations [requests] received and upon geological and technical information that will protect the interests of the university.

(3) The university staff shall recommend to the board the tracts selected [by it] for offering. [Such] Tracts [as are] approved for offering by a majority of the board shall [are to] be advertised for sale.

(b) Size.

(1) (No change.)

(2) As a general rule, tracts shall [may] be advertised as quarter sections and half sections, but smaller or larger tracts may be advertised when advisable. Should one or more sections be advertised as a drilling block or bidding unit for sale purposes as a single tract, the successful bidder will be issued a series of separate leases, one on each of the separate portions thereof, constituting quarter section or half section tracts, each lease being for a proportionate share of the unit bid price and each lease to stand on its own terms, in all respects, as a separate lease.

§403.3. Advertising.

(a) Sales of oil and gas leases shall be advertised in two or more newspapers of general circulation in the State of Texas. [Such] Advertisements shall state the method, time, and place of sale; the primary term of the leases proposed to be executed covering any sale; the bonus or royalty to be paid; and that lists describing the land to be leased for oil and gas rights may be obtained from the board, as well as any other matters [as in the judgment of the

board are] deemed advisable by the board. There may also be other and additional advertising of such sales of oil and gas leases as in the discretion of the board may be deemed advisable. [Such] Newspaper advertisements shall be published once, approximately three weeks prior to the date of the sale, and at any [such] other times [as may be] directed by the board. [The authorized brochure advertising the sale shall be distributed approximately eight weeks in advance of the sale.]

(b) An authorized brochure listing the tracts to be offered for lease will be compiled, printed, and distributed approximately eight weeks before the sale. The brochure will include lease sale procedures, terms, and conditions.

(c)[(b)] The board may withdraw any advertised tract from sale prior to the specified hour of sale.

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

Issued in Austin, Texas, on
February 22, 1985.

TRD-851680 Maxine R. Dean
Secretary
Board for Lease of
University Lands

Earliest possible date of adoption:
April 1, 1985
For further information, please call
(512) 499-4462.

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★ 31 TAC §403.5

(Editor's note: The text of the following rule proposed for repeal will not be published. The rule may be examined in the offices of the Board for Lease of University Lands, 210 West Sixth Street, Austin, or in the Texas Register office, Room 303E, Sam Houston Building, 201 East 14th Street, Austin.)

The Board for Lease of University Lands proposes the repeal of §403.5, concerning appointment of auctioneers for lease sales. This section is repealed as part of a general reorganization of the procedural rules for oil and gas lease sales to accommodate the addition of rules for conducting sales by sealed bids as well as by public auction. All the repealed language on auctioneers will be reenacted in the appropriate new §403.6, concerning public auction sales.

George Clark, University Lands Accounting Office director, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Max Werkenthin, Office of General Counsel attorney, has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is an easier understanding of these rules by reorganizing the rules into more appropriate groupings according to topic. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Max Werkenthin, Attorney, Office of General Counsel, University of Texas System, 201 West Seventh Street, Austin, Texas 78701.

The repeal is proposed under the Texas Education Code, §66.79, which provides the Board for Lease of University Lands with the authority to promulgate rules and regulations to effectuate the advantageous sale of oil and gas from university lands, and to protect the university, its lands, and the income from the lands.

§403.5. Auctioneer.

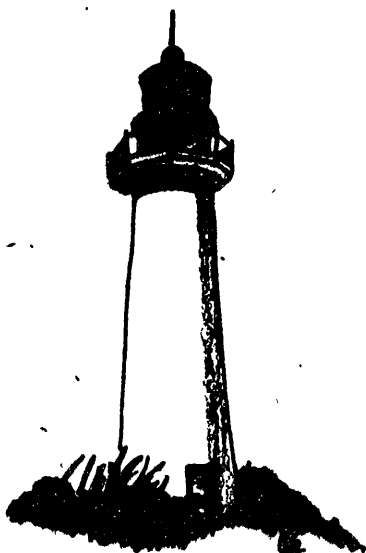
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on
February 22, 1985.

TRD-851681 Maxine R. Dean
Secretary
Board for Lease of
University Lands

Earliest possible date of adoption:
April 1, 1985
For further information, please call
(512) 499-4462.

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The Board for Lease of University Lands proposes new §403.6, concerning general bidding rules for oil and gas lease sales. The new section is a reorganization of those portions of former §403.6 which are applicable to both public auction lease sales and sealed bid lease sales. The reorganization is necessary to accommodate new rules governing sealed bid lease sales in addition to public auction lease sales, as authorized by a 1983 amendment to the Texas Education Code, §66.64.

George Clark, University Lands Accounting Office 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.

Max Werkenthin, Office of General Counsel attorney, 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 an easier understanding of the rules by reorganizing them into more appropriate groupings by topic. 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 Max Werkenthin, Attorney, Office of General Counsel, University of Texas System, 201 West Seventh Street, Austin, Texas 78701.

The new section is proposed under the Texas Education Code, §66.79, which provides the Board for Lease of University Lands with the authority to promulgate rules and regulations to effectuate the advantageous sale of oil and gas from university lands and to protect the university, its lands, and the income from the lands.

§403.5. General Bidding Rules.

(a) This section shall apply to all oil and gas lease sales authorized by the board, whether conducted by public auction or by sealed bid, or by a combination of both, as the board elects.

(b) Minimum bids shall be set by the board prior to each sale.

(c) Minimum bids for drilling blocks shall be as advertised.

(d) There shall be no limit on the number of tracts that may be bid on by an individual or company.

(e) The board reserves the right to reject any or all bids.

(f) Each bid is subject to the payment of a special fee equal to 1.0% of the total bonus, whether the bonus is stipulated or bid.

(g) If the board determines that a satisfactory bid has been offered for an oil and

gas lease, it will award the lease to the bidder offering the highest price therefor.

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

Issued in Austin, Texas, on
February 22, 1985.

TRD-851682 Maxine R. Dean
Secretary
Board for Lease of
University Lands

Earliest possible date of adoption:
April 1, 1985
For further information, please call
(512) 499-4462.

★ ★ ★

★ 31 TAC §403.6

(Editor's note: The text of the following rule proposed for repeal will not be published. The rule may be examined in the offices of the Board for Lease of University Lands, 210 West Sixth Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Board for Lease of University Lands proposes the repeal of §403.6, concerning bidding rules for oil and gas lease sales. This section is repealed as a part of a general reorganization of the procedural rules for oil and gas lease sales to accommodate addition of rules for sales by sealed bids as well as by public auction. All repealed language will be reenacted and reorganized as appropriate into three new sections on general bidding rules, public auction lease sale procedures, and sealed bid lease sale procedures.

George Clark, University Lands Accounting Office director, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Max Werkenthin, Office of General Counsel attorney, has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is an easier understanding of these rules by reorganizing the rules into more appropriate groupings by topic. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Max Werkenthin, Attorney, Office of General Counsel, University of Texas System, 201 West Seventh Street, Austin, Texas 78701.

The repeal is proposed under the Texas Education Code, §66.79, which provides

the Board for Lease of University Lands with the authority to promulgate rules and regulations to effectuate the advantageous sale of oil and gas from university lands and to protect the university, its lands, and the income from the lands.

§403.6. Bidding.

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

Issued in Austin, Texas, on
February 22, 1985.

TRD-851683 Maxine R. Dean
Secretary
Board for Lease of
University Lands

Earliest possible date of adoption:
April 1, 1985

For further information, please call
(512) 499-4462.

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★ 31 TAC §403.6

The Board for Lease of University Lands proposes new §403.6, concerning public auction lease sale procedures. This new section is a reorganization of those portions of former §403.5 and §403.6, concerning public auction lease sales. The reorganization is necessary to accommodate new rules governing sealed bid lease sales in addition to public auction lease sales, as authorized by a 1983 amendment to the Education Code, §66.64. The only portion of this section which is new to these rules is the limitation on sight drafts to drafts on selected Texas banks to facilitate collection.

George Clark, University Lands Accounting Office 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.

Max Werkenthin, Office of General Counsel attorney, 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 an easier

understanding of these rules by reorganizing them into more appropriate groupings by topic. 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 Max Werkenthin, Attorney, Office of General Counsel, University of Texas System, 201 West Seventh Street, Austin, Texas 78701.

The new section is proposed under the Texas Education Code, §66.79, which provides the Board for Lease of University Lands with the authority to promulgate rules and regulations to effectuate the advantageous sale of oil and gas from university lands and to protect the university, its lands, and the income from the lands.

§403.6. Public Auction Lease Sale Procedures.

(a) This section shall apply only to those oil and gas lease sales or portions thereof authorized by the board to be conducted by public auction.

(b) Applications of individuals interested in serving as auctioneer, together with proper credentials and recommendations, shall be considered by the board at a duly held meeting.

(c) Appointment of the auctioneer who will officiate at an auction sale and the fee to be paid said auctioneer shall be based upon approval of a majority of the board at a duly held meeting.

(d) Minimum bids, determined and adopted by the board at a duly held meeting, shall be announced to prospective bidders prior to opening of a sale.

(e) In bidding for a tract, each raise shall be \$100,000 or more.

(f) When a tract offered at a sale has been passed because of no bid being offered or rejected because of a low bid, said tract or tracts will not again be offered for the sale in progress.

(g) The board may require an agent to produce a power of attorney, or other satisfactory evidence, that he is authorized to act for his principal.

(h) The board may require any bidder to submit satisfactory evidence that he has the cash in hand or an authenticated statement showing that the bidder has the means to purchase the tract or tracts on which he has bid.

(i) Successful bidders must make known at the time of the sale the name of the party or parties to whom the lease is to be issued.

(j) The highest successful bidder shall pay to the Board of Regents of the University of Texas System, on the day such bid is accepted, the full amount of the bonus and the special 1.0% fee, as required by law. Separate checks must be submitted for payment of the bonus and special 1.0% fee.

Payments by successful bidders at public auction sales may be by cashier's checks, corporate or personal checks, or sight drafts. Any sight drafts presented may be drawn only on member banks of the Federal Reserve Bank System in certain Texas cities selected by the board and published in the sale brochure.

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

Issued in Austin, Texas, on
February 22, 1985.

TRD-851684 Maxine R. Dean
Secretary
Board for Lease of
University Lands

Earliest possible date of adoption:
April 1, 1985

For further information, please call
(512) 499-4462.

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★ 31 TAC §403.8 [§403.7]

The Board for Lease of University Lands proposes an amendment to §403.7, concerning terms of oil and gas lease agreements concerning permanent university fund lands. The board proposes to renumber §403.7 to become §403.8, to accommodate the addition to this chapter of new rules in other sections and to effectuate general reorganization of these rules according to topic.

George Clark, University Lands Accounting Office 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.

Max Werkenthin, Office of General Counsel attorney, 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 an easier understanding of these rules by reorganization into more appropriate groupings by topic. 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 Max Werkenthin, Attorney, Office of General Counsel, University of Texas System, 201 West Seventh Street, Austin, Texas 78701.

The amendment is proposed under the Texas Education Code, §66.79, which provides the Board for Lease of University Lands with the authority to promulgate rules and regulations to effectuate the advantageous sale of oil and gas from

university lands and to protect the university, its lands, and the income from the lands.

§403.8. [§403.7.] Terms of Lease.

(a)-(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
February 22, 1985.

TRD-851686 Maxine R. Dean
Secretary
Board for Lease of
University Lands

Earliest possible date of adoption:
April 1, 1985
For further information, please call
(512) 499-4462.

★ ★ ★

★31 TAC §403.7

The Board for Lease of University Lands proposes new §403.7, concerning sealed bid lease sale procedures. This new section establishes rules governing sales of university oil and gas leases by sealed bids, pursuant to the 1983 amendment to the Texas Education Code, §66.64, authorizing leases sales by sealed bids as well as by public auction.

George Clark, University Lands Accounting Office 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.

Max Werkenthin, Office of General Counsel attorney, 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 more flexible and efficient procedures for sales of oil and gas leases on permanent university fund lands. 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 Max Werkenthin, Attorney, Office of General Counsel, University of Texas System, 201 West Seventh Street, Austin, Texas 78701.

The new section is proposed under the Texas Education Code, §66.79, which provides the Board for Lease of University Lands with the authority to promulgate rules and regulations to effectuate the advantageous sale of oil and gas from university lands and to protect the university, its lands, and the income from the lands.

§403.7. Sealed Bid Lease Sale Procedures.

(a) This section shall apply only to those oil and gas lease sales or portions thereof authorized by the board to be conducted by sealed bid.

(b) Each sealed bid for a separate tract, accompanied by the bonus payment and the special 1.0% fee payment, shall be delivered to the secretary of the Board for Lease of University Lands on or before the day and hour on which the tract is subject to lease.

(c) The sealed bid and payments shall be delivered in a sealed envelope endorsed with "Sealed Bid—DO NOT OPEN" and the date on which the tract is subject to lease.

(d) Any sealed bid received up to the hour at which the bids are to be opened shall be considered to be properly delivered, regardless of whether it is opened or unopened or endorsed or unendorsed.

(e) Each bidder on a tract must submit separate checks for the bonus and for the special 1.0% fee.

(f) All remittances in sealed bid lease sales must be by cashier's check, certified check, bank money order, or postal money order. Sight drafts and other similar instruments will not be accepted.

(g) The bid envelopes will be kept secure and unopened by the board or its secretary until the day on which the bids are to be opened, and at that time the board shall open the envelopes in the presence of any persons who desire to be present.

(h) A bid is void if:

(1) it includes two or more tracts;
or

(2) it offers less than the fixed royalty or fixed bonus set by the board.

(i) If the highest bid for a tract is made by more than one bidder, all bids shall be rejected, and the board may set a date for a special sale of a lease on the tract. The tract will be subject to lease in the same manner as it was originally subject to lease; however, no bids for a lease shall be considered if the price offered is less than the highest bid offered in the original sale bidding.

(j) Bonus checks and special 1.0% fee checks submitted by unsuccessful bidders shall be returned to the bidders.

(k) Failure to pay the special 1.0% fee does not render a bid void, but the board shall demand payment of the fee before it issues a lease to the successful bidder. If the successful bidder fails or refuses to make the payment within 30 days after demand, the bidder is not entitled to a lease on the tract covered by his bid, and the cash bonus shall be automatically forfeited to be deposited by the board in the state treasury to the credit of the permanent university fund.

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
February 22, 1985.

TRD-851686 Maxine R. Dean
Secretary
Board for Lease of
University Lands

Earliest possible date of adoption:
April 1, 1985
For further information, please call
(512) 499-4462.

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Chapter 405. Disposition of Bonuses, Rental, Royalties, Fees

★31 TAC §405.1

The Board for Lease of University Lands proposes an amendment to §405.1, concerning disposition of bonuses, rentals, royalties, and fees in connection with university oil and gas leases. The amendment is intended to conform this section to the changes in the Texas Education Code, §66.64, amended in 1983, to permit sale of leases by sealed bid as well as by public auction.

George A. Clark, University Lands Accounting Office 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.

Max Werkenthin, Office of General Counsel attorney, 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 better understanding of the rules on fees by directing the reader to the specific rules applicable to public auction lease sales and the newly authorized sealed bid lease sales. 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 Max Werkenthin, Attorney, Office of General Counsel, University of Texas System, 201 West Seventh Street, Austin, Texas 78701.

The amendment is proposed under the Texas Education Code, §66.79, which provides the Board for Lease of University Lands with the authority to promulgate rules and regulations to effectuate the advantageous sale of oil and gas from university lands and to protect the university, its lands, and the income from the lands.

§405.1. Payments of Fees. All payments or fees made in connection with university

oil and gas leases shall be paid to the Board of Regents of the University of Texas System. Bidders at lease sales shall make payments in the manner and form required by the sections governing public auction lease sales and sealed bid lease sales, as appropriate. [Successful bidders shall make payment, on the day of the sale, in the form of exchange, or certified check, of a solvent member bank of the Federal Reserve System.]

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

Issued in Austin, Texas, on
February 22, 1985.

TRD-851687 Maxine R. Dean
 Secretary
 Board for Lease of
 University Lands

Earliest possible date of adoption:
April 1, 1985

For further information, please call
(512) 499-4462.

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Chapter 407. Operational Matters

★ 31 TAC §§407.3-407.5, 407.8, 407.9, 407.11-407.13, 407.16, 407.17

The Board for Lease of University Lands proposes amendments to §§407.3-407.5, 407.8, 407.9, 407.11-407.13, 407.16, and 407.17, concerning oil and gas operations of permanent university fund lands. These amendments are editorial changes intended to make the sections more accessible and understandable without substantive change.

George Clark, University Lands Accounting Office 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.

Max Werkenthin, Office of General Counsel attorney, 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 easier understanding of the rules by using clearer and simpler language. 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 Max Werkenthin, Attorney, Office of General Counsel, University of Texas System, 201 West Seventh Street, Austin, Texas 78701.

The amendments are proposed under the Texas Education Code, §66.79, which provides the Board for Lease of University Lands with the authority to promulgate rules and regulations to effectuate the advantageous sale of oil and gas from university lands and to protect the university, its lands, and the income from the lands.

§407.3. Operating Requirements for Common Tankage and/or Commingling Systems.

(a) (No change.)

(b) Tracts of land with different lease numbers are separate leases. A tract of land originally having only one lease number may become two or more separate leases as a result of assignment and resultant split out of lease numbers. Such split leases shall be considered as separate leases for the purposes of these common tankage regulations, and permission to commingle between split leases will be required. If two or more operators are producing from a single tract or lease, each individual operator is subject to these regulations just as though each operator owned a separate base lease.

(c) A common tank battery may be used under the conditions described for storage of oil and/or condensate produced from a single producing reservoir from two or more leases, two or more reservoirs from a single lease, or two or more reservoirs from more than one lease. The tank battery must be located on one of the commingled leases unless off-lease storage has been approved under the provisions of §407.7 of this title (relating to Off-Lease Storage).

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

(4) All installed oil metering equipment and component accessories shall be maintained in proper working condition at all times and shall be test calibrated at least every three months and at any [such] other times deemed advisable by [as] the manager of university lands—oil, gas, and mineral interests [may deem advisable].

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

(7) Gas produced from each lease shall be metered. If [in the event that] gas produced under a common tankage agreement is being marketed, flared, or vented but the gas volume from one or more leases is not sufficient to justify a separate meter for low volume leases, a waiver of such placement can be granted upon written application to [for], and the approval of, the manager of university lands—oil, gas, and mineral interests. If a waiver is approved [in the event of such waiver], the gas produced shall be allocated to the respective leases upon the basis of semiannual gas-to-ratio [ration] tests. [Such] Waivers shall be effective for only so long as the gas volume is below meter placement justification. All [such] waivers shall be reported to the Board for Lease of University Lands.

§407.4. Lease Automatic Custody Transfer Systems.

(a) General design requirements [These] shall conform with the recommendations contained in A.P.I. Bulletin RP 2502, as well as with standards generally accepted in the industry.

(b) Meter proving, accuracy, repeatability, and meter factors [These] shall conform with the recommendations in A.P.I. Bulletin RP 2502, A.P.I. Standard 1101, and [as well as] with standards generally accepted in the industry.

(c) Meters shall be test-calibrated at least every three months and [as well as] at any [such] other times deemed advisable by [that] the manager of university lands—oil, gas, and mineral interests [may deem advisable]. Operators utilizing a measuring-tank LACT system are required to furnish annually a certification of volume.

(d) Meter calibration reports must contain the following information in addition to that customarily shown. Some oil purchasers show the information required in paragraphs (1)-(4) of this subsection, but the practice is not uniform.

(1) (No change.)

(2) The serial number of the meter being proved must be shown on the meter-proving reports. The various oil purchasers may carry numbers that are useful to them, such as [viz.] totalizer serial number, station number, or temperature-compensator serial number. However, only the meter serial number is required by the board for lease, and this number must be shown on the meter-proving report and identified as such.

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

§407.5. Unitizations.

(a) Unitization agreements. Unitized substances produced from a unitized interval shall not be commingled with other hydrocarbons. Approval by the board for lease is required prior to the installation of an automatic custody transfer system on any unitized leases. This applies to any unitized leases involving university lands, regardless of whether [or not] the unit is comprised solely or partially of university lands and whether [or not] the LACT system is located on or off university lands.

(b) Consolidations and/or cooperatives. Consolidations and/or cooperatives and other agreements of such nature, which are sanctioned by the Railroad Commission of Texas, are not forbidden by the board for lease. However, each lease, [however,] must continue to stand on its own merits, and production must be reported separately for each lease and each horizon in the usual manner. The board for lease will allow production to be allocated back to university leases only under the terms of a formal unitization agreement.

§407.8. Produced Water. All produced waters must be injected into subsurface salt water-bearing formations, stored in lined

surface pits, or utilized in secondary recovery operations. All injection intervals in salt water disposal wells must be approved by the manager of university lands—oil, gas, and mineral interests. All surface pits shall be sealed with an impervious material and be constructed and maintained to [in such a manner that will] prevent any leakage, seepage, or other escape of deleterious substances.

§407.9. Reporting Procedures.

(a) The production of oil and condensate from each level or reservoir of each lease and the production of gas from each lease shall be reported monthly to the Board of Regents of the University of Texas System as [in the manner] provided by law.

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

§407.11. Field Inspection.

(a) (No change.)

(b) Systems requiring an inordinate amount of effort and time to determine the routing of the production streams, with resultant doubtful conclusions, will be disqualified. Operators [Operator] should avoid burying or concealing any lines in the storage area.

(c) Haphazard arrangement of lines, separators, and other equipment or lack or proper identification of systems will cause the system to fail inspection and, if not immediately corrected, will result in revocation of authorization from the board for lease.

(d) (No change.)

§407.12. Alterations in System Design.

Alterations in system design, subsequent to system approval [approved] by the board for lease, shall not be made until approval for such change has been granted by the manager of university lands—oil, gas, and mineral interests. Application for design changes shall [are to] be made in the same manner as the original application.

§407.13. Exceptions. Exceptions to these regulations may be granted by the board for lease, upon proper application, when supported by sufficient evidence of extreme hardship. Applications for exceptions shall be presented in the same manner as are other requests. Exceptions shall[, when granted, are to] be temporary and [shall be] subject to periodic review, and possible revocation, by the board for lease.

§407.16. Tank Cleaning Regulations.

(a) Whenever tanks are cleaned or tank residues are disposed of, tests shall be made to determine the quality of merchantable oil in said tanks. The manner of disposition and the results of such tests shall be reported to the manager of university lands—oil, gas, and mineral interests. [Such] Reports shall be made within 20 days following the end of the month of [such] cleaning or other disposition.

(b) The regulations in subsection (a) of this section may be satisfied by filing [with the director, University Lands Ac-

counting Office, copies of the proper Railroad Commission of Texas forms containing the required information. Copies of tank cleaning requests (Forms 6-ES-A) when issued and ES-A forms must be furnished in order to comply with this requirement.

[(c) The lessee is responsible to the board for filing] all required forms, regardless of the tank cleaning procedures or disposition of the residue. When tank bottoms and/or residue are disposed of without filing the proper forms with the director, University Lands Accounting Office, royalty shall be due on the gross contents of such tank bottoms.

§407.17. Reporting of Production. [In accordance with the lease provisions, the board reiterates its long-standing policy that] All daily gauge reports covering productions of oil on university lands must accurately reflect actual stock on hand at the opening of business on the first day of a calendar month, actual stock on hand at the close of business on the last day of a calendar month, and actual gross production during a given calendar month. All gauge reports [of the above] shall be as reflected by actual measurements. [Furthermore, such] Daily gauge reports must be in agreement with corresponding information appearing on the affidavit of production for any given month[,] and/or a reconciliation provided therewith.

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

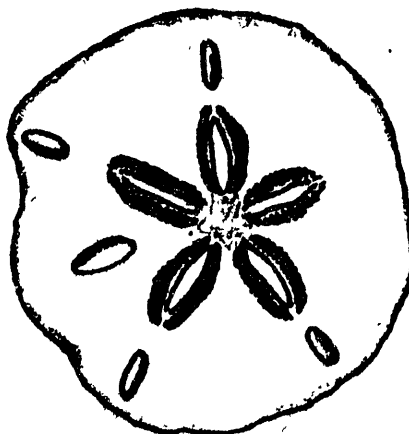
Issued in Austin, Texas, on
February 22, 1985.

TRD-851688

Maxine R. Dean
Secretary
Board for Lease of
University Lands

Earliest possible date of adoption:
April 1, 1985
For further information, please call
(512) 499-4482.

★ ★ ★



Chapter 409. Special Actions by the Board

★ 31 TAC §409.2, §409.3

The Board for Lease of University Lands proposes amendments to §409.2 and §409.3, concerning special actions by the board. The amendments are editorial changes intended to make the sections more accessible and understandable without substantive change.

George Clark, University Lands Accounting Office 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.

Max Werkenthin, Office of General Counsel attorney, 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 an easier understanding of the rules by rewording in clearer and simpler language. 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 Max Werkenthin, Attorney, Office of General Counsel, University of Texas System, 201 West Seventh Street, Austin, Texas 78701.

The amendments are proposed under the Texas Education Code, §66.79, which provides the Board for Lease of University Lands with the authority to promulgate rules and regulations to effectuate the advantageous sale of oil and gas from university lands, and to protect the university, its lands, and the income from the lands.

§409.2. Suspension of Leases. Under certain statutory conditions, the board may suspend the running of the primary and principal terms of a lease[,] or any condition, obligation, or duty thereunder. A [The necessary] letter of notification shall be sent in the name of the chairman of the board, signed by the secretary, notifying the interested parties of such suspension. When the cause for suspension ceases to exist, the board shall make an [proper] entry in its minutes ending the period of suspension, and shall send [proper] notification [shall be sent] to interested parties.

§409.3. Approval of Unitization Agreements. The board shall approve all unitization agreements affecting university lands before such unitization agreements can become operative. The board may require that such additional provisions be contained in the agreement as the board may deem necessary for the protection of the interest of the state. [Such] Unit agreements shall be executed by the commissioner of the General

Land Office, provided they are approved by the Board for Lease of University Lands and are found by the commissioner to be to the best interest of the state.

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

Issued in Austin, Texas, on
February 22, 1985.

TRD-851689 Maxine R. Dean
Secretary
Board for Lease of
University Lands

Earliest possible date of adoption:
April 1, 1985
For further information, please call
(512) 499-4462.



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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 34. PUBLIC FINANCE
Part I. Comptroller of Public Accounts
Chapter 3. Tax Administration
Subchapter V. Bingo Regulation and Tax

★ 34 TAC §3.543

The Comptroller of Public Accounts has withdrawn the emergency adoption of amendments to §3.543, concerning bingo regulation and tax. The text of the amended section as adopted on an emergency basis appeared in the September 7, 1984, issue of the *Texas Register* (9 TexReg 4761).

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

TRD-851704 Martin Cherry
Rules Coordinator
Comptroller of Public Accounts

Filed: February 25, 1985
For further information, please call (512) 475-1913.

★ ★ ★

★ 34 TAC §3.548

The Comptroller of Public Accounts has withdrawn the emergency adoption of

amendments to §3.548, concerning bingo regulation and tax. The text of this amended section as adopted on an emergency basis appeared in the September 7, 1984, issue of the *Texas Register* (9 TexReg 4761).

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

TRD-851706 Martin Cherry
Rules Coordinator
Comptroller of Public Accounts

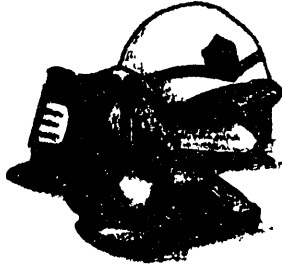
Filed: February 25, 1985
For further information, please call (512) 475-1913.

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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 10. COMMUNITY DEVELOPMENT

Part I. Texas Department of Community Affairs

Chapter 9. Texas Community Development Program

Subchapter A. Allocation of Program Funds

★ 10 TAC §9.1

The Texas Department of Community Affairs adopts amendments to §9.1, without changes to the proposed text published in the January 22, 1985, issue of the *Texas Register* (10 TexReg 235).

The amendments govern citizen participation requirements for applicants of community development block grant non-entitlement area funds under the Texas Community Development Program.

The amendments require the first public hearing to be held at least seven days prior to the second required public hearing and provide that notice of each public hearing must be published at least 72 hours prior to the hearing.

No comments were received regarding the adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 4413(201), §4A, which provide the Texas Department of Community Affairs with the authority to allocate CDBG non-entitlement area funds to eligible counties and municipalities in accordance with rules and regulations adopted by the Texas Department of Community Affairs.

This agency hereby certifies that the rule as adopted has been reviewed by legal

counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on February 22, 1985.

TRD-851654 Douglas C. Brown
General Counsel
Texas Department of
Community Affairs

Effective date: March 15, 1985
Proposal publication date: January 22, 1985
For further information, please call (512) 443-4100, ext. 210.



TITLE 22. EXAMINING BOARDS

Part XII. Board of Vocational Nurse Examiners

Chapter 233. Education Vocational Nursing Education Standards

★ 22 TAC §233.58

The Board of Vocational Nurse Examiners adopts the repeal of §233.58, without changes to the proposal as published in the January 18, 1985 issue of the *Texas Register* (10 TexReg 199).

This rule is repealed to adopt a new rule that will provide for education based on competencies rather than traditional time frames.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 4528c, §5(g), which provides the Board of Vocational Nurse Examiners with the authority to make such rules and regulations as may be necessary to govern its procedures and to carry in effect the purposes of the law.

This agency hereby certifies that the rule as adopted has been reviewed by legal

counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on February 20, 1985.

TRD-851604 Joyce A. Hammer
Executive Director
Board of Vocational
Nurse Examiners

Effective date: March 14, 1985
Proposal publication date: January 18, 1985
For further information, please call (512) 836-2071.



The Board of Vocational Nurse Examiners adopts new §233.58 with changes to the proposed text published in the January 18, 1985, issue of the *Texas Register* (10 TexReg 200).

The changes from the proposed text are that subsection (d)(2) will read "may be utilized," and the line "clinical experience in a unit or facility" is deleted in subsection (d)(5).

The new section provides for education based on competencies rather than traditional time frames and will result in a more uniform educational background.

The School of Vocational Nursing, San Antonio Independent School District, requested clarification and was in favor of the section. The Regis/St. Elizabeth Centers, Waco, was in favor of the rule but felt that supervisory techniques should be included. Memorial City General Hospital, Houston, was in favor of the rule. Hermann Hospital, Houston, submitted comments in favor of the rule and made suggestions for changes in the text. The board did not disagree with any of the comments.

The new section is adopted under the authority of Texas Civil Statutes, Article 4528c, §5(g), which provide the Board of Vocational Nurse Examiners with the authority to make such rules and regulations as may be necessary to govern its procedures and to carry in effect the purposes of the law.

§233.58. Curriculum Requirements.

(a) Curriculum. The faculty shall be responsible for the development and implementation of the curriculum.

(b) Framework. The philosophy shall be the basis for curriculum development and shall reflect the purpose of the organization, faculty beliefs, and educational concepts. Terminal learning objectives derived from the philosophy shall be representative of the competencies for preparation of a vocational nurse graduate. Level and course objectives shall be stated in behavioral terms and shall serve as the mechanism for student progression. The conceptual framework shall define the internal and external influences impacting vocational nursing education and shall identify the educational method and focus.

(c) Design. The curriculum design shall allow for flexibility to incorporate current nursing education theories and the implications of current developments in health care and health care delivery to assist graduates in meeting professional, legal, and societal expectations. Career mobility shall also be a consideration in curriculum design. Vocational nursing educational programs shall implement a curriculum plan that will enable students to acquire knowledge, skills, and abilities to develop competence in:

(1) understanding and providing for essential human needs as related to health and therapeutics;

(2) gathering, recording, and communicating information;

(3) participating as a team member in planning, implementing, and evaluating nursing care of individuals in all age groups;

(4) developing and implementing safe practices in meeting health needs;

(5) understanding the impact of hygienic and environmental influences upon the health status of individuals;

(6) influencing health status through promotion of hygiene, self-awareness, and individual participation in improving or maintaining a state of health or wellness.

(d) Specific provisions. Instruction shall be provided in biological, physical, social, behavioral, and nursing sciences, including body structure and function, microbiology, pharmacology, and nutrition; signs of emotional health; and human growth development. Vocational adjustments and nursing skills shall also be included. Courses may be integrated or separate. The selection and organization of the learning experiences in curriculum shall provide continuity, sequence, and integration of learnings. Theory and clinical laboratory experiences shall be concurrent. Correlated theory and clinical practice shall be provided in the following areas, but not necessarily in separate courses.

(1) Nursing care of children. Experiences shall include care of children and meeting their needs in a variety of age

groups in the acute care setting. Day care and clinical settings may be utilized as supplementary experience. Common health deviations, physical, psychological, and neurological handicaps, and nutritional needs shall be emphasized. Students shall have opportunities to develop understanding of normal growth and development and the influences of the family, home, church, school, and community. Student practice in caring for and understanding the needs of newborn infants shall also be included.

(2) Maternity nursing. Opportunities shall be provided for students to gain an understanding of the psychological and physiological aspects of pregnancy, labor, and puerperium. Assisting mothers in the care of their infants shall be emphasized. A variety of settings, including clinics, organized maternity units, and maternity cases in nonsegregated units, may be utilized for provision of maternity nursing experience.

(3) Nursing care for the aged. Opportunities shall be included for the care of individuals experiencing specific changes related to the aging process. Students shall develop an understanding of the physical and mental changes associated with aging and the implications of aging in planning nursing care.

(4) Nursing care of adults. Opportunities shall be provided to the student through the use of various resources to care for adults who have health deviations. Resources used shall include learning experiences to illustrate the individual as a member of the family, the responsibilities and functions of the community in the provision of nursing care and the types of agencies where nursing is practiced. Preventive, therapeutic, and rehabilitative aspects shall be provided. Experiences shall also include the physical, psychological, and spiritual components of health and disease. Experience shall include, but not be limited to, the acute care settings

(5) Nursing care of individuals with mental health problems. Learning opportunities shall include an understanding of personality development, human needs, common mental mechanisms, factors influencing mental health and mental illness. Common mental disorders and related therapy shall be included. Clinical experience in a unit or facility specifically designed for psychiatric care is optional.

(e) Summary of experiences. Experiences shall include the administration of medications, health promotion and preventive aspects, nursing care of persons with acute chronic and aging illnesses, and rehabilitative care. Students shall participate in instructor supervised patient teaching. Students shall also be provided opportunities for participation in clinical conferences. The focus of clinical conferences shall be student experiences in the clinical setting. Simulated laboratory experiences may also be utilized as a teaching strategy in class-

room and clinical settings to meet objectives.

(f) Classroom instruction. Classroom instruction shall include organized student faculty interactive learning activities, formal lecture, audiovisual presentations, and simulated laboratory instruction.

(g) Minimum hours. The minimum clock hours shall be 558 for classroom instruction and 840 for clinical practice. The minimum total program clock hours, including classroom and clinical, shall be 1,398.

(h) Evaluation. There shall be provisions for continuous development, implementation, and evaluation of the curriculum.

(i) Documentation. The curriculum plan, including course outlines, shall be kept current and available to faculty and board representatives.

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

Issued in Austin, Texas, on
February 20, 1985.

TRD-851605 Joyce A. Hammer
Executive Director
Board of Vocational
Nurse Examiners

Effective date: March 21, 1985
Proposal publication date: January 18, 1985
For further information, please call
(512) 835-2071.

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Part XIX. Polygraph Examiners Board Chapter 397. Practice and Procedures

★22 TAC §§397.19, 397.20, 397.22, 397.24-397.26, 397.36, 397.39, 397.43, 397.46, 397.48

The Polygraph Examiners Board adopts the repeal of §§397.19, 397.20, 397.22, 397.24-397.26, 397.36, 397.39, 397.43, 397.46, and 397.48, without changes to the proposal published in the November 6, 1984, issue of the *Texas Register* (9 TexReg 5604).

The repeal of these sections brings the rules in the practice and procedure chapter into compliance with the Administrative Procedure and Texas Register Act for the ultimate benefit of the public.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under the Texas Polygraph Examiners Act, Texas Civil Statutes, Article 4413(29cc), §6(a),

which gives the Polygraph Examiners board the authority to issue regulations consistent with the provisions of this Act.

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

Issued in Austin, Texas, on February 13, 1985.

TRD-851617 Candy Moore
Executive Officer
Polygraph Examiners
Board

Effective date: March 14, 1985
Proposal publication date: November 6, 1984
For further information, please call (512) 465-2058.

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★22 TAC §§397.19, 397.22, 397.25, 397.26, 397.36

The Polygraph Examiners Board adopts new §§397.19, 397.22, 397.25, 397.26, and 397.36, without changes to the proposed text published in the November 6, 1984, issue of the *Texas Register* (9 TexReg 5604).

The new sections bring the practice and procedure chapter into compliance with the Administrative Procedure and Texas Register Act for the ultimate benefit of the public.

The new sections concern contested cases, notice, hearings, records; motions for postponement, continuance, withdrawal, or dismissal of applications and appeals, or other matters before the board; order of procedure; reporters and transcripts; and proposals for decision.

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

The new sections are adopted under the Texas Polygraph Examiners Act, Texas Civil Statutes, Article 4413(29cc), §6(a), which gives the Polygraph Examiners Board the authority to issue regulations consistent with the provisions of this Act.

This agency hereby certifies that the rule as adopted has been reviewed by legal

counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on February 13, 1985.

TRD-851618 Candy M. Moore
Executive Officer
Polygraph Examiners
Board

Effective date: March 14, 1985
Proposal publication date: November 6, 1984
For further information, please call (512) 465-2058.

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★22 TAC §§397.29, 397.42, 397.47

The Polygraph Examiners Board adopts amendments to §397.29 and §397.42, without changes to the proposed text published in the November 6, 1984, issue of the *Texas Register* (9 TexReg 5604). Section 397.47 is adopted without changes to the proposed text published in the November 9, 1984, issue of the *Texas Register* (9 TexReg 5762).

The amendments bring practice and procedures chapter into compliance with the Administrative Procedure and Texas Register Act for the ultimate benefit of the public.

The amendments concern rules of evidence, motions for rehearing, and amendments to rules.

No comments were received regarding the adoption of the amendments.

The amendments are adopted under the Texas Polygraph Examiners Act, Texas Civil Statutes, Article 4413(29cc), which gives the Polygraph Examiners Board the authority to issue regulations consistent with the provisions of the 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 February 13, 1985.

TRD-851618 Candy M. Moore
Executive Officer
Polygraph Examiners
Board

Effective date: March 14, 1985
Proposal publication dates: November 6, November 9, 1984

For further information, please call (512) 465-2058.

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part I. Texas Department of Safety

Chapter 11. Commercial Vehicle Registration

Lease Requirements for Commercial Motor Vehicles

★37 TAC §11.28

The Texas Department of Public Safety adopts amendments to §11.28, without changes to the proposed text published in the January 15, 1985, issue of the *Texas Register* (10 TexReg 165).

The amendments clarify the instructions for submitting a properly executed lease to the Motor Carrier Lease Section requiring the statutory filing fee to be submitted with a properly executed lease to improve turnaround time in processing and mailing a letter of acknowledgement to the lessee.

The amendments add language to subsection (a) and subsection (b) clarifying the requirement that a statutory filing fee must be accompanied with a properly executed lease, memorandum, or agreement and a letter of transmittal.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 4413(4), which authorize the Public Safety Commission to establish and make public proclamation of all rules and regulations for the conduct of the work of the department as may be deemed necessary and as may not be inconsistent with the provisions of that Act or the laws of this state.

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

Issued in Austin, Texas, on February 19, 1985.

TRD-851579 James B. Adams
Director
Texas Department of
Public Safety

Effective date: March 12, 1985
Proposal publication date: January 15, 1985
For further information, please call (512) 465-2000.

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★37 TAC §§11.21-11.27, 11.29-11.34

The Texas Department of Public Safety (DPS) adopts the repeal of §§11.21-11.27 and 11.29-11.34, without changes to the proposal published in the January

15, 1985, issue of the *Texas Register* (10 TexReg 164).

The repeal eliminates confusion as to the governing authority and its precise meaning. Lease requirements for commercial motor vehicles are statutory, and maintenance of these sections is no longer necessary. The repealed sections are a duplication of the requirements promulgated in Texas Civil Statutes, Article 6701c-1.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 4413(4), which authorizes the Public Safety Commission to establish and make public proclamation of all rules and regulations for the conduct of the work of the department as may be deemed necessary and as may not be inconsistent with the provisions of that Act or the laws of the state.

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

Issued in Austin, Texas, on
February 19, 1985.

TRD-851678

James B. Adams
Director
Texas Department of
Public Safety

Effective date: March 13, 1985
Proposal publication date: January 15, 1985
For further information, please call
(512) 465-2000.

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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 Air Control Board

Friday, March 8, 1985. Committees of the Texas Air Control Board and the full board will meet at 6330 U.S. Highway 290 East, Austin. Times, committees, and agendas follow.

8:30 a.m. In Room 332, the Regulation Development Committee will consider public hearings on proposed revisions to the general rules and Regulation VI to incorporate federal PSD requirements and hear a status report on the post-1982 state implementation plan revisions.

9 a.m. In Room 332, the Budget and Finance Committee will consider expenditures of accrued savings for capital items.

9:30 a.m. In Room 332, the Ad Hoc Permit Fee Review Committee will consider a staff recommendation for the fee system to recover the cost of issuing and enforcing permits.

10:30 a.m. The board will approve the February 8, 1985, minutes; hear reports; conduct meetings of the Ad Hoc Permit Fee Review Committee and the Regulation Development Committee; hear a staff report on quality assurance activities; and consider new business.

Contact: Paul M. Shinkawa, 6330 U.S. Highway 290 East, Austin, Texas 78723, (512) 451-5711, ext. 354.

Filed: February 25, 1985, 3:45 p.m.
TRD-851733, 851732,
851731, 851730

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Texas Amusement Machine Commission

Monday, March 4, 1985, 9:30 a.m. The Texas Amusement Machine Commission will meet in Suite 201, 1606 Headway Circle, Austin. According to the agenda summary, the commission will have a report, discussion, and adoption of administrative rule 16 TAC §85.5, concerning attachment

of tax permits to coin-operated machines; report and discussion concerning the status of possible legislative changes to the coin-operated machine law regarding article and reference numbers; report and discussion concerning the request for information regarding gambling warning decals; report and discussion on the recommended increase of the registration certificate fee; report and discussion concerning the legislative budget hearing for fiscal years 1986-1987; a report on current operations; and a report and recommendations of the advisory committee.

Contact: Jim Lusk, P.O. Box 13226, Austin, Texas 78711, (512) 835-4767.

Filed: February 22, 1985, 9:22 a.m.
TRD-851630

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Texas Board of Architectural Examiners

Monday, March 4, 1985, 10 a.m. The Texas Board of Architectural Examiners will meet at the Four Seasons Hotel, 555 South Alamo, San Antonio. According to the agenda, the board will consider approval of minutes, reinstatements, rules and regulations, legislation, board policies, examinations, alleged violations, reciprocal licensing, and future board meetings.

Contact: Robert H. Norris, AIA, 8213 Shoal Creek Boulevard, #107, Austin, Texas 78758, (512) 458-1363.

Filed: February 22, 1985, 4:03 p.m.
TRD-851690

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State Commission for the Blind

Monday, February 25, 1985, 1 p.m. The Board of the State Commission for the Blind made an emergency addition to the agenda of a meeting held at the Hilton Inn, 1800 Highway 26 East, Grapevine. Accord-

ing to the agenda, the addition concerned discussion and action on the deputy director of programs. The emergency status was necessary because there was an immediate need to fill the vacant position to provide leadership for programs affecting blind and visually disabled service recipients.

Contact: Jean Wakefield, 314 West 11th Street, Austin, Texas 78711, (512) 475-6810.

Filed: February 22, 1985, 11:14 a.m.
TRD-851659

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Texas State Board of Examiners of Dietitians

Friday, March 1, 1985, 10 a.m. The Texas State Board of Examiners of Dietitians will meet in Room T-803, 1100 West 49th Street, Austin. According to the agenda summary, the board will approve the September 21, 1984 and November 12, 1984, minutes; hear reports from the executive secretary, chairman, and committees; consider and adopt amendments to 22 TAC §§711.1-711.13, concerning dietitian licensing; ratify applications approved by the committee and the executive secretary; approve applications; discuss other matters relating to the licensure and regulation of dietitians not requiring board action; and set the next meeting date. The board also will meet in executive session.

Contact: Donna Hardin, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7501.

Filed: February 21, 1985, 4:17 p.m.
TRD-851629

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Texas Education Agency

Friday, March 1, 1985, 10 a.m. The Advisory Committee for Accountable Costs and the Committee for Finance and Programs of the State Board of Education of the Texas Education Agency (TEA) will meet

jointly in emergency session in Room 101-E, TEA North Building, 1200 East Anderson Lane, Austin. According to the agenda, the committees will discuss and review recommendations concerning the program weighting study. The emergency status is necessary to enable the work of the advisory committee to continue on schedule by receiving input from the Committee for Finance and Programs of the State Board of Education.

Contact: Tom Krueck, 201 East 11th Street, Austin, Texas 78701, (512) 475-2275.

Filed: February 25, 1985, 12:26 p.m.
TRD-851717

Thursday, March 7, 1985, 1 p.m. The Committee for Students of the State Board of Education of the Texas Education Agency (TEA) will meet in the boardroom, TEA North Building, 1200 East Anderson Lane, Austin. According to the agenda, the committee will conduct a public hearing on whether to retain the requirement in Textbook Proclamation 61 that the State Textbook Committee shall select at least two textbooks for each level, preprimer through grade six specifically designed as supplementary readers to reflect the intensive phonics approach to the teaching of reading, or to amend the requirement to allow the committee to recommend up to two such books for each level. Persons wishing to testify must notify J. Henry Perry, Jr., Division of Textbooks, Texas Education Agency, (512) 834-4056, by 5 p.m. on March 5, 1985.

Contact: J. Henry Perry, Jr., 201 East 11th Street, Austin, Texas 78701, (512) 834-4056.

Filed: February 25, 1985, 8:23 a.m.
TRD-851694

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Texas Employment Commission

Tuesday, March 5, 1985, 9 a.m. The Texas Employment Commission (TEC) will meet in Room 644, TEC Building, 15th Street and Congress Avenue, Austin. According to the agenda summary, the commission will consider prior meeting notes and internal procedures of the Office of Commission Appeals, consider and act on tax liability cases and higher level appeals in unemployment compensation cases listed on Commission Docket 10, 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: February 25, 1985, 3:09 p.m.
TRD-851722

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Texas Department of Health

Saturday, March 2, 1985, 9:30 a.m. The Cardiovascular Advisory Committee of Crippled Children's Services of the Texas Department of Health will meet in the conference room, second floor, 1101 East Anderson Lane, Austin. According to the agenda, the committee will consider applications from physicians and hospitals desiring to participate in the Crippled Children's Services Program and discuss budget projections for fiscal year 1986-1987 and necessary cost containment proposals.

Contact: James P. Ramin, 1100 West 49th Street, Austin, Texas 78756, (512) 465-2680.

Filed: February 22, 1985, 4:20 p.m.
TRD-851691

Saturday, March 9, 1985, 9:30 a.m. The General Advisory Committee of Crippled Children's Services of the Texas Department of Health will meet in the conference room, second floor, 1101 East Anderson Lane, Austin. According to the agenda, the committee will consider applications from physicians and hospitals desiring to participate in the Crippled Children's Services Program and consider proposed limitations of program coverable medical conditions and development of final recommendations on the medical scope of the program.

Contact: James P. Ramin, 1100 West 49th Street, Austin, Texas 78756, (512) 465-2680.

Filed: February 22, 1985, 4:21 p.m.
TRD-851692

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Texas Indian Commission

Wednesday, February 27, 1985, 2 p.m. The Advisory Board of Directors Tribal Enterprises of the Alabama/Coushatta Reservation of the Texas Indian Commission, met in a rescheduled emergency session, Livingston. According to the agenda summary, the board approved the August 7, 1984 minutes, reviewed board composition, heard reports, and considered the Tribal Enterprise operation and a plan for the 1985 tourist year. The meeting originally was scheduled for January 23, 1985, as published at (10 TexReg 297). The emergency status was necessary because the board had to approve the opening of the tourist complex on March 8, 1985.

Contact: Dan Boursaw, Alabama-Coushatta Reservation, Route 3, Box 640, Livingston, Texas 77351, (409) 563-4391.

Filed: February 25, 1985, 2:19 p.m.
TRD-851742

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State Board of Insurance

Tuesday, March 5, 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 servicing company contracts between the Texas Medical Insurance Underwriting Association and the United States Fire Insurance Company, Medical Protective Company, and the Saint Paul Fire and Marine Insurance Company; motions for rehearing in the appeal of Alex A. Arthur from action of the Texas Catastrophe Property Insurance Association (TCPA); a motion for dismissal in the appeal of Corliss Segler from action of the TCPA; a decision in the appeal of Joy Ann Leon from action of the TCPA; the commissioner's report and the fire marshal's report (both including personnel matters); 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: February 25, 1985, 3:22 p.m.
TRD-851727

Wednesday, March 6, 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 7940—whether the Group I, legal reserve life insurance agent's license held by Tom R. Nelson, Sallisaw, Oklahoma, should be canceled or revoked.

Contact: John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

Filed: February 25, 1985, 12:07 p.m.
TRD-851714

Friday, March 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 the research and information services report.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

Filed: February 25, 1985, 3:22 p.m.
TRD-851728

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Texas Department of Labor and Standards

Monday, March 4, 1985, 9 a.m. The Manufactured Housing Division of the Texas Department of Labor and Standards will meet in Room 105, E. O. Thompson Building, 920 Colorado Street, Austin. According to the agenda, the division will consider license and registration revocations, suspensions, and alleged violations of var-

ious rules and regulations of the department.

Contact: Orlando S. Mata, P.O. Box 12157, Austin, Texas 78711, (512) 475-0155.

Filed: February 22, 1985, 4:39 p.m.
TRD-851693

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Legislative Committee on State Telecommunications

Tuesday, February 26, 1985, 2 p.m. The Legislative Committee on State Telecommunications met in emergency session in Room 213, State Capitol, Austin. According to the agenda, the committee received and discussed a report by the State Purchasing and General Services Commission and discussed a future meeting schedule. The emergency status was necessary because of time constraints placed on the committee by Senate Bill 35, 68th Legislature, 2nd Called Session, 1984.

Contact: Walter Fisher, P.O. Box 12128, Austin, Texas 78711, (512) 475-2736.

Filed: February 22, 1985, 3:21 p.m.
TRD-851669

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Texas Legislative Council

Tuesday, February 26, 1985, 2 p.m. The State Telecommunications Study Committee of the Texas Legislative Council met in emergency session in Room 213, State Capitol, Austin. According to the agenda, the committee received and discussed a report by the State Purchasing and General Services Commission and discussed a future meeting schedule. The emergency status was necessary because of time constraints placed on the committee by Senate Bill 35, 68th Legislature, 2nd Called Session, 1984.

Contact: Walter Fisher, P.O. Box 12128, Austin, Texas 78711, (512) 475-2736.

Filed: February 22, 1985, 3:21 p.m.
TRD-851668

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Texas Low-Level Radioactive Waste Disposal Authority

Friday, February 22, 1985, 10 a.m. The Texas Low-Level Radioactive Waste Disposal Authority made an emergency addition to the agenda of a meeting held in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin. According to

the agenda, the addition concerned election of a secretary for the board of directors. The emergency status was necessary because a new board member appointed by the governor on February 18, 1985, replaced the existing secretary. A new secretary had to be elected before the February 22, 1985, minutes could be approved.

Contact: L. R. Jacobi, Jr., 1300-C East Anderson Lane, Suite 175, Austin, Texas 78752, (512) 835-6795.

Filed: February 21, 1985, 4:18 p.m.
TRD-851708

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State Board of Morticians

Tuesday and Wednesday, March 5 and 6, 1985, 8:30 a.m. and 9 a.m. respectively. The State Board of Morticians will meet at 1513 IH 35 South, Austin, on Tuesday and at the Ramada Inn, 1001 IH 35 South, Austin, on Wednesday. According to the agenda summary, on Tuesday the board will consider applicants for reinstatement of licenses; conduct a formal hearing on action of a licensee; certify embalmer practical grades; review a rule on displaying consumer brochures, reciprocal recommendation, and a newsletter; discuss the embalming case report form and who should retain a copy, mini-seminars sponsored by the board; review complaints; hear reports from committees, investigators, and the executive secretary; and meet in executive session to consider pending litigation. On Wednesday the board will conduct written funeral director and embalmer examinations and certify grades.

Contact: John W. Shocklee, 1513 IH 35 South, Austin, Texas 78741, (512) 442-6721.

Filed: February 22, 1985, 2:21 p.m.
TRD-851664

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Board of Pardons and Paroles

Monday-Friday, March 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/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate action.

Contact: Mike Roach, 8610 Shoal Creek Boulevard, Austin, Texas, (512) 459-2713.

Filed: February 22, 1985, 10:27 a.m.
TRD-851632

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Tuesday, March 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 conditional pardons, including full pardons/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: February 22, 1985, 10:27 a.m.
TRD-851633

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State Pension Review Board

Wednesday, March 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: Bennette Meadows, P.O. Box 13498, Austin, Texas 78711, (512) 475-8332.

Filed: February 25, 1985, 10:52 a.m.
TRD-851709

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Texas State Board of Pharmacy

Friday, March 8, 1985, 1 p.m. The Texas State Board of Pharmacy will meet at the Austin South Plaza Hotel, 3401 IH 35 South, Austin. According to the agenda, the board will discuss approval of the January 10, 1985, board minutes and the November 27-29, 1984, disciplinary hearing minutes; consider 22 TAC §§283.10, 283.13, and 291.14 for final adoption; consider proposed amendments to 22 TAC §283.14 and §291.24; the status of pharmacy-related legislation introduced in the 1985 legislative session; reports on the Class D Advisory Committee, board services and supportive personnel, the status of the 1985 pharmacy renewal application process, and the status of the board budget request for fiscal years 1986-1987; delinquent pharmacy licenses; field testing of the integrated NABPLEX examination; and the site and date for the summer policy meeting.

Contact: Fred S. Brinkley, Jr., R.Ph., 211 East Seventh Street, Suite 1121, Austin, Texas 78701, (512) 478-9827.

Filed: February 25, 1985, 2:13 p.m.
TRD-851719

Public Utility Commission of Texas

The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin, Days, times, and dockets follow.

Monday, March 4, 1985, 1 p.m. A prehearing conference in Docket 5944—complaint of Pinehurst Homeowners Association against Chacko Thomas & Associates, Inc.

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

Filed: February 21, 1985, 10:52 a.m.
TRD-851614

Tuesday, March 5, 1985, 10 a.m. A prehearing conference in Docket 6120—complaint of Charles Martin against Kirk Water Supply for disruption of service.

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

Filed: February 21, 1985, 2:32 p.m.
TRD-851620

Wednesday, March 6, 1985, 10 a.m. A prehearing conference in Docket 6117—application of Texas Utilities Electric Company to obtain a certificate of convenience and necessity for the Trophy Club-Coppell-Euleus 138kV transmission line.

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

Filed: February 22, 1985, 3:15 p.m.
TRD-851665

Friday, March 8, 1985, 10 a.m. A prehearing conference in Docket 6143—application of Southwest Rural Electric Association, Inc., for authority to change rates.

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

Filed: February 22, 1985, 3:15 p.m.
TRD-851666

Wednesday, April 17, 1985, 10 a.m. A prehearing conference in Docket 5706—complaint of Willow Glen Estates, Inc., and Spring Valley Water Company, doing business as Spring Valley Utility Company, against Western Water Works, Inc.

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

Filed: February 25, 1985, 3:17 p.m.
TRD-851725

Wednesday, May 1, 1985, 10 a.m. A hearing on the merits in Docket 5119—application of the City of Mercedes for a certificate of convenience and necessity within Hidalgo County, and application of the City of Weslaco to amend its certificate of convenience and necessity within Hidalgo County.

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

Filed: February 22, 1985, 3:15 p.m.
TRD-851667

Tuesday, May 21, 1985, 10 a.m. A hearing on the merits in Docket 5706—complaint of Willow Glen Estates, Inc., and Spring Valley Water Company, doing business as Spring Valley Utility Company, against Western Water Works, Inc.

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

Filed: February 25, 1985, 3:17 p.m.
TRD-851724

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State Purchasing and General Services Commission

Monday, February 25, 1985, 2:30 p.m. The State Purchasing and General Services Commission met in emergency session in Suite 900, 8214 Westchester, Dallas. According to the agenda, the commission considered personnel matters. The emergency status was necessary to discuss an urgent personnel matter before the regular meeting time.

Contact: Homer A. Foerster, P.O. Box 13047, Austin, Texas 78711, (512) 475-2211 or STS 822-2211.

Filed: February 25, 1985, 10:36 a.m.
TRD-851741

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Railroad Commission of Texas

Monday, February 25, 1985, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas made an emergency addition to the agenda of a meeting held in Room 309, 1124 IH 35 South, Austin. The addition concerned commission consideration of whether to use state funds to plug a leaking corehole on the Cummings Lease, Fisher County. The emergency status was necessary because the corehole was leaking six gallons of salt water per minute into a dry tributary that leads into a creek. There was danger of pollution which could harm the public's health, safety, and welfare.

Emergency addition to the previous agenda:

The commission also considered Docket 6-82,543—whether to use state funds to plug the Texas International Gas and Oil, Weldon Kelly 1 (10631), Talco Field, Franklin County. The emergency status was necessary because the well was leaking into drainage of the area at the rate of one barrel

per minute, which could cause harm to the public health, safety, and welfare.

Contact: Willis Steed, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1301.

Filed: February 22, 1985, 11:22 a.m.
TRD-851638, 851639

Monday, March 4, 1985, 9 a.m. The Railroad Commission of Texas will meet in Room 309, 1124 IH 35 South, Austin. The commission will consider and act 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: February 22, 1985, 11:20 a.m.
TRD-851640

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: February 22, 1985, 11:20 a.m.
TRD-851641

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: February 22, 1985, 11:21 a.m.
TRD-851642

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: February 22, 1985, 11:20 a.m.
TRD-851643

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, (512) 445-1231.

Filed: February 22, 1985, 11:20 a.m.
TRD-851644

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, (512) 475-1301.

Filed: February 22, 1985, 11:22 a.m.
TRD-851645

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: February 22, 1985, 11:21 a.m.
TRD-851646

Addition to the previous agenda:

Consideration of category determinations under the Natural Gas Policy Act of 1978, §§102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108.

Contact: Madalyn J. Girvin, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1209.

Filed: February 22, 1985, 11:22 a.m.
TRD-851647

The Personnel Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Mark K. Bogan, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1120.

Filed: February 22, 1985, 11:20 a.m.
TRD-851648

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, (512) 445-1391.

Filed: February 22, 1985, 11:21 a.m.
TRD-851649

The Office of the Special Counsel director's report relating to pending litigation, state and federal legislation, and other budget, administrative, and personnel matters.

Contact: Walter Earl Lillie, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1186.

Filed: February 22, 1985, 11:21 a.m.
TRD-851650

The Surface Mining and Reclamation Division director's report on division administration, budget, procedures, and personnel matters.

Contact: J. Randel (Jerry) Hill, 105 West Riverside Drive, Austin, Texas, (512) 475-8751.

Filed: February 22, 1985, 11:22 a.m.
TRD-851651

Various matters falling within the Transportation Division's regulatory jurisdiction.

Contact: Michael A. James, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1330.

Filed: February 22, 1985, 11:20 a.m.
TRD-851652

Wednesday, March 20, 1985, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas will meet at the Doubletree Hotel, 15747 Drummet Boulevard, Houston. According to the agenda summary, the commission will conduct a statewide oil and gas hearing.

Contact: Paula C. Middleton, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1297.

Filed: February 22, 1985, 11:21 a.m.
TRD-851653

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Texas Rehabilitation Commission

Monday, March 4, 1985, 9:30 a.m. The Texas Advisory Board of Occupational Therapy of the Texas Rehabilitation Commission will meet in the commissioner's boardroom, 118 East Riverside Drive, Austin. According to the agenda summary, the board will approve the September 18, 1984, minutes; hear reports on the Continuing Education Task Force, final Sunset Advisory Commission recommendations, and the Fees Committee; consider amendments to the rules and regulations regarding the use of occupational therapy aides and the length of time examination results remain valid as a requirement for licensure, a report from the executive session, if any, the office report, and other business. The board also will meet in executive session.

Contact: Cary Westhause, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8368.

Filed: February 21, 1985, 3:47 p.m.
TRD-851628

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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.

Tuesday, March 5, 1985, 9 a.m. The department will accumulate a record of evidence regarding the application of United Savings Association of Texas, Houston, to establish a branch office at the southwest corner of Northcross Boulevard and Foster Lane, Austin, Travis County, from which record the commissioner shall determine whether to grant or deny the application.

Wednesday, March 6, 1985, 9 a.m. The department will accumulate a record of evidence regarding the application of United Savings Association of Texas, Houston, to establish a branch office at the southwest corner of Highway 360 and Bee Cave Road, Austin, Travis County, from which record the commissioner shall determine whether to grant or deny the application.

Contact: Russell R. Oliver, 1004 Lavaca Street, Austin, Texas 78701, (512) 475-7991.

Filed: February 22, 1985, 10:31 a.m.
TRD-851634, 851635

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School Land Board

Tuesday, March 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; pooling applications; pooling agreement amendments; lease suspension applications; the direct sale of a small tract; an application for a patent under the Texas Constitution, Article VII, §4a; a report on the land sale of February 5, 1985; coastal public lands lease applications; easement applications; cabin permit assignment requests; and cabin permit relocation requests.

Contact: Linda K. Fisher, Stephen F. Austin Building, Room 835, 1700 North Congress Avenue, Austin, Texas 78701, (512) 475-4307.

Filed: February 25, 1985, 2:30 p.m.
TRD-851721

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State Securities Board

Tuesday, June 11, 1985, 10 a.m. The securities commissioner of the State Securities Board rescheduled a hearing to be held in Suite 114, 3100 West Alabama, Houston. According to the agenda summary, the commissioner will determine whether a cease and desist order should be issued prohibiting the sale of securities issued by Central Mortgage and Trust, Inc.; John Signorelli, both individually and as president of Central Mortgage and Trust, Inc.; Sue Frericks; and Carolyn Thornton. The meeting originally was scheduled for February 26, 1985, as published at 10 TexReg 256.

Contact: A. J. Ellis, 1800 San Jacinto Street, Austin, Texas 78701.

Filed: February 25, 1985, 3:30 p.m.
TRD-851734

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Teacher Retirement System of Texas

Friday, March 8, 1985, 10 a.m. The Board of Trustees of the Teacher Retirement System of Texas will meet in the boardroom, 1001 Trinity, Austin. Items on the agenda summary include approval of minutes, review of investments for quarter ending 2/28/85, review of discussions and recommendations at IAC meeting, consideration of Docket 84-4—petition of William O. Mann; the report of general counsel, the legislative report, consideration of purchase of leased equipment, a report of the Member Benefits Division. The board also will

meet in executive session to discuss personnel.

Contact: Mary Godzik, 1001 Trinity, Austin, Texas 78701, (512) 397-6400.

Filed: February 26, 1985, 9:43 a.m.
TRD-851738

Tuesday, March 12, 1985, noon. The Medical Board of the Teacher Retirement System of Texas will meet in the boardroom, 1001 Trinity Street, Austin. According to the agenda, the board will discuss members' files that are due a reexamination report.

Contact: James Preston, 1001 Trinity Street, Austin, Texas 78701, (512) 397-6400.

Filed: February 25, 1985, 1:28 p.m.
TRD-851720

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Teachers' Professional Practices Commission

Saturday, March 2, 1985, 9:15 a.m. The Teachers' Professional Practices Commission will meet in Room 101-E, Texas Education Agency North Building, 1200 East Anderson Lane, Austin. According to the agenda, the commission will discuss a bill relating to licensure and practice of public educators, hear the director's report on cases pending, work on changes in the rules of procedures, establish the next meeting date, and hear the chairperson's report on commission accomplishments.

Contact: James A. Salmon, 201 East 11th Street, Austin, Texas, (512) 834-4091.

Filed: February 21, 1985, 3:15 p.m.
TRD-851621

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Texas Water Commission

The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Days, times, rooms, and agendas follow.

Tuesday, March 5, 1985, 10 a.m. In Room 118, the commission will consider water district bond issues, an amendment to a bond issue, a change order, release from escrow, a change in plans and the filing and setting of a district creation, water quality proposed permits, amendments and renewals, an examiner's proposals for decision on water use applications, and the filing and setting of hearing dates.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: February 21, 1985, 2:16 p.m.
TRD-851639

Tuesday, March 5, 1985, 2 p.m. In Room 118, the commission will consider an appli-

cation of the City of Baird, 328 Market Street, Baird, Texas 79504, to the Texas Department of Water Resources (TDWR) for a temporary order to authorize the discharge of partially treated wastewater effluent at a volume not to exceed an average flow of 180,000 gallons per day from its facility located in Callahan County immediately to the east of the Baird Railroad Lake Dam and immediately south of the Texas-Pacific Railroad right-of-way. The applicant has stated that the temporary order is necessary to repair and clean existing facilities operating under Permit 10037-01.

Contact: Claire Patterson, P.O. Box 13087, Austin, Texas 78711, (512) 475-6943.

Filed: February 22, 1985, 3:11 p.m.
TRD-851670

Wednesday, March 20, 1985, 10 a.m. In Room 118, the commission will consider applications for waste discharge permits for Vern Norman, proposed Permit 12978-01, Sommersetshire Estates Wastewater Treatment Plant, Brazoria County, and renewal of Permit 11974-01 of Happy Country Homes of Texas, Inc., Rockwall County, Trinity River Basin; and an application of Texas Utilities Generating Company for an extension of time for completion of construction of a dam and a 32,818 acre-foot capacity reservoir (Oak Knoll Dam and Reservoir on Steele Creek, Brazos River Basin, Limestone County).

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: February 21, 1985, 10:07 a.m.
TRD-851610

Wednesday, March 27, 1985, 10 a.m. In Room 118, a rescheduled hearing for petition for creation of Williamson-Travis Counties Municipal Utility District 1, containing 546.53 acres of land. The hearing originally was scheduled for March 13, 1985, as published at 10 TexReg 598.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: February 21, 1985, 2:16 p.m.
TRD-851640

Monday, April 1, 1985, 10 a.m. In Room 124A, the commission will conduct a hearing on an application of Muenster Water District seeking to extend the time for commencement of construction of a dam on Brushy Creek, tributary of the Elm Fork of the Trinity River, tributary of the Trinity River, Trinity River Basin, Cooke County, under Certificate of Adjudication 08-2323 (Permit 3204). The dam will be for municipal purposes.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: February 22, 1985, 3:12 p.m.
TRD-851671

Wednesday, April 3, 1985, 9 a.m. In Room 124A, the commission will consider an application of Storm Development, Inc., 1607 West Avenue, Austin, Texas 78701, to the TDWR for proposed Permit 12971-01 to authorize a discharge of treated domestic sewage effluent at a volume not to exceed an average flow of 1.54 million gallons per day from the proposed Dessau Sewage Treatment Plant, which is to serve a proposed development.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: February 21, 1985, 2:17 p.m.
TRD-851622

Wednesday, April 3, 1985, 9 a.m. The Texas Water Commission rescheduled a meeting to be held at the Hays County Extension Office, 401B Broadway, San Marcos. According to the agenda summary, the commission will consider an application of Austin Partners, Inc., 401 Camp Craft Road, #102, Austin, Texas 78746, to the TDWR for proposed Permit 13040-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 1.74 million gallons per day from the proposed Cottonwood Creek Park Wastewater Treatment Plant, which is to serve a proposed light industrial/commercial park, including some multifamily residential areas. The meeting originally was scheduled for February 21, 1985, as published at 10 TexReg 217.

Contact: Joseph W. O'Neal, P.O. Box 13087, Austin, Texas 78711, (512) 475-2711.

Filed: February 21, 1985, 2:17 p.m.
TRD-851623

Monday, April 8, 1985, 10 a.m. The Texas Water Commission will meet in Room 124A, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will conduct a hearing on an application of Adan Volpe to amend Certificate of Adjudication 23-2421, which authorizes the use of 13 acre-feet of Class A water rights and 37 acre-feet of Class B water rights per annum for irrigation use from the Rio Grande, Rio Grande Basin. The applicant seeks to change the place of use of water right, change the point of diversion, and establish a separate diversion point and a maximum rate of 5.5 cubic feet per second. The water right is located in Webb County.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: February 22, 1985, 3:12 p.m.
TRD-851672

Addition to the previous agenda:

The commission will consider Application 4538 of Alice P. Jendrusch, Ronald Francis Jendrusch, Janis Sue Jendrusch Rotter, Nancy Alice Jendrusch Raynor, Kathleen Jane Jendrusch, and Stephen Anthony

Jendrusch seeking a permit to divert and use 150 acre-feet of water per annum from the San Antonio River, San Antonio River Basin, for irrigation use in Karnes County.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: February 22, 1985, 3:12 p.m.
TRD-851673

Wednesday April 10, 1985, 9 a.m. The Texas Water Commission will meet in the Assembly Room, Grayson County Courthouse, Sherman. According to the agenda summary, the commission will consider an application of the City of Denison, 108 West Main, Denison, Texas 75020, to the TDWR for an amendment to Permit 10079-01 to authorize the disposal of digested sludge from the Iron Ore Sewage Treatment Plant by spray irrigation onto a six-acre, city-owned tract of land located northwest of the Iron Ore Sewage Treatment Plant and bordered on the north by the city limits. The rate of sludge application shall not exceed 20 dry tons per acre per year. The wastewater treatment process or effluent quality of the existing permit, which authorizes a discharge of treated wastewater effluent at a volume not to exceed an average flow of two million gallons per day, will not be affected by the proposed change.

Contact: Wade Russell, P.O. Box 13087, Austin, Texas 78711, (512) 475-1317.

Filed: February 22, 1985, 3:12 p.m.
TRD-851674

Addition to the previous agenda:

The commission will consider an application of the Town of Flower Mound, 2121 Cross Timbers Road, Flower Mound, Texas 75028, to the TDWR for an amendment to Permit 11321-01 to authorize an increase in the discharge of treated domestic wastewater effluent from a volume not to exceed an average flow of 700,000 gallons per day to two million gallons per day. The applicant proposes to modify and add to existing treatment units to handle the increased flow. The proposed amendment also deletes requirements for monitoring fecal coliform bacteria.

Contact: Wade Russell, P.O. Box 13087, Austin, Texas 78711, (512) 475-1317.

Filed: February 22, 1985, 3:13 p.m.
TRD-851675

Friday, April 12, 1985, 9 a.m. The Texas Water Commission will meet in the council chamber, city hall, 3025 Shoreline Boulevard, Corpus Christi. According to the agenda summary, the commission will consider an application of SDC Services, Inc., P.O. Box 7142, Corpus Christi, Texas 78415, to the TDWR for proposed Permit HW-50059-000 to operate a Class I, hazardous commercial industrial solid waste storage and processing facility. Wastes

stored and/or processed at this facility are to be received from off-site sources and will consist of contaminated wastewater, contaminated sediment, spent oils, ignitable wastes, benzene, cumene, toluene, xylene, spent nonhalogenated solvents, petroleum refining wastes, acetone, methyl alcohol, methyl ethyl ketone, naphthalene, and phenol. Wastes are to be stored in tanks prior to processing for beneficial reuse by blending into petroleum-based fuels.

Contact: Karl X. Forrester, P.O. Box 13087, Austin, Texas 78701, (512) 475-1418.

Filed: February 25, 1985, 11:16 a.m.
TRD-851713

Friday, April 12, 1985, 10 a.m. The Texas Water Commission will meet in Room 124A, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will consider Application 3398A of Edmund Kappler, Ruben Kappler, and Wanda Kappler seeking an amendment to Permit 3087, which authorizes the maintenance of a dam and a 189 acre-foot capacity reservoir on Blair Branch, Colorado River Basin; and the diversion of 128 acre-feet of water per annum from the reservoir for irrigation use in Fayette County. The applicants seek to amend the permit to extend the expiration date, which currently is July 1, 1985.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: February 22, 1985, 3:13 p.m.
TRD-851676

Wednesday-Friday, April 24-26, 1985, 10 a.m. daily. The Texas Water Commission will meet in Room 119 on Wednesday and Room 618 on Thursday and Friday, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will conduct a hearing on the cancellation of water rights in the Lower Rio Grande Basin.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: February 25, 1985, 11:17 a.m.
TRD-851712

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Texas Water Well Drillers Board

Tuesday, March 5, 1985, 9:30 a.m. The Texas Water Well Drillers Board will meet in Room 513F, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the board will consider approval of the minutes; certification of applicants for registration; applications for driller-trainee registration; whether to set a public hearing or other appropriate legal action on complaints for M. B. Doyal, Tony Doyal, George Hazelett,

Jessie David Killingsworth, and Ed Robinson; and staff reports. The board also will meet in executive session.

Contact: Jack Overton, P.E., P.O. Box 13087, Austin, Texas 78711, (512) 475-3191.

Filed: February 25, 1985, 3:40 p.m.
TRD-851729

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Texas Youth Commission

Thursday, February 28, 1985, 1 p.m. The Board of the Texas Youth Commission met in a rescheduled emergency session in Suite 322, 8900 Shoal Creek Boulevard, Austin. According to the agenda summary, the board considered contracts, the selection of an architect for the initial development phase of the South Texas Regional Facility, a contract with Management Research Systems concerning an employee attitude survey, the Giddings roof repair extension of consultant agreement, the agency response to the State of the State address, the state audit of data processing, and student population trends. The emergency status was necessary because the commission is scheduled to appear before the House Budget and Oversight Committee. The meeting was rescheduled due to a time conflict. The meeting originally was scheduled for Thursday, February 28, 1985, at noon.

Contact: Ron Jackson, 8900 Shoal Creek Boulevard, Austin, Texas 78766, (512) 452-8111.

Filed: February 22, 1985, 2:04 p.m.
TRD-851661

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Regional Agencies

Meetings Filed February 21

The Colorado River Municipal Water District, Board of Directors, met at 400 East 24th Street, Big Spring, on February 26, 1985, at 10 a.m. Information may be obtained from O. H. Ivie, P.O. Box 869, Big Spring, Texas 79720, (915) 267-6341.

The Liberty County Central Appraisal District, Board of Directors, met at 1820 Sam Houston, Liberty, on February 27, 1985, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 712, Liberty, Texas 77575, (409) 336-6771.

The South Texas Development Council, Board of Directors, will meet at the Zapata County Library, Zapata, on March 6, 1985, at 1:30 p.m. Information may be obtained from Julie Saldana, P.O. Box 2187, Laredo, Texas 78044-2187, (512) 722-3995.

The Trinity River Authority of Texas, Board of Directors, met at 5300 South Collins, Arlington, on February 27, 1985, at 10 a.m. Information may be obtained from Jack C. Worsham, 5300 South Collins, Arlington, Texas 76004-0060, (817) 467-4343.

TRD-851612

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Meetings Filed February 22

The Atascosa County Appraisal District, Board of Directors, met at 1010 Zanderson, Jourdanton, on February 28, 1985, at 1:30 p.m. Information may be obtained from Vernon A. Warren, 1010 Zanderson, Jourdanton, Texas 78026, (512) 769-2730.

The Austin-Travis County Mental Health and Mental Retardation Center, Board of Trustees, met in the boardroom, 1430 Collier Street, Austin, on February 28, 1985, at 7 a.m. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141.

The Dallas Area Rapid Transit Authority, Service Plan/Work Program Committee, submitted an emergency revised agenda for a meeting held at 601 Pacific Avenue, Dallas, on February 22, 1985, at 3:30 p.m. The Budget and Finance Committee met at the same location on February 25, 1985, at 4 p.m. The Special Needs Committee met at the same location on February 26, 1985, at 4 p.m. The Board met at the same location on February 26, 1985, at 6:30 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 748-3278.

TRD-851660

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Meetings Filed February 25

The Ark-Tex Council of Governments, Executive Committee, met in the city council chambers, city hall, Mount Pleasant, on February 28, 1985, at 7:30 p.m. Information may be obtained from Vivienne Arvin, P.O. Box 5307, Texarkana, Texas 75501, (501) 774-3481.

The Bexar-Medias-Atascosa Counties Water Control and Improvement District 1, Board of Directors, will meet at the district office, Highway 81, Natalia, on March 4, 1985, at 8 a.m. Information may be obtained from

C. A. Mueller, P.O. Box 170, Natalia, Texas 78059, (512) 663-2132.

The Bexar Appraisal District, Appraisal Review Board, will meet at 535 South Main, San Antonio, on March 8, 1985, at 9 a.m. Information may be obtained from Bill Burnette, 535 South Main, San Antonio, Texas 78204, (512) 224-8511.

The Heart of Texas Council of Governments, Executive Committee, will meet in the conference room, 320 Franklin, Waco, on March 1, 1985, at 12:30 p.m. Information may be obtained from Mary McDow, 320 Franklin Avenue, Waco, Texas 76701, (817) 756-6631.

The Heart of Texas Region Mental Health and Mental Retardation Center, Board of Trustees, met in emergency session at 2220 Austin Avenue, Waco, on February 27, 1985, at 11:30 a.m. Information may be obtained from Jan Baty, P.O. Box 1277, Waco, Texas 76703, (817) 752-3451.

The Houston-Galveston Area Council, Health Planning Advisory Committee, will meet in the conference room, fourth floor, 3555 Timmons, Houston, on March 1, 1985, at 10 a.m. Information may be obtained from Aquina Janice, P.O. Box 22777, Houston, Texas 77027, (713) 993-4555.

The Lamar County Appraisal District, Board of Directors, met in emergency session at 1523 Lamar Avenue, Paris, on February 26, 1985, at 4 p.m. Information may be obtained from Rodney Anderson, 1523 Lamar Avenue, Paris, Texas 75460, (214) 785-7822.

The Leon County Central Appraisal District, Board of Directors, met in emergency session in the county courtroom, Centerville, on February 25, 1985, at 7:30 p.m. Information may be obtained from Tom G. Holmes, Centerville, Texas 75833, (214) 536-2911.

The Middle Rio Grande Development Council, Texas Review and Comment System, met in emergency session at the Kinney County Courthouse, Brackettville, on February 26, 1985, at 10 a.m. Information may be obtained from Oralia Saldua, Del Rio National Bank, Suite 307, Del Rio, Texas 78840, (512) 774-4949.

The North Central Texas Council of Governments, Executive Board, met on the second floor, Centerpoint Two, 616 Six Flags Drive, Arlington, on February 28,

1985 at 12:45 p.m. Information may be obtained from Edwina J. Hicks, P.O. Drawer COG, Arlington, Texas 76005-5888, (817) 640-3300.

The South Texas Development Council, STED Corporation Board of Trustees, will meet at the Zapata Public Library, Zapata, on March 6, 1985, at 10:30 a.m. Information may be obtained from Robert Mendiola, P.O. Box 2187, Laredo, Texas 78044-2187, (512) 722-3995.

The Wheeler County Appraisal District, Board of Directors, will meet at the county courthouse square, Wheeler, on March 4, 1985, at 2 p.m. Information may be obtained from Marilyn Copeland, P.O. Box 349, Wheeler, Texas 79096, (806) 826-5900.

TRD-851696

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Meetings Filed February 26

The Brown County Appraisal District, Board of Directors, will meet at 403 Fisk Avenue, Brownwood, on March 4, 1985, at 7 p.m. Information may be obtained from Alvis Sewalt, 403 Fisk Avenue, Brownwood, Texas 76801, (915) 643-5676.

The Callahan County Appraisal District, Board, will meet at the Callahan County Appraisal Office, first floor, Callahan County Courthouse, Baird, on March 5, 1985, at 7:30 p.m. Information may be obtained from Jane Ringhoffer, P.O. Box 1055, Baird, Texas 79504, (915) 854-1165.

The Capital Area Planning Council, Health Planning Advisory Council, will meet in Suite 100, 2520 IH 35 South, Austin, on March 5, 1985, at 10 a.m. Information may be obtained from Richard G. Bean, 2520 IH 35 South, Austin 78704, (512) 443-7653.

The Farmer County Tax Appraisal Office, Board of Directors, will meet at 305 Third Street, Bovina, on March 4, 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.

The Tyler County Tax Appraisal District, Board of Directors, will meet at 103 Pecan, Woodville, on March 5, 1985, at 4 p.m. Information may be obtained from Mary F. Mann, 103 Pecan, P.O. Drawer 9, Woodville, Texas 75979, (713) 283-3736.

TRD-851736

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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 Contested Case Hearing

Pursuant to the authority provided in the Texas Clean Air Act (the Act), Article 4477-5, §§3.12(a), 3.15, 3.16, and 3.17, and 31 TAC §103.31 and §103.41 of the procedural rules of the Texas Air Control Board (TACB), an examiner for the TACB will conduct a contested case hearing to consider whether the allowable in-stack emission concentration of SO₂ should be lowered to 350 ppm at the Stauffer Chemical Company plant, 3489 Park Street, Baytown, Harris County.

The company is directed to appear at the time and place shown in the following and demonstrate by preponderance of evidence why the TACB should issue an order granting the applicant's request. The record of this hearing will be used by the TACB in determining whether to issue an order pursuant to the Act, §3.12(a), lowering the allowable emission concentration of SO₂ from the applicant's facility.

Information regarding this application and copies of the TACB's rules and regulations are available at the regional office of this agency located in Suite 300, 5555 West Loop, Bellaire, the central office of this agency located at 6330 U.S. Highway 290 East, Austin, and at the office of the Baytown city secretary, 2401 Market Street, Baytown.

The examiner has set the hearing to begin at 7 p.m. on March 25, 1985, in the Baytown City Council Chambers, 2401 Market Street, Baytown. Prospective parties to the hearing will be the TACB staff and the company. Any other persons desiring to be made a party must specifically apply in writing for party status to Examiner Paul M. Shinkawa, Texas Air Control Board, 6330 U.S. Highway 290 East, Austin, Texas 78723. No other persons will be admitted as parties unless the request is actually received at this address by 5 p.m. on March 6, 1985. Previous correspondence with the TACB is not effective for this purpose. A final determination regarding party status will be made at the prehearing conference on the date set out in the following. At the hearing on the merits, only those persons admitted as parties will be permitted to present evidence and argument and to cross-examine witnesses. Any person who desires to give testimony at the hearing, but who does not desire to be a party, may call the Legal Division of the TACB at (512) 451-5711, ext. 354, to determine the names and addresses of all admitted parties. These parties may then be contacted about the possibility of presenting testimony.

Pursuant to 31 TAC §103.46 of the procedural rules of the TACB, the examiner has scheduled a prehearing conference at 7 p.m. on March 11, 1985, in the Baytown City Council Chambers, 2401 Market Street, Baytown. All persons wishing to be admitted as parties must attend this conference. Proposed written disputed issues for consideration at the hearing on the merits and written requests

for official notice should be made at the prehearing conference. Motions for continuance will only be granted upon proof of good cause. At this conference, a specific date prior to the hearing on the merits will be established for the exchange of witness lists, short summaries of their prospective testimony and copies of written and documentary evidence pursuant to 31 TAC §103.46(2). Prehearing orders setting out discovery periods and other prehearing requirements may also be issued following this prehearing conference.

Members of the general public who plan to attend the hearing are encouraged to telephone the central office of the TACB in Austin, Texas at (512) 451-5711, ext. 354, a day or two prior to the hearing date to confirm the setting, since continuances are granted from time to time.

Issued in Austin, Texas, on February 20, 1985.

TRD-861631 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Filed: February 22, 1985
For further information, please call (512) 451-5711,
ext. 354.

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Public Hearing

Notice is given pursuant to the requirements of the Texas Clean Air Act (the Act), Texas Civil Statutes, Article 4477-5, §§3.09, 3.15, and 3.16, and 40 Code of Federal Regulations §51.4 of the U.S. Environmental Protection Agency (EPA) regulations concerning state implementation plans (SIPs), that an examiner for the Texas Air Control Board (TACB) will conduct a public hearing at 7 p.m. on April 3, 1985, at the Longview City Council Chambers, 300 West Cotton, Longview.

The purpose of the hearing is to consider an alternate emission reduction bubble proposed by Continental Can Company, U.S.A., in lieu of controls otherwise required by TACB rule, 31 TAC §115.191(7). The alternate emission reduction proposed is to schedule daily operations so that the actual sum of all solvents lost from five separate coating operations will equal or be less than the allowable sum of all solvent emissions on a daily weighted average. The TACB executive director has examined and approved this proposal under TACB rule, 31 TAC §101.23, and the TACB proposes to submit it to the EPA as an SIP revision. The record of this hearing, including written comments submitted pursuant to this notice, will be used by the TACB to determine if the proposal meets federal requirements of plantwide averaging as set out in the December 8, 1980, issue of the *Federal Register* (45 TexReg 80824).

Copies of the proposal, background data, and the TACB approval are available for public inspection at the central office of the TACB located at 6330 U.S. Highway 290

East, Austin; the regional office of the TACB located at 1304 South Vine Avenue, Tyler; and the Longview Public Library, 400 South Green Street, Longview.

Comment on this proposed SIP revision, both oral and written, is invited at the public hearing.

Issued in Austin, Texas, on February 12, 1985.

TRD-851606 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Filed: February 21, 1985
For further information, please call (512) 451-5711,
ext. 354.

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Comptroller of Public Accounts Decision 15,571

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 contended that cabinets and a table sold by it were improvements to realty and that, therefore, sales tax was due only on the purchase price of materials. The cabinets were constructed by taxpayer and then delivered to the job site, where a separate company, hired by the owner, installed them; the taxpayer then made fine tuning adjustments to the doors and shelves. The table was brought in six pieces to the room, in a suite of offices, where it was destined to remain. The taxpayer then finished gluing it together and lacquered it. Although the table, mounted on rollers, could be moved within the room, there was no easy way to move it to another room. The comptroller held that the total price of the cabinets was taxable, because taxpayer did not itself fix them in place. The total price of the table was taxable, because difficulty in moving the table is not the same thing as fixing it in place, and the table therefore had not become part of the realty.

Issued in Austin, Texas, on February 15, 1985.

TRD-851702 Bob Bullock
Comptroller of Public Accounts

Filed: February 25, 1985
For further information, please call (512) 475-1913.

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Decision 15,709

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 petitioner occasionally places special orders to fill special orders from its customers. For regular sales, it includes in the sales price, and collects sales tax on, freight charges. Special orders are charged extra inbound freight charges, invoiced separately to the ultimate purchaser, and the petitioner asserts sales tax is not due on them because they are, in effect, "special handling charges," not part of the selling

price. The comptroller held that sales tax was due on freight charges. To avoid tax, the petitioner would have to show that the sale took place before freight charges were incurred. None of the three indicia of a sale's having been consummated—transfer of title, transfer of possession, or segregation in contemplation of transfer of title—have occurred before freight charges were passed on to the customer.

Issued in Austin, Texas, on February 22, 1985.

TRD-851700 Bob Bullock
Comptroller of Public Accounts

Filed: February 25, 1985
For further information, please call (512) 475-1913.

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Decision 15,714

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 petitioner, a large, tax-sophisticated foreign corporation doing substantial business in Texas, has undergone three audits between 1969 and now. During this time, the dollar value of its business in Texas increased markedly. No tax was assessed as a result of the second audit; the assessment as a result of the third was more than double that from the first. The petitioner asserts that it has exercised reasonable diligence to comply with the tax laws, but its tax staff is small and has experienced high turn-over among its personnel. Additionally, it asserts that its error rate is low. The comptroller held that the penalty is not waived. The size of the petitioner's tax staff, and its adequacy for the job, is under the petitioner's control. The error rate is less significant than the fact that the petitioner came through one audit with no additional tax assessed, which indicated that compliance is possible even during a period of rapid growth.

Issued in Austin, Texas, on February 22, 1985.

TRD-851701 Bob Bullock
Comptroller of Public Accounts

Filed: February 25, 1985
For further information, please call (512) 475-1913.

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Decision 15,795

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 petitioner purchased a portable drilling rig from seller, a lending institution which had repossessed rig from its original purchaser. Sale was made through the Houston office; the rig was stored in Travis County. The seller had not sold any drilling rigs in many years; its only sales of tangible personal property in the 12 months preceding the sale had been two leases of video equipment. The comptroller held that sales tax, including Houston local sales tax, was due. The seller had

already made two sales (which includes leases) of tangible personal property in the preceding 12 months, so sale of the rig qualified it as a retailer; in addition, financial institutions do not generally qualify for the specific occasional sale exemption in §151.304(b)(1). The sale was consummated in Houston, and delivery made at a location that is not a place of business for seller, so Houston tax applies.

Issued in Austin, Texas, on February 15, 1985.

TRD-851703 Bob Bullock
Comptroller of Public Accounts

Filed: February 25, 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 ⁽³⁾ Agricultural/Commercial ⁽⁴⁾ thru \$250,000	Commercial ⁽⁴⁾ over \$250,000
Indicated (Weekly) Rate—Article 1.04(a)(1) 03/04/85-03/10/85	18.00%	18.00%
Monthly Rate— Article 1.04(c)(1) 03/01/85-03/31/85	18.00%	18.00%
Standard Quarterly Rate—Article 1.04(a)(2) 04/01/85-06/30/85	18.00%	18.00%
Retail Credit Card Quarterly Rate— Article 1.11 ⁽³⁾ 04/01/85-06/30/85	18.00%	N/A
Lender Credit Card Quarterly Rate— Article 15.02(d) ⁽³⁾ 04/01/85-06/30/85	16.42%	N/A
Standard Annual Rate— Article 1.04(a)(2) ⁽²⁾ 04/01/85-06/30/85	18.00%	18.00%
Retail Credit Card Annual Rate— Article 1.11 ⁽³⁾ 04/01/85-06/30/85	18.00%	N/A
Annual Rate Applica- ble to Pre-July 1, 1983, Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from 04/01/85-06/30/85	19.27%	N/A
Judgment Rate— Article 1.05, §2 03/01/85-03/31/85	10.00%	10.00%

- (1) For variable rate commercial transactions only.
(2) Only for open-end credit as defined in Texas Civil Statutes, Article 5069-1.04(f).
(3) Credit for personal, family, or household use.
(4) Credit for business, commercial, investment, or other similar purpose.

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

TRD-851699 Sam Kelley
Consumer Credit
Commissioner

Filed: February 25, 1985
For further information, please call (512) 475-2111.

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Texas Economic Development Commission

Private Activity Bond Allocation Report

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 for the week of February 18-22, 1985, as is required by MW-27A.

Total allocated principal amount of private activity bonds authorized to be allocated by MW-27A through February 22, 1985:

\$11,343,296

Comprehensive listing of bond issues which have received a reservation date as per MW-27A during the week of February 18-22, 1985:

Issuer	User	Amount
City of League City Industrial De- velopment Corpo- ration	Wat-Penn De- velopers	\$1.2 million

Comprehensive listing of bonds issued as per MW-27A during the week of February 18-22, 1985:

Issuer	User	Amount
Splendora Indus- trial Development Corporation	A. L. Barrilleaux	\$600,000

Issued in Austin, Texas, on February 27, 1985.

TRD-851695 Harden H. Weidemann
Executive Director
Texas Economic Development
Commission

Filed: February 25, 1985
For further information, please call (512) 444-5960.

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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.

Lake Forest Village, Inc., Denton
AN79-0426-015A(022285)

CN/AMD—Request for an amendment of Certificate of Need AN79-0426-015, as amended by AN79-0426-015A(092280), AN79-0426-015A(092581), AN79-0426-015A(092982), and AN79-0426-015A(093083), which authorized the certificate holder to construct a 60-bed skilled nursing facility to be part of a life-care retirement community being developed in Denton. The certificate holder requests an increase in the project cost from \$1,149,517 to \$1,650,300; an extension of the completion deadline from March 31, 1985, to November 30, 1986; and an increase in gross square footage of the nursing home from 12,550 square feet to 21,600 square feet in a building which will contain 28,200 gross square feet and will include a kitchen to serve both the residents of the retirement village as well as patients of the nursing home.

The Evangelical Lutheran Good Samaritan Society,
Sioux Falls, South Dakota
AN85-0222-135

NIEH—Request for a declaratory ruling that a certificate of need is not required for The Evangelical Lutheran Good Samaritan Society to acquire by purchase 100% interest in Certificate of Need AN79-0426-015, as amended, which was issued to

Lake Forest Village, Inc. (formerly John Knox Village of the Metroplex, Inc.), on September 6, 1979, authorizing the construction of a 60-bed skilled nursing facility to be part of a life-care retirement community in Denton. Upon acquisition, the name of the facility will be changed from Lake Forest Village to Lake Forest Good Samaritan Village.

Marbridge Foundation, Inc., for Marbridge
Foundation Nursing Home, Manchaca
AN82-0701-088A(012885)

CN/AMD—Request for an extension of the completion deadline from February 1, 1984, to June 30, 1985, and a decrease in the total project cost from \$46,058 to \$45,658 in Certificate of Need AN82-0701-088, which authorized the certificate holder to designate 32 beds in an existing 52-bed dormitory to ICF-II nursing care.

Mission Medical Associates Development, Inc.,
doing business as Tolle Nursing Home, Mission
AN82-1230-307A(021385)

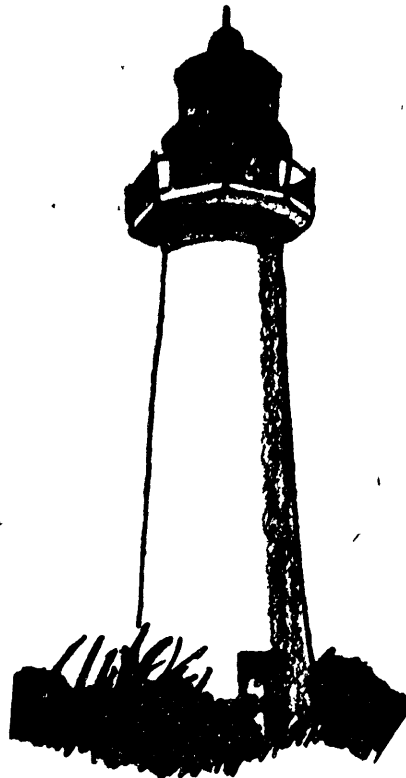
CN/AMD—Request for an extension of the completion deadline from February 13, 1985, to February 13, 1986, in Certificate of Need 82-1230-307, which authorized the certificate holder to construct, equip, and operate a 26,594-square-foot, 105-bed nursing home in Mission.

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

TRD-851697 John R. Neel
General Counsel
Texas Health Facilities
Commission

Filed: February 25, 1985
For further information, please call (512) 475-6940.

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State Department of Highways and Public Transportation Consultant Proposal Request

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

Notice of Invitation. The State Department of Highways and Public Transportation seeks proposals from qualified firms for a \$2 million statewide media and public awareness campaign against littering as part of a sustained litter reduction program. The program will cover the approximate period of June 1985-August 1986.

Agency Contact. For further information and materials on proposal specifications, contact J. Don Clark, Travel and Information Division, State Department of Highways and Public Transportation, 11th and Brazos Streets, Austin, Texas 78701, (512) 475-3661.

Response Date. To be considered, proposals must be received at the State Department of Highways and Public Transportation, 11th and Brazos Streets, Austin, Texas 78701, no later than 3 p.m. on March 29, 1985.

Selection Criteria. The department shall select the contractor through the recommendation of a review committee established for the purpose of evaluating the proposals.

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

TRD-851813 Diane L. Northam
Administrative Technician
State Department of Highways and
Public Transportation

Filed: February 21, 1985
For further information, please call (512) 475-2141.

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Texas Savings and Loan Department Application for Change of Control of an Association

Texas Civil Statutes, Article 852a, §11.20, require any person who intends to acquire control of a state-chartered savings and loan association to file an application with the savings and loan commissioner for approval of the transaction. A hearing may be held if the application is denied by the commissioner.

On February 15, 1985, the savings and loan commissioner received an application for approval of the acquisition of control of Universal Savings Association, Houston, by Martin Lawrence Schehin and James David Purdom, Jr., both of Houston.

Any inquiries may be directed to the Texas Savings and Loan Department, 1004 Lavaca Street, Austin, Texas 78701, (512) 475-7991.

Issued in Austin, Texas, on February 22, 1985.

TRD-851836 Russell R. Oliver
General Counsel
Texas Savings and Loan
Department

Filed: February 22, 1985
For further information, please call (512) 475-7991.

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Application to Establish Remote Service Units

Application has been filed with the savings and loan commissioner of Texas by San Antonio Savings Association, San Antonio, for approval to establish and operate remote service units at Diamond Shamrock locations in Castle Hills, San Antonio, Universal City, and Windcrest, Bexar County. The street addresses may be inspected at the department's offices.

The applicant association asserts that security of the association's funds and that of its account holders will be maintained, and the proposed service will be a substantial convenience to the public.

Anyone desiring to protest the application must file a written protest with the commissioner within 10 days following this notice. The commissioner may dispense with a hearing.

This application is filed pursuant to 7 TAC §§53.11-53.16 of the rules and regulations for savings and loan associations. Such rules are on file with the Office of the Secretary of State, Texas Register, or may be seen at the department's offices at 1004 Lavaca, Austin.

Issued in Austin, Texas, on February 19, 1985.

TRD-851637 L. L. Bowman III
Commissioner
Texas Savings and Loan
Department

Filed: February 22, 1985
For further information, please call (512) 475-7991.



Texas State Treasury Department Request for Proposals

This request for proposals (RFP) is filed under the provisions of the Texas Property Code, Chapter 73.

The department is requesting bids to contract for the sale of various items held by it as unclaimed property. The terms and conditions of this proposed sale include auctioneering services. Written questions are invited from persons or firms interested in submitting a bid for this unclaimed property.

All requests for bid packages, inquiries concerning the RFP, and bids should be directed to Patty White, Unclaimed Property, Texas State Treasury Department, P.O. Box 12608, Austin, Texas 78711, (512) 475-2591. Bids should be submitted with an original and two copies and must be received at the department by March 11, 1985. The bids become the property of the department and constitute an open offer for 60 days after the closing date, March 11, 1985.

The acceptance of a bidder's offer to buy this unclaimed property will not be made solely on the basis of the highest

price bid for the property. The department will select the proposal that offers a reasonable purchase price for the property, demonstrates the highest degree of competence, and exhibits the necessary qualifications for performing the terms and conditions of the proposed sale.

Issued in Austin, Texas, on February 20, 1985.

TRD-851663 Jorge Gutierrez
 General Counsel
 Texas State Treasury Department

Filed: February 22, 1985
For further information, please call (512) 475-2591.

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Withdrawal of Request for Proposals

In the January 18, 1985, issue of the *Texas Register* (10 TexReg 229), the Texas State Treasury Department filed

a request for bids to contract for the sale of various items held by the department as unclaimed property. The department included auctioneering services in the terms and conditions of the proposed sale. The department reserved in that request the right to cancel the request if it was deemed in the best interest of the department to do so. This notice cancels the request due to scheduling conflicts. The department will immediately reissue a request with a new time frame.

Issued in Austin, Texas, on February 20, 1985.

TRD-851662 Jorge A. Gutierrez
 General Counsel
 Texas State Treasury Department

Filed: February 22, 1985
For further information, please call (512) 475-2591.

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