

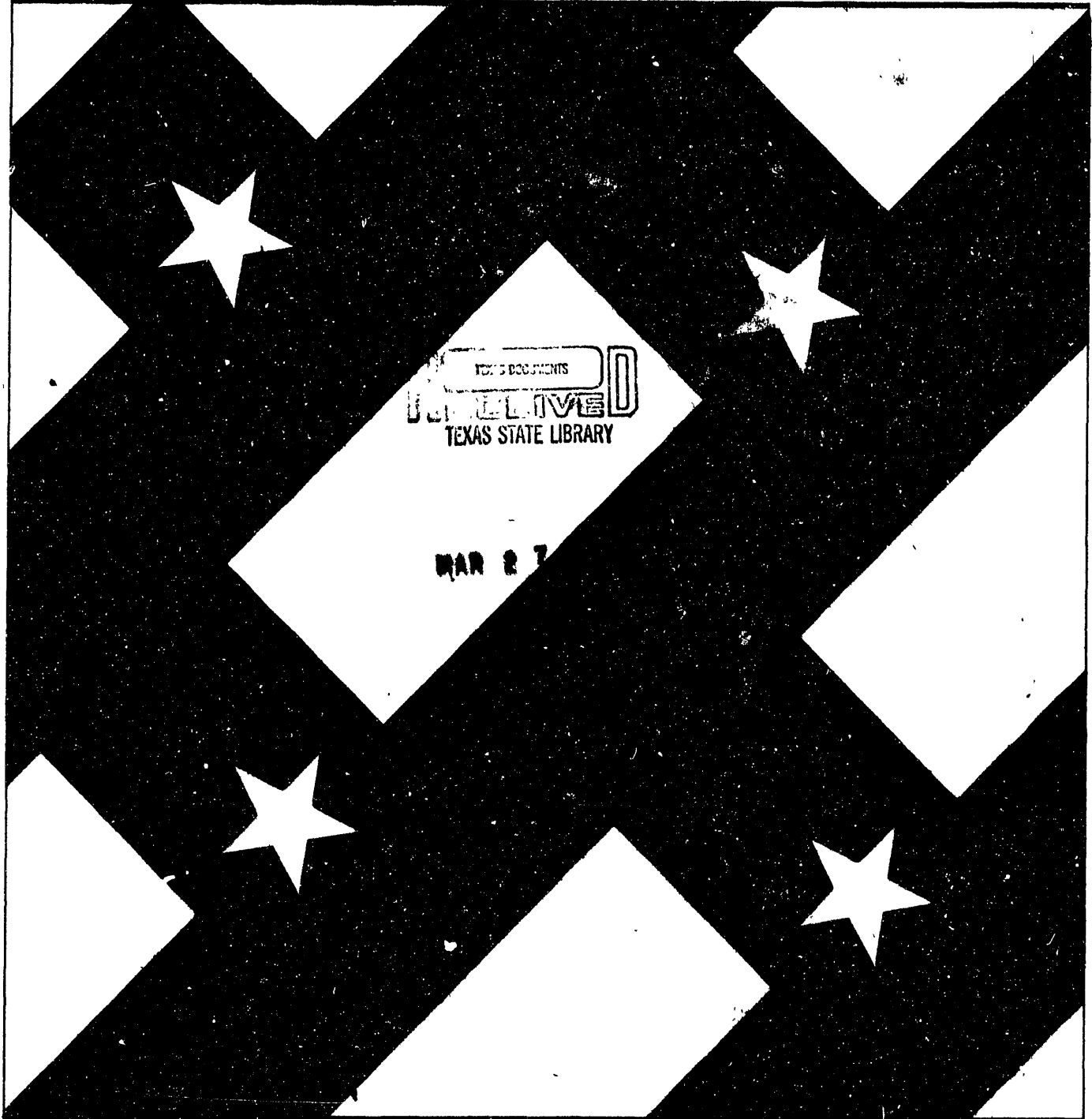
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# Texas Register

Volume 10, Number 24, March 26, 1985

Pages 1009 - 1046



## Highlights

The **Texas Department of Health** adopts on an emergency basis a new section concerning serologic testing

Effective date - March 18

page 1011

The **Texas Parks and Wildlife Department** adopts on an emergency basis amendments

concerning the permanent marking of oyster leases.

Effective date - March 19

page 1011

The **Texas Commission for the Deaf** proposes a new section concerning minimum standards for community living. Earliest possible date of adoption - April 26

page 1027

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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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

## Rules

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

**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 I. Texas Department of Health

##### Chapter 73. Laboratories Serologic Testing

###### ★ 25 TAC §73.11

The Texas Department of Health adopts on an emergency basis new §73.11, concerning serologic testing for antibodies to human T-cell lymphotropic virus, type III (HTLV-III). The new section authorizes the department's laboratory to provide serologic testing for the detection of antibodies to HTLV-III, the virus that causes acquired immune deficiency syndrome (AIDS). The new section also authorizes the department to charge fees for the testing, depending on the cost of the reagents.

The basis for the emergency adoption is that the contagious disease AIDS constitutes an imminent threat to public health and safety. Section 73.11 enables the department to assist in reducing the public health hazard posed by AIDS.

The new section is adopted on an emergency basis under Texas Civil Statutes, Article 6252-13a, §10(a)(2), which authorize emergency rules, and Article 4414c, §2, which provide the Texas Board of Health with the authority to charge fees to persons who receive public health services from the department.

###### §73.11. Serologic Testing for Antibodies to Human T-Cell Lymphotropic Virus, Type III (HTLV-III).

(a) The department's laboratory may provide serologic testing for the detection of antibodies to HTLV-III, the virus that causes acquired immune deficiency syndrome (AIDS). The testing service will be available to local health departments and to other entities as the department may determine.

(b) The department may charge a fee for the testing, up to a maximum of \$20 per test, depending on the cost of the reagents.

(c) The department may not charge a fee which exceeds the cost to the department of providing the service.

(d) The department shall make a reasonable effort to collect the fees, but the department may waive collection if the ad-

ministrative cost of collection will exceed the fee to be collected.

(e) Fees collected by the department shall be deposited in the state treasury to a special fee fund to be titled the Texas Department of Health public health services fee fund.

Issued in Austin, Texas, on March 18, 1985.

TRD-852390

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

Effective date: March 18, 1985

Expiration date: July 18, 1985

For further information, please call  
(512) 458-7318.

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### TITLE 31. NATURAL RESOURCES AND CONSERVATION

#### Part II. Texas Parks and Wildlife Department

##### Chapter 57. Fisheries

##### Issuance of Oyster Leases

###### ★ 31 TAC §57.242

The Texas Parks and Wildlife Commission adopts on an emergency basis amendments to §57.242, concerning the permanent marking of private oyster leases.

Based on available evidence, the commission finds that some oyster leases are inappropriately marked and that protection of human health as well as oysters located on public reefs requires that leases be identified with markers as permanent as possible. The commission finds that imminent peril to the public welfare and an immediate danger to the public health require this emergency measure to protect the public health.

The amendments are adopted on an emergency basis under the Texas Parks and Wildlife Code, Chapter 76, which provides the Texas Parks and Wildlife Commission with the authority to regulate the marking of private oyster leases.

###### §57.242. Approved Application for Oyster Leases.

(a) (No change.)

(b) The applicant or his agent will mark the boundaries of each lease [with piling at least four inches in diameter at the top and/or] with well anchored buoys at the time of the original survey or subsequent surveys. Subsequent surveys may be required by the executive director to assure markers are in their proper location. Markers should be placed at all corners and supplementary markers may be required along the lease boundaries if one corner marker is not clearly visible from another corner marker. Buoys must be anchored with a 30-foot-long screw anchor with a minimum 12-inch head, one-inch galvanized sucker-rod. Buoys must be at least six inches in diameter, must extend at least three feet out of the water at mean high tide, and be of a shape and color so as to be visible at least ½ mile under normal weather conditions. Each marker must be marked with the lease number, in letters at least two inches high in plain Arabic block letters, in a location where it will not be obscured by water or marine growth, and must have all other markings required by the U.S. Coast Guard. Markers common to two or more leases must be marked with all lease numbers.

(c) After the markers have been installed, the applicant will submit the application form with the survey notes, [and] plat, and LORAN coordinates for all lease markers in areas where such coordinates are available to the regional director. Following the resurvey necessary to implement these sections or the initial survey on any leases approved after adoption of these sections, submitted LORAN coordinates may be used to relocate corner markers that have been moved. It shall be the responsibility of the lease holder to maintain all lease markers in their proper location and in compliance with all portions of these sections.

(d)-(j) (No change.)

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

TRD-852423

Maurine Ray  
Administrative Assistant  
Texas Parks and  
Wildlife Department

Effective date: March 19, 1985

Expiration date: July 17, 1985

For further information, please call  
(512) 479-4861 or (800) 792-1112.

★ ★ ★

# 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 1.

#### ADMINISTRATION

#### Part V. State Purchasing and General Services Commission

#### Chapter 113. Central Purchasing Division

#### Purchasing

#### ★ 1 TAC §113.10

The State Purchasing and General Services Commission proposes amendments to §113.10, concerning delegated purchases in emergency cases, which would remove the requirement for written bids from the source of the purchase.

Herb Gersbach, central purchasing director, has determined that for the first five-year period the rule will be in effect there will be fiscal implications as a result of enforcing or administering the rule. The anticipated effect on state government is a reduction in paper handling costs. No exact figure is available. There is no anticipated economic effect on local government. The effect on small businesses is a slight reduction in costs of doing business with the state where formal bids are not required. A comparison of the cost of compliance for small businesses with the cost of compliance for the largest businesses affected by the rule is not known.

Mr. Gersbach also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed is deletion of a requirement for a signed bid from the source of the purchase in the case of emergency purchases. 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 James H. Quick, General Counsel, P.O. Box 13047, Austin, Texas 78711.

The amendments are proposed under Texas Civil Statutes, Article 601b, Article 3, which provide the State Purchasing and General Services Commission with

the authority to institute and maintain an effective and economical system for purchasing for all affected state agencies.

#### §113.10. *Delegated Purchases.*

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

(c) Emergency purchases. Payment for emergency purchases of needed supplies, equipment, or services will be approved by this commission, provided an emergency exists and the purchase is made in accordance with the following conditions.

(1) At least three oral bids must be obtained whenever possible on all purchases in excess of \$150, but not in excess of \$700. Written competitive bids should [must] be obtained whenever possible on all purchases in excess of \$700. [A signed written bid must always be obtained from the source of the purchase except in the case of internal repairs for which bids are not obtainable. In that situation, written estimates should be obtained whenever possible.]

(2)-(5) (No change.)

(d)-(l) (No change.)

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

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

TRD-852425

Homer A. Foerster  
Executive Director  
State Purchasing and  
General Services  
Commission

Earliest possible date of adoption:

April 26, 1985

For further information, please call  
(512) 475-5986 or STS 822-5986.

★ ★ ★



### TITLE 22. EXAMINING BOARDS

#### Part XXII. Texas State Board of Public Accountancy Chapter 523. Continuing Professional Education Mandatory Continuing Education Program

#### ★ 22 TAC §523.61

The Texas State Board of Public Accountancy proposes an amendment to §523.61, concerning establishment of a mandatory continuing education (CE) program. The amendment changes the composition of the Continuing Education Committee from not less than three board members to not less than two board members.

Bob E. Bradley, executive director, has determined that for the first five-year period the rule will be in effect there will be fiscal implications as a result of enforcing or administering the rule. The anticipated effect on state government is an estimated reduction in cost of \$1,000 in 1985 and \$1,500 each year from 1986-1989. There is no anticipated economic effect on local government or small businesses.

Mr. Bradley also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed is a reduction in the expense of holding Continuing Education Committee meetings. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to William A. Sansing, Legal Counsel, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The amendment is proposed under Texas Civil Statutes, Article 41a-1, §6, which provide the Texas State Board of Public Accountancy with the authority to adopt a system of required annual continuing education for licensees to assure that licensees remain informed of changes in the field of accountancy.

**§523.61. Establishment of Mandatory Continuing Education Program.**

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

(c) The board chairman shall appoint a Continuing Education (CE) Committee consisting of at least two [three] board members and two licensees who are not board members to assist and advise on the following CE matters:

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

(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 March 18, 1985.

TRD-852412      Bob E. Bradley  
Executive Director  
Texas State Board of  
Public Accountancy

Earliest possible date of adoption:  
April 28, 1985  
For further information, please call  
(512) 461-0241.

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## TITLE 22. EXAMINING BOARDS

### Part XXXI. Texas State Board of Examiners of Dietitians

#### Chapter 711. Dietitians Licensure

★22 TAC §§711.1-711.9, 711.12,  
711.13

The Texas State Board of Examiners of Dietitians, with the approval of the Texas Board of Health, proposes amendments to §§711.1-711.9, 711.12, and 711.13 concerning the licensure and regulation of dietitians in the following areas: definitions; the board's operation; the profession of dietetics; academic requirements for examination and licensure; experience requirements for examination and licensure as a dietitian; supervision of provisional licensed dietitians; application procedures; examinations for dietitian licensure; licensing; complaints, violations, and subsequent board actions; and formal hearings.

Stephen Seale, chief accountant III, has determined that for the first five-year period the rules are in effect there will be no fiscal implications for state or local governments or small businesses as a result of enforcing or administering the rules.

Mr. Seale also has determined that for each year of the first five years the rules

as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed is assurance that the licensing and regulation of dietitians continues to identify competent practitioners by updating and clarifying the existing rules, adding a procedure for petitioning the board for the adoption of a rule, adding a procedure for denying a license or reciprocal licensure, and strengthening the code of ethics and the academic requirements. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Donna S. Hardin, Executive Secretary, Texas State Board of Examiners of Dietitians, 1100 West 49th Street, Austin, Texas 78756-3183, (512) 458-7501. Comments will be received for 30 days from the date of publication of the proposed rules.

The amendments are proposed under Texas Civil Statutes, Article 4512h, §6, which provide the Texas State Board of Examiners of Dietitians, subject to final approval of the Texas Board of Health, with the authority to adopt rules consistent with the Licensed Dietitian Act relating to qualifications and fitness of applicants, issuance of licenses and reciprocal licenses, and other matters.

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

**Accredited facilities—**Facilities accredited by the Joint Commission on Accreditation of Hospitals.

**Certified facilities, agencies, or organizations—**Facilities, agencies, or organizations certified by federal agencies.

**Commission—**The Commission on Dietetic Registration of the American Dietetic Association is the agency which evaluates credentials, administers proficiency examinations, and issues certificates of registration to qualifying dietitians, and is a member of the National Commission on Health Certifying Agencies.

**Licensed facilities, agencies, or organizations—**Facilities, agencies, or organizations licensed by state agencies.

**§711.2. The Board's Operation.**

(a) (No change.)

(b) Officers.

(1) Chairman.

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

(C) The chairman shall serve as an ex officio member of all committees except the Complaint Committee.

(2) (No change.)

(c)-(l) (No change.)

(m) Official records.

(1) All official records of the board including application materials, except files containing information considered confidential under the provisions of the Texas

Open Records Act, Texas Civil Statutes, Article 6252-17a, and the Family Educational Rights and Privacy Act of 1974, 20 United States Code §232g, shall be open for inspection during regular office hours.

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

(n) Elections.

(1) (No change.)

(2) A vacancy which occurs in the offices of chairman and vice-chairman may be filled, for the duration of the unexpired term, by a majority vote of those members present and voting at the next board meeting.

(o) Committees.

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

(7) The following standing committees shall be appointed by the newly elected chairman each odd-numbered year to serve a term of two years.

(A) The Rules Committee shall be composed of two board members who are licensed dietitians and one public member of the board. The committee shall review all board rules at least once annually to ensure that the rules are current in relation to dietetic practice, and may recommend and propose adoption of rules to the board. The committee shall consider all petitions for adoption of rules and shall recommend disposition of these petitions to the board in accordance with subsection (v) of this section.

(B) The Complaint Committee shall be composed of two board members who are licensed dietitians and one public member of the board. The committee shall process all complaints received by the board and shall recommend to the board action to be taken on complaints in accordance with §711.12 of this title (relating to Violations, Complaints, and Subsequent Board Actions).

(C) The Program Approval Committee shall be composed of three board members who are licensed dietitians. The committee shall review all applications for internship and preplanned professional experience programs received by the board and shall either approve the applications or recommend to the board denial of the applications in accordance with §711.5(d)-(h) of this title (relating to Experience Requirements for Examination and Licensure as a Dietitian).

(D) The Consumer Information Committee shall be composed of two board members who are licensed dietitians and one public member of the board. The committee shall recommend to the executive secretary the publication of consumer information related to the board and shall guide the preparation of all consumer information related publications. The committee shall recommend to the board action to be taken regarding proposed publications.

(p)-(u) (No change.)

(v) Petition for adoption of a rule.

(1) Purpose. The rule's purpose is to delineate the board's procedures for the

submission, consideration, and disposition of a petition to the board to adopt a rule.

(2) Submission of the petition.

(A) Any person may petition the board to adopt a rule.

(B) The petition shall be in writing, shall contain the petitioner's name and address, and shall describe the rule and the reason for it; however, if the executive secretary determines that further information is necessary to assist the board in reaching a decision, the executive secretary may require that the petitioner resubmit the petition and that it contain:

(i) a brief explanation of the proposed rule;

(ii) the text of the proposed rule prepared in a manner to indicate the words to be added or deleted from the current text, if any;

(iii) a statement of the statutory or other authority under which the rule is to be promulgated; and

(iv) the public benefits anticipated as a result of adopting the rule or the anticipated injury or inequity which would result from the failure to adopt the proposed rule.

(C) The board may deny a petition which does not contain the information in subparagraph (B) of this paragraph or the information in clauses (i)-(iv) of subparagraph (B) of this paragraph if the executive secretary determines that the latter is necessary.

(D) The petition shall be mailed or delivered to the executive secretary, Texas State Board of Examiners of Dietitians, 1100 West 49th Street, Austin, Texas 78756-3183.

(3) Consideration and disposition of the petition.

(A) The executive secretary shall submit the petition to the board for its consideration.

(B) Within 60 days after receipt of the petition by the executive secretary, or within 60 days after receipt of a resubmitted petition in accordance with paragraph (2)(B)(i)-(iv) of this subsection, the board shall either:

(i) deny the petition, or

(ii) initiate rule-making procedures by referring the petition to the Rules Committee for its recommendation. The committee shall report its recommendations to the board at its next regular meeting.

(C) The board may deny parts of the petition and/or institute rule-making procedures on parts of the petition.

(D) If the board denies the petition, the executive secretary shall give the petitioner written notice of the board's denial, including the reason(s) for the denial.

(E) If the board initiates rule-making procedures in accordance with the Administrative Procedure and Texas Register Act, §5, the version of the rule which the board proposes may differ from the version proposed by the petitioner.

§711.3. *The Profession of Dietetics.*

(a) (No change.)

(b) Dietetics. The profession of dietetics includes five primary areas of expertise: clinical, educational, management, consultation, and community; and [The term] includes without limitation the development, management, and provision of nutritional services, as follows:

(1)-(15) (No change.)

(c) (No change.)

(d) Code of ethics. These rules shall constitute a code of ethics as authorized by the Act, §6(b)(1).

(i) Professional representation and responsibilities.

(A) (No change.)

(B) A licensee shall not make any false or misleading claims about the efficacy of any dietetic services [or methods of treatment].

(C)-(E) (No change.)

(F) A licensee shall not abuse alcohol or drugs in any manner which detrimentally affects the provision of dietetic [nutritional] services.

(G)-(J) (No change.)

(K) A licensee shall conform to generally accepted principles and standards of dietetic practice which are those generally recognized by the profession as appropriate for the situation presented, including those promulgated or interpreted by or under the association or commission, and other professional or governmental bodies.

(2) Professional relationships with clients.

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

(E) A licensee shall provide dietetic [nutritional] services without discrimination based on race, creed, sex, religion, national origin, or age.

(F) (No change.)

§711.4. *Academic Requirements for Examination and Licensure.*

(a) (No change.)

(b) General.

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

(4) The board shall accept no course which an applicant's transcript indicates was not completed with a passing grade for credit, nor shall any course completed twice within a five-year period be counted twice to meet the academic requirements as specified in paragraphs (7) and (8) of this subsection.

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

(7) Persons applying for licensure must possess a baccalaureate or post-baccalaureate degree, including a minimum of 24 semester hours from the fields of human nutrition, food and nutrition, dietetics, or food systems management, or an equivalent major course of study as may be approved by the board. Of these 24 semester hours, at least three semester hours must be from each of the following course areas:

(A) upper-division human nutrition related to disease;

(B) upper-division foodservice systems management;

(C) bio- or physiological chemistry, or advanced normal human nutrition; and

(D) experimental food science.

(8) A substantial equivalent major course of study shall be defined as either:

(A) a baccalaureate or post-baccalaureate degree including a minimum of 30 semester hours specifically designed to train a person to apply and integrate scientific principles of human nutrition under different health; social; cultural, physical, psychological, and economic conditions to the proper nourishment, care, and education of individuals or groups throughout the life cycle. Of these 30 semester hours, a minimum of 18 semester hours must be from human nutrition, food and nutrition, dietetics, or food systems management. Of these 18 semester hours, at least three semester hours must be from each of the course areas specified in paragraph (7)(A)-(D) of this subsection; or

(B) (No change.)

(c) (No change.)

[(d) Initial licensing period. Applicants may satisfy the academic requirements following a baccalaureate or post-baccalaureate degree as set out in subsection (b)(7) and (8) of this section.]

§711.5. *Experience Requirements for Examination and Licensure as a Dietitian.*

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

(c) Registered dietitians. Persons who are registered by the commission at the time of making application to the board are deemed to meet the experience requirements. [Experience requirements for licensure as a dietitian before September 1, 1984. Persons making application before September 1, 1984, must have either

(1) satisfactorily completed a preplanned professional experience program or internship in the profession of dietetics, as set out in subsection (b) of this section, except for paragraph (2)(C)(i) of this subsection, which for the purposes of the initial licensing period shall be defined as six or more months of preplanned professional experience programs as approved by the board on an individual basis following completion of a baccalaureate or post-baccalaureate degree with a major course of study as specified in the academic requirements of these rules, and documented by submitting to the board the properly completed forms, or

(2) been professionally employed with or without compensation in the field of dietetics for not less than three of the 10 years beginning September 1, 1973, through August 31, 1983, and documented by submitting to the board the properly completed forms. Three years shall be defined as not less than a total of 36 months in the 10-year period in which the applicant has been employed a minimum of eight hours per month in the provision of dietetic services, as set



out in §711.3(b) of this title (relating to the Profession of Dietetics).

(3) Persons who are registered by the commission on the effective date of the Act or who become so registered before September 1, 1984, are deemed to meet the experience requirements.]

(d) Guidelines which are common to all types of preplanned professional experience and internship programs in the profession of dietetics, as set out in subsection (b)(2)(C) and (3)(A) of this section and which shall be followed to obtain prior board approval.

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

(5) Application and approval or denial procedures.

(f) The board may delegate responsibility for the review and approval or denial of preplanned professional experience programs in dietetics and dietetic internships to the Program Approval Committee [a committee of the board]. At the request of the committee, the chairman of the board may appoint, on a volunteer basis, consultants recommended by the board from dietetic experience programs to advise this committee. Approval or denial of all applications made by this committee are subject to ratification [shall be ratified] at the next regular meeting of the board.

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

(e) Additional guidelines which are specific to preplanned professional experience programs in the profession of dietetics as set out in subsection (b)(2)(C)(i) of this section, and which shall be followed to obtain prior board approval.

(1) (No change.)

(2) Organization and administration.

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

(E) The written agreement clarifying the terms of the program between the trainee and the sponsor(s) shall include the following:

(i) a statement of which party is responsible for payment of the application processing fee; and

(ii) a statement providing for periodic evaluation of the trainee's performance, including criteria for continuation in or dismissal from the program; and

(iii) a statement of the sponsors' responsibility for obtaining another sponsor, should one or both sponsors become unable to fulfill their commitments to the program for any reason, including a provision that a written evaluation of the trainee's performance shall be completed and submitted to the board and to the trainee by the sponsor(s) who is terminating the relationship.

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

(f) Additional guidelines which are specific to six months of full-time or 12 months of half-time experience in the profession of dietetics as set out in subsection (b)(2)(C)(iii) of this section, and which shall be followed to obtain prior board approval.

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

(4) Curriculum.

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

(C) The program shall include a minimum of 500 clock hours of supervised and directed (as set out in §711.6(b)(2) of this title relating to Supervision of Provisional Licensed Dietitians) work experience, plus [and] a minimum of 400 clock hours of planned dietetic learning experiences with stated objectives divided to provide either a general dietetics curriculum or a specialized curriculum in clinical dietetics, management: dietetics, or community nutrition; however, all programs shall include at least 15% of the curriculum in clinical dietetics and at least 15% of the curriculum in foodservice systems management.

(5) (No change.)

(g) Additional guidelines which are specific to graduate assistantships in the field of dietetics as set out in subsection (b)(2)(C)(iii) of this section, and which shall be followed to obtain prior board approval.

(1) (No change.)

(2) Organization and administration.

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

(C) The program shall be planned to extend over a minimum period of one academic year of nine months duration on a half-time basis (20 clock hours per week).

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

(3) (No change.)

(4) Curriculum.

(A) (No change.)

(B) The curriculum shall include a minimum of 300 clock hours of supervised and directed (as set out in §711.6(b)(2) of this title relating to Supervision of Provisional Licensed Dietitians) work experience in teaching or research plus [and] a minimum of 500 [300] clock hours of planned dietetic learning experiences with stated objectives divided to meet one of the following areas of specialization:

(i) Teaching programs shall provide at least 35% [50% to 60%] of the curriculum in the teaching of college level courses in human nutrition, food and nutrition, dietetics, and/or foodservice systems management. The graduate assistant's teaching responsibilities shall be clearly defined, and shall include the name and description of each course to be taught. The remainder of the curriculum shall provide dietetic learning experiences divided among the clinical (at least 10% of the curriculum), foodservice systems management (at least 10% of the curriculum), community nutrition, and consultation areas of dietetics.

(ii) Research programs shall provide at least 35% [50% to 60%] of the curriculum in research directly related to human nutrition, food and nutrition, dietetics, or foodservice systems management. The graduate assistant's research activities shall be clearly defined, and shall include a description of the topic to be studied, research

methods to be used, and possible outcomes of the research. The remainder of the curriculum shall provide dietetic learning experiences divided among the clinical (at least 10% of the curriculum), foodservice systems management (at least 10% of the curriculum), community nutrition, education, and consultation areas of dietetics.

(5) (No change.)

(h) (No change.)

#### §711.6. Supervision of Provisional Licensed Dietitians.

(a) (No change.)

(b) General.

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

(4) Applications for licensure as a provisional licensed dietitian received on or before August 31, 1984, must be signed by a supervising licensed dietitian, or by a dietitian who qualifies for licensure as a licensed dietitian by the board.]

#### §711.7. Application Procedures.

(a) (No change.)

(b) General.

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

(5) The board will consider a person who files a completed application form and fee postmarked on or before August 31, 1984, as meeting the deadline for licensure without examination and may complete the processing of the person's materials after that date. A person wishing to meet requirements for licensure without examination must have completed all academic and experience requirements by August 31, 1984.]

(c) Required application materials.

(1) Application form. The application form shall contain:

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

(C) a statement by which the applicant holds the board and its agents free from any damage or claim for damage by reason of any action taken in connection with the application, examination, or any other aspect of licensing;]

(D) the applicant's permission to the board to seek any information or references it deems fit to determine the applicant's qualifications;

(E) a statement that the applicant, if issued a license, shall return the license certificate and license identification card to the board upon the revocation or suspension of the license;

(F) a statement that the applicant understands that fees submitted in the licensure process are nonrefundable;

(G) a statement that the applicant understands that materials submitted in the licensure process become the property of the board and are non-returnable;

(H) the signature of the applicant which has been dated and notarized.

(2) Internship or preplanned professional experience program documentation form. The board-approved form shall contain:

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

(E) the type of setting, the type of clients served, and the type of work performed;[.]

(F) [Effective September 1, 1984, for those applicants who are not registered by the commission at the time of making application to the board, the form must also include:

[(i)] the credentials of the director of coordinator of each program [at the time]; and

(G)[(ii)] the signed statement(s) of endorsements from the person(s) who can formally attest to the applicant's successful completion of experience as set out in §711.5(b)(2) and (3) of this title (relating to Experience Requirements for Examination and Licensure as a Dietitian).

[(3)] Employment documentation report form for the initial licensing period (expires August 31, 1984). The board-approved employment documentation form for submitting documentation of employment in the field of dietetics for three of the 10 years beginning September 1, 1973, through August 31, 1983, shall contain:

[(A)] the name of the applicant;

[(B)] the name and address of the agency or institution where the experience was gained (a separate form should be used for each one);

[(C)] the number of hours worked each month and the inclusive dates of employment;

[(D)] the type of setting, the type of clients served and the type of work performed;

[(E)] the applicant's job title during employment; and

[(F)] a signed statement of employment verification from the agency(ies) or institution(s) where the experience was gained.]

(3)[(4)] Transcripts. Applicants must submit official transcript(s) of all relevant college work. Transcripts will not be required for those persons who are registered by the commission.

(4)[(5)] Other documents. Vitae, resumes, and other documentation of the applicant's credentials may be submitted.

(5)[(6)] Determination of eligibility. The board shall make the final determination on the eligibility of all applicants. [During the initial licensing period, the board may delegate approval of applications for licensing to a committee of the board. All applications shall be ratified at the next regular meeting of the board.]

(A) The board may delegate approval of applications for licensing to a committee of the board.

(B) The board may delegate to the executive secretary the approval of applications for licensing from registered dietitians, or from applicants currently licensed by, and in good standing with, other states with whom this board has entered into a reciprocity agreement.

(C) All applications approved by a committee of the board or the executive secretary are subject to ratification at the next regular meeting of the board.

(6)[(7)] Disapproved applications. [A person whose application for license has been disapproved may request in writing an informal conference with the board to review its decision on the basis of the materials contained in the application.]

(A) The board shall disapprove the application if the person has:

(i) not completed the requirements in §711.4 of this title (relating to Academic Requirements for Examination and Licensure); or

(ii) not completed the requirements in §711.5 of this title (relating to Experience Requirements for Examination and Licensure as a Dietitian), if applicable; or

(iii) failed to pass the examination prescribed by the board as set out in §711.8 of this title (relating to Examination for Dietitian Licensure), if applicable; or

(iv) failed to remit any applicable fees required in §711.2(u) of this title (relating to The Board's Operations); or

(v) failed or refused to properly complete or submit any application form(s) or endorsements, or deliberately presented false information on the application form, or any other form or document required by the board to verify the applicant's qualifications for licensure; or

(vi) been in violation of the Act, the Code of Ethics, §711.3(d)(1)(A)-(G) and (J)-(K) of this title (relating to the Profession of Dietetics), or any other applicable provision of this title, or

(vii) been convicted of a felony or misdemeanor if the crime directly relates to the duties and responsibilities of a licensee as set out in §711.11 of this title (relating to Licensing of Persons with Criminal Backgrounds to be Dietitians and Provisional Dietitians).

(B) If after review the executive secretary determines that the application should not be approved, the executive secretary will ask the Complaint Committee to review the application. The Complaint Committee shall take either one of the following actions:

(i) If the Complaint Committee concurs that the application should not be approved, the Complaint Committee shall instruct the executive secretary to give the applicant written notice of the reason for the proposed decision and of the opportunity for a formal hearing. The formal hearing shall be conducted according to the formal hearing procedures in §711.13 of this title (relating to Formal Hearings). Within 10 days after receipt of the written notice, the applicant shall give written notice to the executive secretary that the applicant either waives the hearing, or wants the hearing. If the applicant fails to respond within 10

days after receipt of the notice of opportunity, or if the applicant notifies the executive secretary that the hearing be waived, the applicant is deemed to have waived the hearing. If the hearing has been waived, the board shall disapprove the application; or

(ii) If the Complaint Committee determines that the application should be approved, the board shall approve the application.

(d) Upgrading a provisional license.

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

(4) If the provisional licensed dietitian is not eligible for examination, the executive secretary shall notify the provisional licensed dietitian in writing of the reasons for denial and the additional experience or documentation needed to meet the minimum requirements for examination and licensure as a licensed dietitian. The provisional licensed dietitian is entitled to a formal hearing on the proposed denial as specified in subsection (c)(6)(B)(i) of this section.

§711.8. Examination for Dietitian Licensure.

(a) (No change.)

(b) Frequency. The board shall offer [administer] licensing examinations at least twice a year or as often as deemed necessary by the board.

(c)-(h) (No change.)

§711.9. Licensing.

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

(c) Reciprocity.

(1) The board shall waive the examination requirement for an applicant who:

(A)[(1)] holds at the time of application a valid license or certificate as a dietitian issued by another state whose minimum requirements for licensure are equivalent to or exceed the licensing requirements of the board which are in effect at the time of application and with whom the board has entered into a reciprocity agreement; or

(B)[(2)] is registered at the time of application by the commission as a registered dietitian.

(2) Reciprocity agreements with licensing bodies of other states shall include a written agreement to provide this board with the following:

(A) information regarding all disciplinary actions or alleged violations relating to each applicant;

(B) a current copy of the body's proposed (if any) and adopted rules governing its operations and application and licensing procedures;

(C) a copy of the legal authority (law, act, code, section, or otherwise) for the licensing program including any proposed and final amendments;

(D) the names, addresses, and phone numbers of the licensing body's chairman and executive administrator; and

(E) any other information deemed necessary by the board, or its legal counsel.

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

(6) The board may propose to deny approval of an application from an applicant who is either licensed by another state with which this board has a reciprocity agreement, or a registered dietitian, if the executive secretary has determined that the applicant may be either:

(A) in violation of that state's act or rules of the licensing body, if applicable, or

(B) in violation of the Code of Ethics adopted by the commission or the association, if applicable; or

(C) engaged in, or has previously engaged in, conduct which constitutes a violation of the act, the Code of Ethics, §711.3(d)(1)(A)-(G) and (J)-(K) of this title (relating to the Profession of Dietetics), or any other applicable provision of this title, or

(D) convicted of a felony or misdemeanor if the crime directly relates to the duties and responsibility of a licensee as set out in §711.11 of this title (relating to Licensing of Persons with Criminal Backgrounds to be Dietitians and Professional Dietitians).

(7) If after review the executive secretary determines that the application should not be approved, the executive secretary will ask the Complaint Committee to review the application. The Complaint Committee shall take either one of the following actions:

(A) If the Complaint Committee concurs that the application should not be approved, the Complaint Committee shall instruct the executive secretary to give the applicant written notice of the reason for the proposed decision and of the opportunity for a formal hearing. The formal hearing shall be conducted according to the formal hearing procedures in §711.13 of this title (relating to Formal Hearings). Within 10 days after receipt of the written notice, the applicant shall give written notice to the executive secretary that the applicant either waives the hearing, or wants the hearing. If the applicant fails to respond within 10 days after receipt of the notice of opportunity, or if the applicant notifies the executive secretary that the hearing be waived, the applicant is deemed to have waived the hearing. If the hearing has been waived, the board shall disapprove the application.

(B) If the Complaint Committee determines that the application should be approved, the board shall approve the application.

§711.12. *Violations, Complaints, and Subsequent Board Actions.*

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

(d) Investigation of complaints.

(1) The executive secretary and the complaint committee of the board are responsible for handling complaints. [The complaint committee shall be composed of two board members who are licensed dietitians and one public member of the board.]

(2) (No change.)

(3) If the executive secretary determines that the complaint does not come within the board's jurisdiction, the executive secretary shall advise the complainant and, if possible, refer the complainant to the appropriate governmental agency for handling such complaints.

(e)-(f) (No change.)

(g) Formal hearings.

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

(5) When a formal hearing is conducted, the board, meeting in quorum and by a majority of those present and voting, will determine the necessary final action after receiving the hearing officer's recommendation. The Complaint Committee members shall not participate in the final action.

(h) (No change.)

§711.13. *Formal Hearings.*

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

(j) Action after hearing.

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

(4) Final orders or decisions.

(A) The final order or decision will be rendered by the board meeting in quorum and by a majority of those present and voting.

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

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

(k) (No change.)

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

Issued in Austin, Texas, on March 18, 1985.

TRD-852393

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

Proposed date of adoption:  
May 31, 1985

For further information, please call  
(512) 458-7501.

★ ★ ★

## TITLE 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 73. Laboratories Serologic Testing

★25 TAC §73.1

The Texas Department of Health proposes new §73.1, concerning laboratory fees for testing water samples. As part of its public health service program, the department analyzes and tests water for bacteriological and chemical content.

The proposed new section will define the categories of tests used by the department and establish the fees the department will charge for these services.

Stephen Seale, chief accountant III, has determined that there will be fiscal implications as a result of enforcing or administering the rules. The anticipated effect on state government is an estimated additional cost of \$0 in 1985; \$43,450 in 1986; and \$37,450 each year in 1987-1989. The estimated increase in revenue is \$0 in 1985; \$158,016 in 1986; and \$210,688 each year in 1987-1989.

There will be an estimated additional cost to local governments which intend to use the department of health laboratory. However, there will be an estimated increase in revenue to local governments which have local health department laboratories. It is anticipated that the net effect on local governments as a whole will not be material.

The cost of compliance with the rule for small businesses will be the cost for individual tests as specified in the fee schedule in §73.1. Based on the current standards for a public water system, a small system with a gross income of \$19,000 could expect a cost of \$2.76 per \$100 of income. A large water system with gross income of \$1 million could expect a cost of \$.25 per \$100 of income. It should be noted that if the definition of a public water system were lowered to four connections, a cost of \$11 per \$100 or more would be possible.

Mr. Seale also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed is the reduction of the cost to the State of Texas for public health services provided by the health department laboratory.

The anticipated economic cost to individuals who are required to comply with the rule as proposed is the amounts set out in the fee schedule in §73.1.

Comments on the proposal may be submitted to Charles E. Sweet, M.P.H., Dr.P.H., Chief, Bureau of Laboratories, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78758. Comments will be accepted for 30 days after publication of the proposed rule. In addition, a public hearing on the proposed new section will be held at 9 a.m. on Monday, April 15, 1985, in the auditorium, Texas Department of Health, 1100 West 49th Street, Austin.

The new section is proposed under Texas Civil Statutes, Article 4414c, §2, which provides the Texas Board of Health with the authority to charge fees to persons who receive public health services from the department.

**§79.1. Fees for Laboratory Services.**

(a) Introduction. The Texas Department of Health is responsible for providing bacteriological analysis on drinking water to the citizens of the state and bacteriological and chemical analyses to those corporations distributing potable water as

community or noncommunity systems. Only a laboratory certified by the department may perform this service. As a means of offering these services additionally on water sources that are not potable and as a means of offsetting the expense to the state appropriated funds, a fee-for-service system

is described in this section, and categories of service along with standard charges are designed.

(b) Categories and fees. The department will test water samples and charge fees in accordance with the schedule of categories and fees.

**FEES FOR LABORATORY ANALYSES OF WATER**

|                                     |          |
|-------------------------------------|----------|
| GENERAL ANALYTICAL-WATER            |          |
| ROUTINE WATER                       | \$ 58.00 |
| ACIDITY                             | \$ 14.00 |
| ALKALINITY, TOTAL AND PHENOLPTH     | \$ 5.00  |
| AMMONIA                             | \$ 6.00  |
| BICARBONATE-CARBONATE, W/ALK.       | \$ 3.00  |
| BICARBONATE-CARBONATE, WO/ALK.      | \$ 6.00  |
| BIOCHEMICAL OXYGEN DEMAND, 5 DAY    | \$ 11.00 |
| BOD, FILTER PREPARATION             | \$ 5.00  |
| BOD, 20 DAY                         | \$ 14.00 |
| BORON, WATER                        | \$ 22.00 |
| BORON, SED.                         | \$ 44.00 |
| CALCIUM                             | \$ 6.00  |
| CARBON, TOTAL ORGANIC               | \$ 13.00 |
| CHEMICAL OXYGEN DEMAND, SEDIMENT    | \$ 21.00 |
| CHEMICAL OXYGEN DEMAND, WATER       | \$ 15.00 |
| CHLORIDE                            | \$ 6.00  |
| CHLOROPHYL                          | \$ 13.00 |
| BROMIDE                             | \$ 13.00 |
| COLOR                               | \$ 21.00 |
| CONDUCTANCE                         | \$ 6.00  |
| CYANIDE                             | \$ 28.00 |
| FLUORIDE                            | \$ 6.00  |
| HARDNESS                            | \$ 6.00  |
| MAGNESIUM, W/HARDNESS               | \$ 3.00  |
| MAGNESIUM, W/O HARDNESS             | \$ 15.00 |
| METHYLENE BLUE ACTIVATED SUBSTANCES | \$ 36.00 |
| NITRATE, N (NO <sub>3</sub> -N)     | \$ 6.00  |
| NITRITE, N (NO <sub>2</sub> -N)     | \$ 5.00  |
| NITROGEN, KJEL, SEDIMENT            | \$ 21.00 |
| NITROGEN, KJEL, WATER               | \$ 13.00 |
| PH                                  | \$ 4.00  |
| PHENOL                              | \$ 28.00 |
| PHEOPHYTIN, W/CHLOROPHYLL           | \$ 4.00  |
| PHEOPHYTIN, W/O CHLOROPHYLL         | \$ 13.00 |
| PHOSPHATE, ORTHO                    | \$ 6.00  |
| PHOSPHATE, TOTAL                    | \$ 10.00 |
| POTASSIUM                           | \$ 6.00  |
| RESIDUE, TOTAL                      | \$ 10.00 |
| SILICA, DISSOLVED                   | \$ 6.00  |
| SODIUM                              | \$ 6.00  |
| SOLIDS, TOTAL DISSOLVED, CALC.      | \$ 3.00  |
| SOLIDS, TOTAL DISSOLVED, DETERM.    | \$ 10.00 |
| SOLIDS, TOTAL SUSPENDED             | \$ 11.00 |
| SOLIDS, SUSPENDED, VOL. OR FIXED    | \$ 7.00  |
| SULFATE                             | \$ 6.00  |
| SULFIDE                             | \$ 19.00 |
| TANNINS AND LIGNIN                  | \$ 22.00 |
| TURBIDITY                           | \$ 8.00  |
| MISCELLANEOUS                       | \$ *     |

|                                    |           |
|------------------------------------|-----------|
| <b>TRACE METALS UNIT</b>           |           |
| ROUTINE METALS-COMMUNITY SYSTEM    | \$ 137.00 |
| NON-COMMUNITY METALS (FE, MN)      | \$ 15.00  |
| SINGLE METAL REQUEST (ROUTINE)     | \$ 19.00  |
| SINGLE METAL REQUEST (NON-ROUTINE) | \$ 67.00  |

|                                     |           |
|-------------------------------------|-----------|
| <b>TRACE METALS-WATER POLLUTION</b> |           |
| ARSENIC                             | \$ 45.00  |
| MERCURY                             | \$ 14.00  |
| SELENIUM                            | \$ 17.00  |
| SILVER                              | \$ 28.00  |
| CHROMIUM, HEXAVALENT                | \$ 16.00  |
| FIRST ROUTINE METAL REQUEST/SPEC    | \$ 39.00  |
| EACH ADDITIONAL ROUTINE METAL/SPEC  | \$ 22.00  |
| OTHER METALS AS REQUESTED           | \$ 128.00 |
| LEACHATE PREPARATION, E.P. TOX      | \$ 44.00  |
| LEACHATE PREPARATION, TDWR          | \$ 38.00  |

|                               |           |
|-------------------------------|-----------|
| <b>TRACE METALS, SEDIMENT</b> |           |
| ARSENIC                       | \$ 67.00  |
| MERCURY                       | \$ 17.00  |
| SELENIUM                      | \$ 59.00  |
| SILVER                        | \$ 43.00  |
| FIRST ROUTINE METAL/SPECIMEN  | \$ 57.00  |
| EACH ADDITIONAL ROUTINE METAL | \$ 27.00  |
| OTHER METALS AS REQUESTED     | \$ 128.00 |
| SEDIMENT PREPARATION          | \$ 15.00  |
| SOLIDS, VOLATILE              | \$ 9.00   |
| PH                            | \$ 4.00   |

|                                  |          |
|----------------------------------|----------|
| <b>TRACE METALS, TISSUE</b>      |          |
| ARSENIC                          | \$ 75.00 |
| MERCURY                          | \$ 26.00 |
| SELENIUM                         | \$ 64.00 |
| FIRST ROUTINE METAL REQUEST/SPEC | \$ 59.00 |
| EACH ADDITIONAL ROUTINE METAL    | \$ 28.00 |
| TISSUE PREPARATION               | \$ 22.00 |

|                                    |           |
|------------------------------------|-----------|
| OTHER METALS AS REQUESTED          | \$ 128.00 |
| <b>TRACE METALS-AIR</b>            |           |
| CHROMIUM, HEXAVALENT-O.H.          | \$ 19.00  |
| FIRST ROUTINE METAL/SPECIMEN-O.H.  | \$ 32.00  |
| EACH ADDITIONAL ROUTINE METAL-O.H. | \$ 24.00  |

|                                   |           |
|-----------------------------------|-----------|
| <b>TRACE METALS-MISCELLANEOUS</b> |           |
| LEAD, PAINT-O.H.                  | \$ 43.00  |
| LEAD, POTTERY-O.H.                | \$ 38.00  |
| LEAD, GASOLINE-L.H.               | \$ 101.00 |

|                          |          |
|--------------------------|----------|
| <b>RADIOCHEMISTRY</b>    |          |
| ALPHA, WATER-R.C.        | \$ 17.00 |
| BETA, WATER              | \$ 17.00 |
| RADIUM, TOTAL            | \$ 46.00 |
| GAMMA, WATER OR SEDIMENT | \$ 35.00 |
| GAMMA, GRASS             | \$ 20.00 |
| MILK, RADIONUCLIDES      | \$ 83.00 |
| ALPHA, WIPE              | \$ 8.00  |
| BETA, WIPE               | \$ 8.00  |

|                                     |          |
|-------------------------------------|----------|
| GAMMA, WIPE                         | \$ 20.00 |
| RADON, WATER                        | \$ 34.00 |
| AMERICIUM                           | \$ 57.00 |
| URANIUM, RADIOCHEMICAL              | \$ 57.00 |
| FORMALDEHYDE-O.H.                   | \$ 15.00 |
| ASBESTOS-O.H.                       | \$ 21.00 |
| RADIUM 226                          | \$ 43.00 |
| RADIUM 228                          | \$ 48.00 |
| STRONTIUM90 OR STRONTIUM89 (W OR S) | \$ 46.00 |
| TRITIUM                             | \$ 25.00 |
| CARBON 14                           | \$ 35.00 |
| MISCELLANEOUS                       | \$ *     |

|                                     |           |
|-------------------------------------|-----------|
| PESTICIDES/ORGANICS                 |           |
| PESTICIDES, MILK - M&D              | \$ 109.00 |
| INSECTICIDES, WELL OR STREAM        | \$ 76.00  |
| HERBICIDES, WELL OR STREAM          | \$ 50.00  |
| INSECTICIDES, WASTE WATER           | \$ 97.00  |
| INSECTICIDES, LIQUID WASTES         | \$ 113.00 |
| HERBICIDES, WSTWT OR LIQUID WASTES  | \$ 61.00  |
| INSECTICIDES, SEDIMENT OR SOLID WST | \$ 129.00 |
| HERBICIDES, SEDIMENT                | \$ 75.00  |
| PESTICIDES, WHOLE FISH              | \$ 178.00 |
| PESTICIDES, FISH FILLETS            | \$ 109.00 |
| PCB'S SEDIMENT                      | \$ 129.00 |
| PRIORITY POLLUTANTS, WHOLE FISH     | \$ 342.00 |
| PCB'S OIL                           | \$ 66.00  |
| PCB'S WATER                         | \$ 97.00  |
| MISCELLANEOUS                       | \$ *      |
| WT/LQD WSTS/SED-ACID&BN EXT (GC-MS) | \$ 144.00 |
| WELL WT/SED/SLD WSTS-VOL ORG(GC-MS) | \$ 67.00  |
| LQD/SLD WSTS-DIRECT DILUTION(GC-MS) | \$ 89.00  |
| WST WT/LQD WST-VOL ORG (GC-MS)      | \$ 120.00 |
| WEL/WSTWT/SED/LQD&SLDWSTS/MISCGC-MS | \$ 164.00 |
| SLD WST, SOXHLET PREPARATION(GC-MS) | \$ 132.00 |
| AIR SAMPLES-TENAX TRAPS-O.H.        | \$ 46.00  |
| AIR SAMPLES-CARBON TUBES-O.H.       | \$ 67.00  |
| OIL AND GREASE                      | \$ 19.00  |
| OIL AND GREASE, SEDIMENT            | \$ 29.00  |
| FLASH POINT                         | \$ 34.00  |
| TRICHALOMETHANES (DRINKING WATER)   | \$ 20.00  |
| ETHYLENE DIBROMIDE                  | \$ 15.00  |

|                                    |          |
|------------------------------------|----------|
| FOOD CHEMISTRY-GEN ANALYTICAL UNIT |          |
| FILTH, CEREAL FOODS                | \$ 52.00 |
| FILTH, PASTA                       | \$ 77.00 |
| PKG EXAM FOR RODENT CONTAMINATION  | \$ 14.00 |
| FILTH, NUTS AND GRAINS             | \$ 54.00 |
| FILTH, BAKED GOODS                 | \$ 75.00 |
| FILTH, BEVERAGES                   | \$ 17.00 |
| FILTH, CANDY                       | \$ 23.00 |
| FILTH, SPICES                      | \$ 52.00 |
| MOLD, BEVERAGES                    | \$ 20.00 |
| MOLD, TOMATOS                      | \$ 20.00 |
| RODENT PELLET, ID                  | \$ 12.00 |
| URINE STAIN ID                     | \$ 30.00 |
| INSECT ID                          | \$ 14.00 |
| DETERIATION, CANNED PRODUCTS       | \$ 11.00 |

|                      |          |
|----------------------|----------|
| PH OF FOOD PRODUCTS  | \$ 5.00  |
| FATS, DAIRY PRODUCTS | \$ 67.00 |
| MISCELLANEOUS        | \$ *     |

|                                   |          |
|-----------------------------------|----------|
| MEAT ANALYSIS-GEN ANALYTICAL UNIT |          |
| MOISTURE (TOTAL WATER)            | \$ 5.00  |
| PROTEIN                           | \$ 19.00 |
| SAMPLE GRINDING                   | \$ 10.00 |
| SOYA                              | \$ 16.00 |
| ISOLATED SOY PROTEIN              | \$ 20.00 |
| CEREAL                            | \$ 16.00 |
| NOT-FAT DRIED MILK (N.F.D.M.)     | \$ 98.00 |
| MAXIMUM INTERNAL TEMPERATURE      | \$ 35.00 |
| SALT                              | \$ 13.00 |
| PHOSPHATE                         | \$ 19.00 |
| FAT, PALLY SCREEN                 | \$ 6.00  |
| FAT, SOXHLET EXTRACTION           | \$ 9.00  |
| NITRITE                           | \$ 8.00  |
| NITRATE                           | \$ 11.00 |
| SULFITE                           | \$ 4.00  |
| BENZOATE                          | \$ 8.00  |
| FILTH                             | \$ 19.00 |
| MISCELLANEOUS                     | \$ *     |

\* Miscellaneous - To be determined from expenditures in researching, designing, and/or running test.

|                                      |         |
|--------------------------------------|---------|
| Bacteriological Examination (Austin) | \$ 4.00 |
|--------------------------------------|---------|

**(c) Payment.**

(1) For testing provided at a department laboratory, payment for analysis must be made at the time the sample is submitted and may be made only in cash, check, or money order. If a check is returned by a bank for insufficient funds, then payment by check on future submissions will not be permitted. No analysis can commence before payment, which may be critical with time-sensitive tests. No charge will be made to divisions of the department for work required in the accomplishment of their mission. All fees will be deposited in the state treasury to a special fee fund to be entitled the Texas Department of Health public health services fee fund.

(2) All local public health department laboratories affiliated with the department who offer any of the services described in subsection (a) of this section must charge a fee-for-service at least equal to the rates listed in the schedule of categories and fees. Fees collected by local health department laboratories shall be retained by those departments and be accounted for and ex-

pended under the requirements relating to program income.

(3) The amount of a fee for service may not exceed the cost for providing the service and collection may be waived when the administrative costs exceed the fees to be collected.

(4) Shipping charges must be paid by the submittees. Collect shipments will not be accepted.

(5) Unsatisfactory samples will not be analyzed. In such an event the submitter will be notified as soon as possible with an explanation for the decision. All fees will be remitted; however, shipping charges cannot be reimbursed.

(d) Application for service. With each submission, a clear indication of the category of analysis must be given in order to avoid delay. The department may use its judgment when specific analysis is not requested provided type of sample and amount of fee are indicative.

(e) Other analyses. In general, variations from the categories of analysis listed in the schedule of categories and fees are

discouraged. Special studies may be offered if not disruptive of the routine flow of work for a fee to be determined in each case. Arrangements must be made in advance.

(f) Interagency contracts. Work for other state agencies will be as provided for in individual interagency contracts.

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

Issued in Austin, Texas, on March 18, 1985.

TRD-852426

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

Proposed date of adoption:  
May 31, 1985

For further information, please call  
(512) 458-7318.

★ ★ ★



## Chapter 265. General Sanitation

The Texas Department of Health (TDH) proposes the repeal of §§265.31-265.35, concerning migrant labor camps; and the adoption of new §§265.31-265.36, concerning migrant labor housing facilities. The new sections cover the purpose, definitions, site and physical facilities, applications for licenses to operate facilities, and hearings.

Stephen Seale, chief accountant III, has determined that for the first five-year period the repeal and new sections will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal or of enforcing or administering the new sections.

Mr. Seale also has determined that for each year of the first five years the repeal and new sections as proposed are in effect the public benefit anticipated as a result of the repeal or of enforcing the new sections as proposed is the improvement of migrant labor housing facilities for the protection of the health and safety of the occupants. There is no anticipated economic cost to individuals as a result of the repeal or who are required to comply with the new sections as proposed.

Comments on the proposal may be submitted to Jimmie D. Dickens, Director, General Sanitation Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas. Comments will be accepted for 30 days after publication of this proposal in the *Texas Register*. In addition, public hearings will be held on Tuesday, April 16, 1985, in the auditorium, Pharr-San Juan-Alamo High School, South I Road, Pharr; and Wednesday, April 24, 1985, in Room 107, Lubbock Memorial Civic Center, 1501 Sixth Street, Lubbock.

### Migrant Labor Camps

#### ★ 25 TAC §§265.31-265.35

*(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Health, 1100 West 49th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The repeal is proposed under Texas Civil Statutes, Article 5221e-1, §6, which provide the Texas Board of Health with the authority to adopt rules covering the

operation of migrant labor housing facilities.

- §265.31. *General Provisions.*
- §265.32. *Location of Camp.*
- §265.33. *Site and Physical Facilities.*
- §265.34. *Operations and Maintenance.*
- §265.35. *Procedures for Application for Migrant Labor Camp.*

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

Issued in Austin, Texas, on March 18, 1985.

TRD-852430

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

Proposed date of adoption:  
May 31, 1985  
For further information, please call  
(512) 458-7521.



### Migrant Labor Housing Facilities

#### ★ 25 TAC §§265.31-265.36

The new sections are proposed under Texas Civil Statutes, Article 5221e-1, §6, which provide the Texas Board of Health with the authority to adopt rules covering the operation of migrant labor housing facilities.

§265.31. *General Provisions.* The purpose of these sections is to establish requirements concerning adequate and safe housing facilities for migrant agricultural workers. The sections cover definitions, site and physical facilities, and hearings.

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

Board—The Texas Board of Health.

Department—The Texas Department of Health.

Facility—A migrant labor housing facility. It consists of one or more buildings, structures, trailers, or vehicles, contiguous or grouped, together with the land appertaining thereto, established, operated, or used as living quarters for two or more seasonal, temporary, or migrant families or three or more seasonal, temporary, or migrant workers for more than three days, whether or not rent is paid or reserved in connections with the use or occupancy of such premises.

Person—An individual or group of individuals, association, partnership, corporation, or political subdivision.

Worker—A migrant agricultural worker is an individual working or available for work, primarily in agricultural or related

industry on a seasonal or temporary basis and who moves one or more times from one place to another for the purpose of such employment or availability for seasonal or temporary employment.

#### §265.33. *Site and Physical Facilities.*

(a) Facility site.

(1) Facility sites shall be well drained and free from depressions in which water may stand. Natural sinkholes, pools, swamps, or other surface collectors of water within 200 feet of the periphery of the site shall be drained, filled, or treated to prevent mosquito breeding.

(2) Facility sites shall not be subject to conditions which create offensive odors, flies, noise, traffic, or similar hazards.

(3) Grounds within the facility site shall be free of debris, noxious plants (poison ivy, etc.), uncontrolled weeds, or brush.

(4) Facility sites shall have recreation space for the facility occupants based on the maximum facility capacity.

(5) Facility sites shall be located at least 500 feet from livestock feeding pens.

(b) Water supply.

(1) A water supply which meets the provisions of the Texas Sanitation and Health Protection Law, Texas Civil Statutes, Article 4477-1, and the safe drinking water standards shall be available at all times in each facility.

(2) When the water supply does not meet the standards, notice shall be given to facility occupants and posted in a conspicuous location in the facility site. Approved bottled water shall be provided to the occupants.

(3) Facilities shall be connected to an existing public water supply system, if available.

(4) Adequate arrangements for provision of hot water for bathing, laundering, culinary, and dishwashing purposes shall be available in all facility sites.

(5) Water outlets shall be located within 100 feet from each living or utility area. Drainage shall be provided for overflow and waste from all outside outlets.

(6) Facility sites, constructed after adoption of these sections, shall provide water under pressure (a minimum of 20 psi and a minimum static of 35 psi) to each living arrangement and utility building.

(c) Excreta and liquid waste disposal.

(1) Arrangements shall be provided and maintained for effective sewage disposal. Raw or treated liquid waste shall not be discharged or allowed to accumulate on the ground surface.

(2) Arrangements for disposal of excreta and liquid waste shall be connected to a public sewer system, if available.

(3) All other disposal systems (septic tanks, liquid waste treatment, privies, or portable toilets) shall be constructed and maintained as required by the Texas Department of Health.

(d) Facilities.



(1) Facilities shall be constructed in a manner to insure the protection of occupants against the elements. Facilities shall be in good repair and maintained in a sanitary condition.

(2) Facilities shall have flooring constructed of smooth, finished, rigid material, and be readily cleanable. The flooring shall be located to prevent entrance of ground or surface water into the facility.

(3) In living arrangements utilized for combined cooking, eating, and sleeping purposes, no less than 100 square feet of floor space shall be provided for each occupant over three years of age. Rooms used for sleeping purposes only shall provide at least 50 square feet of floor space for each intended occupant.

(4) Facilities utilized by families with children shall have a separate room or partitioned sleeping area for the husband and wife. The partition shall provide privacy.

(5) In dormitory-type facilities, separate sleeping accommodations shall be provided for each sex. In family housing units, separate sleeping accommodations shall be provided for each family unit.

(6) Adequate, separate arrangements for each person or family to hang clothes or store personal effects shall be provided.

(7) The total floor area of each habitable room in a facility shall have a minimum ceiling height of seven feet.

(8) Each habitable room (not including partitioned areas) shall have at least one window or skylight opening directly to the outside. The minimum total window or skylight area, including windows and doors, shall equal at least 10% of the usable floor area. The total openable area shall equal at least 45% of the minimum window or skylight area required, except where comparable adequate ventilation is supplied by mechanical or some other method.

(e) **Cooking and eating arrangements.**

(1) When workers or their families cook in their individual units, space shall be provided and equipped for cooking and eating. Such space shall be provided with:

(A) a cookstove with a minimum of four burners;

(B) adequate food storage shelves and a counter for food preparation;

(C) provisions for mechanical refrigeration of food at a temperature of not more than 45°F;

(D) eating arrangements (table and chairs or equivalent) commensurate with the maximum capacity of the unit; and  
(E) adequate lighting and ventilation.

(2) When workers or their families cook and eat in a communal room or building separate from their sleeping accommodations, the room or building shall be provided with:

(A) a stove with a minimum of

four burners, in a ratio of one stove to 10 persons, or one stove to two families;

(B) adequate food storage shelves and a counter for food preparation;

(C) mechanical refrigeration for food at a temperature of not more than 45°F;

(D) eating arrangements (tables and chairs or equivalent) commensurate with the intended use of the room or building;

(E) adequate sinks with hot and cold water under pressure;

(F) adequate lighting and ventilation; and

(G) nonabsorbent floors of easily cleanable materials.

(3) In a central mess or multifamily feeding operation, the kitchen and mess hall shall be constructed in accordance with the regulations of the Texas Department of Health and:

(A) shall be a size in proper proportion to the facility capacity and separate from the sleeping quarters;

(B) floors, walls, ceiling, tables, and shelves of all kitchens, dining rooms, refrigerators, and food storage rooms shall be maintained in a clean, sanitary condition;

(C) the exterior wall opening of all dining rooms shall be screened and rendered fly-tight during the period of facility operation;

(D) screen doors shall be self-closing and installed to open outward from the area to be protected.

(f) **Sleeping arrangements.**

(1) Sleeping arrangements (beds, metal frame cots, or bunks complete with springs, mattresses, and mattress covers) in good repair shall be provided for facility occupants. Sleeping arrangements shall be clean and maintained in a sanitary condition.

(2) Mattresses and mattress covers shall be laundered and sanitized between assignment to different occupants.

(3) Beds, bunks, or cots shall have a clear space of at least 12 inches from the floor. Triple-deck facilities shall be prohibited. Single beds shall be spaced not closer than 36 inches laterally or end to end. Bunk beds shall be spaced not closer than 36 inches laterally or end to end. Bunk beds shall be spaced not less than 48 inches laterally or 36 inches end to end. There shall be a clear ceiling height above a mattress of not less than 36 inches. The clear space above the lower mattress of the bunk beds and the bottom of the upper bunk shall not be less than 27 inches.

(g) **Heating.**

(1) All living quarters and service rooms shall be provided with properly installed, operable, heating equipment that maintains a temperature of at least 68°F.

(2) All heating systems shall be fail-safe in case of failure or interruption of the power or fuel source.

(3) All walls or ceilings within 18

inches of the stovepipe of a solid or liquid fuel stove shall be of fireproof material.

(4) All stoves or other sources of heat utilizing combustible fuel shall be installed to prevent fire and safety hazards. A vented metal collar shall be installed around a stovepipe, or the vent passing through a wall, ceiling, floor, or roof.

(5) All stoves or other sources of heat utilizing combustible fuel shall be vented to prevent fire and safety hazards. All vents shall extend above the peak of the roof.

(6) Only electric portable heaters shall be provided.

(h) **Bathrooms and laundry rooms.**

(1) Bathrooms in family living accommodations shall be separated from other rooms to insure privacy.

(2) Bathrooms (bathtubs, showers, lavatory, sinks) and laundry rooms shall be located within 200 feet of each living arrangement.

(3) Bathrooms and laundry rooms shall be constructed in a manner conducive to good repair and maintained in a sanitary condition.

(4) Shower flooring shall be constructed of nonabsorbent, nonskid materials and shall have properly constructed floor drains.

(5) Communal bathrooms shall have bathing arrangements, handwashing arrangements, and dry dressing space for each sex separated by a solid nonabsorbent wall extending from the floor to ceiling. Communal bathrooms shall be designated "men" or "women" in English and in the language of the facility occupants.

(6) Communal bathrooms shall have a minimum of one showerhead per 10 persons and one lavatory sink per six persons. Showerheads shall be spaced at least three feet apart to insure a minimum of nine square feet of showering space per showerhead.

(7) Mechanical clothes washers shall be provided in a ratio of one per 50 persons. In addition to mechanical clothes washers, one laundry tray per 100 persons shall be provided. In lieu of mechanical clothes washers, one laundry tray or tub may be provided per 25 persons.

(8) Arrangements for drying clothes shall be provided.

(i) **Toilets.**

(1) Toilets shall be located within 200 feet of each living arrangement. No privy shall be located within 100 feet of any living arrangement, dining room, mess hall, or kitchen.

(2) Toilets shall be constructed in a manner conducive to good repair and maintained in a sanitary condition. Privies shall be flyproof and of adequate capacity.

(3) Communal accommodations shall have toilets for each sex separated by a solid wall from floor to ceiling and shall be designated "men" or "women" in English and in the language of the facility occupants.

(4) Water closets or privy seats shall be provided in a ratio of one per 15 persons of each sex. A minimum of one for each sex shall be provided in communal accommodations. Family living accommodations containing private toilets will not be considered when establishing the number of shared toilets.

(5) Urinals may be substituted for men's toilet seats in a ratio of one urinal of 24 inches of trough-type per toilet seat to a maximum of one-third of the required toilet seats.

(6) Urinals and the surrounding walls and floor shall be constructed of nonabsorbent material.

(j) Garbage and other refuse.

(1) Containers with tight fitting lids for garbage and other refuse storage shall be provided to and located within 100 feet of each living accommodation. Containers of 32 gallon capacity may be used in a ratio of one per living accommodation. Bulk-type containers may be used.

(2) Containers shall be in good repair and maintained in a sanitary condition.

(3) Garbage and refuse shall be collected at least twice a week. Disposal of garbage and refuse shall be in accordance with requirements of the Texas Department of Health.

(k) Electricity and lighting.

(1) All facility sites shall be provided with electricity.

(2) Each habitable room and all common rooms and areas (laundry rooms, toilets, privies, hallways, stairways, etc.) shall contain ceiling or wall-type light fixtures. At least one wall-type electrical convenience outlet shall be provided in each individual living room.

(3) Lighting shall be provided in the yard area and pathways to communal arrangements.

(4) All wiring and lighting fixtures shall be installed and maintained in a safe condition.

(l) Screening.

(1) All outside openings shall be protected with screening of 16 mesh or less.

(2) All screen doors shall be tight and equipped with self-closing devices.

(3) All screens shall be maintained in good repair.

(m) Insect and rodent control.

(1) Housing sites, housing units, and utility areas shall be constructed to exclude insects, rodents, and other vermin.

(2) A vector control program shall be maintained to insure effective control of all insects, rodents, and other vermin.

(n) Fire, safety, and first aid.

(1) All buildings or structures shall be maintained and used in accordance with the provisions of the state and local regulations.

(2) In one-story facilities utilized by less than 10 persons, two means of escape shall be provided. One of the two required means of escape may be a readily

accessible window with an openable space of not less than 24 inches by 24 inches.

(3) Central dining facilities, assembly rooms, and all sleeping quarters intended for use by 10 or more persons shall have, as alternate means of escape, at least two remotely separated doors that open to an interior hallway or to the outside.

(4) Sleeping quarters and assembly rooms located on a second story shall have a stairway, a permanently affixed exterior ladder, or a second stairway.

(5) Fire extinguishing equipment shall be provided in an accessible place located within 100 feet from each facility. Such equipment shall provide protection equal to a 2½ gallon stored pressure of five gallon pump-type water extinguisher.

(6) First aid supplies shall be provided and be accessible at all times. The supplies shall be equivalent to the 16-unit first aid kit recommended by the American Red Cross, and shall be provided in a ratio of one to 50 persons.

(7) Flammable or volatile liquids or materials, except those needed for household use, shall not be stored in or adjacent to rooms used for living purposes.

(8) Agricultural pesticides and toxic chemicals shall not be stored within the facility site. Any pesticides or other toxic materials, and any potentially hazardous implements or equipment, kept within 500 feet of the facility site shall be stored in a secure, locked enclosure.

#### §265.34. *Procedures for Applications for License to Operate Migrant Labor Housing Facilities.*

(a) Texas Civil Statutes, Article 5221e-1, require the annual licensing of all facilities used for housing seasonal or temporary agricultural workers.

(b) Any person who wants to apply for a license to operate a facility may obtain the application form from the General Sanitation Division of the department.

(c) An application must be submitted to the General Sanitation Division at least 45 days prior to the intended operation of the facility.

(d) The annual license fee shall be \$50 and shall be tendered by check or money order payable to the Texas Department of Health (TDH).

(e) Within 30 days of the receipt of a complete application and fee, the facility shall be inspected by an authorized representative of the TDH.

(1) If the facility meets the minimum standards of construction, sanitation, equipment, and operation required by §§265.31-265.33 of this title (relating to General Provisions, Definitions, and Site and Physical Facilities), the commissioner of health shall issue to the applicant, in the name of the Texas Department of Health, a license to operate a migrant labor housing facility.

(2) If the facility does not meet the minimum standards of construction, sanitation,

equipment, and operation required by §§265.31-265.33 of this title (relating to General Provisions, Definitions, and Site and Physical Facilities), the department will provide to the applicant, at the time of the inspection, a list of deficiencies. In order to expedite occupancy, the applicant may request the department to reinspect the facility as soon as deficiencies are corrected, but such request must be made within 60 days of the date of the initial inspection. If the facility does not meet the standards upon reinspection, a new application and \$50 fee must be submitted.

(f) A license, unless revoked, shall expire one year from the date of issuance, and it shall be nontransferable.

(g) Correspondence should be addressed to the Division Director, General Sanitation Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

#### §265.35. *Application for License to Operate a Migrant Labor Housing Facility for Another Year.*

(a) At least 60 days prior to the expiration of a license, the General Sanitation Division of the department will mail a notice of expiration and an application for renewal to the licensee at the address shown in the records of the division. It is the responsibility of the licensee to notify the division of any change of address.

(1) If a licensee does not receive the notice of expiration, it is the duty of the licensee to notify the division and request an application for renewal of the license at least 45 days prior to the expiration of the license.

(2) The licensee shall provide the date of intended operation of the facility on the application for renewal.

(b) The department shall conduct a license inspection prior to the expiration date of the existing license, except as provided in subsection (c) of this section.

(1) A license shall be issued or denied after the inspection in accordance with §265.34(e) of this chapter (relating to Procedures for Applications for License to Operate Migrant Labor Housing Facilities).

(2) If the facility does not meet the standards, appropriate measures will be initiated to ensure compliance under the existing license.

(c) The department shall issue a conditional license to a licensee who has submitted an application for renewal prior to an inspection if the intended date of operation is more than 45 days from the date of expiration. A conditional license shall not permit the facility to be occupied. The department shall inspect a facility issued a conditional license at least 30 days but no more than 60 days before its intended date of operation. A license shall be issued or denied after the inspection in accordance with §265.34(e) of this chapter (relating to Procedures for Applications for License to Operate Migrant Labor Housing Facilities).

(d) Nothing in this section shall require a licensee to submit an application for renewal of a license if the facility will not be in operation within 45 days of its date of expiration. If a licensee chooses to allow the license to expire, a new application shall be submitted within 45 days of the intended date of operation in accordance with §265.34 of this chapter (relating to Procedures for Applications for License to Operate Migrant Labor Housing Facilities).

**§265.36. Hearings.**

(a) Before the department denies, suspends, revokes, or refuses to issue a license, the department shall give the applicant or licensee an opportunity for a hearing on the department's proposed action.

(b) The department shall conduct the hearing in accordance with the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, and the department's sections on formal hearings, §§1.21-1.32 of this title (relating to Formal Hearing Procedures).

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

Issued in Austin, Texas, on March 18, 1985.

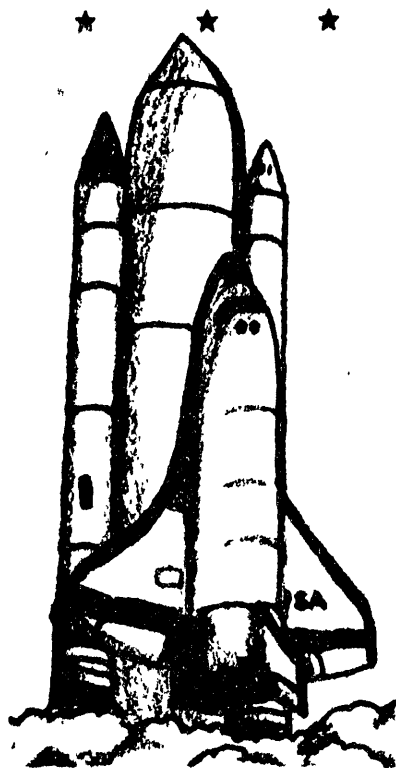
TRD-852429

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

Proposed date of adoption:

May 31, 1985

For further information, please call  
(512) 458-7521.



## 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. The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the State Board of Insurance, 1110 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

#### Policy Approval Rules and Regulations for Variable Life Insurance

★059.10.01.001-.010

The State Board of Insurance proposes the repeal of Rules 059.10.01.001-.010, concerning variable life insurance products. These rules are to be replaced by new variable life insurance rules to be effective simultaneously with this repeal. The new rules are adopted under the Insurance Code, Article 3.75, which went into effect on September 1, 1984. The present rules were adopted under the Insurance Code, Article 3.73, which was repealed effective September 1, 1984.

Kay Simonton, policy approval manager, 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 enforcing or administering the repeal. The repeal and adoption of new rules are necessitated by statutory law changes.

Ms. Simonton also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is the elimination of rules which are not up to date and not adopted to implement current statutory law. There is no anticipated economic cost to individuals as a result of the repeal.

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

The repeal is proposed under the Insurance Code, Article 3.73, §8, which provides the State Board of Insurance with the authority to issue such reasonable rules and regulations as may be appropriate to regulate and carry out the purposes of Article 3.73, and pursuant to the

board's authority to repeal any rule it has previously adopted.

- .001. Definitions.
- .002. Qualification of Insurers to Issue Variable Life Insurance.
- .003. Insurance Policy Requirements.
- .004. Reserve Liabilities for Variable Life Insurance.
- .005. Separate Accounts.
- .006. Information Furnished to Applicants.
- .007. Applications.
- .008. Reports to Policyholders.
- .009. Qualifications of Agents for the Sale of Variable Life Insurance.
- .010. Separability Article.

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

Issued in Austin, Texas, on March 18, 1985.

TRD-852416

James W. Norman  
Chief Clerk  
State Board of  
Insurance

Earliest possible date of adoption:

April 26, 1985

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

★ ★ ★

## TITLE 34. PUBLIC FINANCE

### Part I. Comptroller of Public Accounts

#### Chapter 3. Tax Administration

#### Subchapter B. Natural Gas Production Tax

★34 TAC §3.16

The Comptroller of Public Accounts proposes amendments to §3.16, concerning reports, payments, and due dates. The amendments authorize annual, rather than monthly, reporting responsibilities for producers having an average monthly tax liability of \$200 or less. The amendments also provide guidelines for resumption of monthly filing status when accumulated tax liability exceeds \$2,400.

Billy Hamilton, director of revenue estimating, 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 as a result of enforcing or administering the rule. The rule is promulgated under the Tax Code, Title 2, and no statement of the fiscal im-

lications for small businesses is required.

Mr. Hamilton 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 a decrease in the time required to file and mail natural gas tax reports, as well as some postage savings. There are no anticipated costs to individuals who are required to comply with the rule.

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

The amendments are proposed under the Texas Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the natural gas production tax.

**§3.16. Reports, Payments, and Due Dates [Due Date for Reports and Payments].**

(a) Reports required [Due dates extended].

(1) All first purchasers as defined by the Texas Tax Code, §201.001(3), must file the purchaser's monthly tax report required by the Texas Tax Code, §201.2035. [The due date for all reports and payments required for the Gas Production Tax, Texas Tax Code, Chapter 201, is extended to the 20th day of the second month following the month of production, except for the periods set forth as follows.]

(2) All producers as defined by §201.001(5) or §3.17 of this title (relating to Reporting Responsibilities of Interest Owners), having an average monthly tax liability of \$200 or more must file the producer's monthly report required by the Texas Tax Code, §201.203. [The due date for the reports and payments for the production month of June of each odd-numbered calendar year is extended to the 15th day of August of that year.]

(3) All producers having an average monthly tax liability of less than \$200 must file the producer's annual report. [An estimated payment of tax is required on or before August 15 for the production month of July of each odd-numbered calendar year.]

(b) Due dates.

(1) Except as provided in paragraph (2) and paragraph (3) of this subsection, the due date for all monthly reports and payments is the 20th day of the second month following the month of production.

(2) The due date for the monthly reports and payments for the production month of June of each odd-numbered calendar year is the 15th day of August of that year.

(3) An estimated payment of tax is required of all monthly filers on or before August 15 for the production month of July of each odd-numbered calendar year.

(4) Except as provided in para-

graph (5) and paragraph (6) of this subsection, the gas producer's annual report and payment are due on or before February 20 of each year. The report is for taxable production during the preceding calendar year.

(5) The gas producer's annual report and payment for producers going out of business during the year are due on or before the 20th day of the second month following the month in which the producer ceases production. The report must reflect all taxable production thus far during the year.

(6) If any producer designated as an annual filer has an accumulated tax liability of \$2,400 or more the producer must file a report and remit the tax due on or before the 20th day of the second month following the month resulting in the \$2,400 accumulated liability. The producer must file monthly thereafter. It is the responsi-

bility of the taxpayer to contact the comptroller's office concerning the change in reporting status. Example: a producer begins business in April and estimates his monthly liability at only \$150 per month. By October the actual liability is \$2,500. A report covering April through October must be filed on or before December 20. All periods subsequent to October must then be reported on monthly reports.

(c) [(b)] Payment of estimated tax required.

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

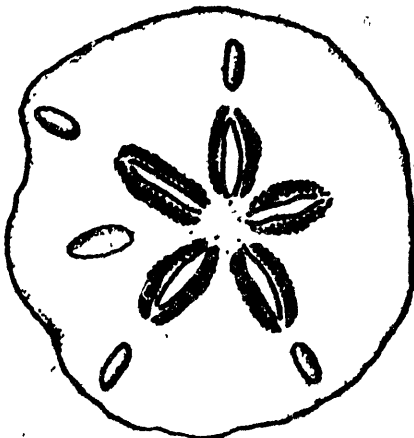
(d) [(c)] Penalties.

(1) If the amount paid pursuant to subsection (c) [(b)] of this section is less than the required amount, a penalty of 10% will accrue on the difference between the required amount and the amount actually remitted.

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

(e) [(d)] Examples:

|                                     | A        | B        | C        | D        |
|-------------------------------------|----------|----------|----------|----------|
| Tax Due for June 1985               | \$10,000 | \$10,000 | \$10,000 | \$10,000 |
| Reasonable Estimate for July 1985   | \$10,000 | \$10,000 | \$10,000 | \$10,000 |
| Estimate Payment Remitted for July  | \$10,000 | \$8,000  | \$8,000  | \$0      |
| Actual Tax Due for July             | \$12,000 | \$8,000  | \$12,000 | \$12,000 |
| Amount Delinquent                   | \$0      | \$0      | \$2,000  | \$10,000 |
| Penalty on Delinquent Amount        | \$0      | \$0      | \$200    | \$1,000  |
| Additional Tax Due with July report | \$2,000  | \$0      | \$4,000  | \$12,000 |



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

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

TRD-852440

Bob Bullock  
Comptroller of Public  
Accounts

Earliest possible date of adoption:  
April 28, 1985

For further information, please call  
(512) 475-1913.

★ ★ ★

# TITLE 40. SOCIAL SERVICES AND ASSISTANCE

## Part VI. Texas Commission for the Deaf

### Chapter 181. General Rules of Practice and Procedure Operations

#### ★ 40 TAC §181.25

The Texas Commission for the Deaf proposes new §181.25, concerning minimum standards for community living for deaf/blind multihandicapped individuals. The minimum standards set forth necessary rules and regulations that should be followed in providing residential living services for deaf/blind multihandicapped individuals.

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

Mr. Tammen 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 as proposed will be the provision of a responsible and sound program to assist deaf/blind multihandicapped individuals in attaining self-sufficiency and independent living. 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 Kristy Godinich, Texas Commission for the Deaf, P.O. Box 12904, Austin, Texas 78711.

The new section is proposed under the Human Resources Code, Chapter 81, §81.012, which provides the Texas Commission for the Deaf with the authority to establish not more than four pilot programs to serve deaf/blind multihandicapped individuals designed to help them attain self-sufficiency and independent living.

#### §181.25 Minimum Standards for Community Living for Deaf/Blind Multihandicapped Individuals.

(a) Description of services. The Texas Commission for the Deaf is responsible for developing and providing specified services for deaf/blind multihandicapped individuals and their parents. These services include the establishment of not more than four programs to serve deaf/blind multihandicapped individuals by helping them to attain self-sufficiency and independent living.

(b) Definitions. The following words and terms, when used in this section, shall

have the following meanings, unless the context clearly indicates otherwise.

(1) Client—Deaf/blind multihandicapped individual accepted into the program.

(2) Commission—Texas Commission for the Deaf.

(3) Deaf/blind multihandicapped individual—Individual who has auditory and visual handicaps, the combination of which, even after best correction, causes such severe communication, development, and/or life adjustment problems that the deaf/blind person requires a comprehensive range of specialized services.

(4) Facility—Actual site of the program.

(5) Guardian—Person who is legally responsible for the care and management of the deaf/blind multihandicapped individual.

(6) Parent—Parent who is the natural or foster guardian of the deaf/blind multihandicapped individual.

(7) Program—Organization or facility through which the Texas Commission for the Deaf provides services to deaf/blind multihandicapped individuals.

(8) Staff—Persons employed by the organization or facility through which the Texas Commission for the Deaf provides services to deaf/blind multihandicapped individuals.

(9) TCD—Texas Commission for the Deaf.

#### (c) Personnel.

(1) The program shall employ a sufficient number of qualified staff, delegate sufficient authority to such staff to carry out necessary responsibilities, and adequately perform the following functions:

(A) direct client services at a ratio of one staff person to four clients during time periods of direct client interaction;

(B) administrative functions;

(C) housekeeping, maintenance, and food service;

(D) clerical functions; and

(E) record keeping and reporting.

(2) The program employing any person who does not possess usual qualifications for the position in which he/she is employed shall have a written statement from the program director, justifying the reasons for employing this person. This statement shall be maintained in the employee's personnel file.

(3) At least three references from persons knowledgeable of the work capabilities of an applicant will be secured prior to hiring to assist in the process of validation of appropriateness of the applicant working with the deaf/blind multihandicapped persons.

(4) The program shall have a written description of personnel policies and procedures. This description shall be provided to all staff members and shall be available to all persons seeking employment.

(5) The program shall have complete written job descriptions covering all positions within the facility. Each employee shall be given his/her job description.

(6) The program shall have a description of all staff assignments. This description shall provide complete information on roles, functions, lines of authority, lines of responsibility, and lines of communication. This description shall be provided to all staff members.

(7) All staff who work with clients shall have 15 hours of in-service training each year of employment.

(8) First aid training, to include CPR training, by a Red Cross instructor or a licensed/certificate health professional, is required for all staff directly involved with clients. Training received shall be documented.

(9) The program shall have staff coverage throughout the 24-hour period. Clients shall not be left unsupervised at any time.

(10) When clients are scheduled out of the facility, at least one staff person shall be available at the facility.

(11) The program shall have a written grievance procedure for personnel and a copy of the procedure shall be provided to all staff members.

#### (d) Admission.

(1) The program shall accept clients with the following eligibility criteria:

(A) have auditory and visual handicaps, the combination of which, even after best correction, causes such severe communication, developmental, and/or life adjustment problems that the deaf/blind person requires a comprehensive range of specialized services;

(B) be at least 18 years of age;

(C) be toilet trained or in the process of being nearly toilet trained;

(D) not have a history of behavior injurious to self or others to the extent that a behavior management program cannot accommodate the person, or to the extent that bodily harm would be perpetrated on staff or other clients in the program; and

(E) be a resident of the State of Texas.

(2) The program shall not admit more clients into the program than the number specified by the Texas Commission for the Deaf.

(3) When a formal request for admission has been made and admission has been refused, the program shall provide a written statement of the reason for refusal to the referring person and/or agency.

(4) On or before the date of admission; the program shall ensure that a written admission agreement between the program, the client (if appropriate), the parent, or the guardian is completed and signed by those parties. A copy of the agreement shall be kept in the client's case record and a copy shall be provided to each of the sign-

ing parties. This agreement, at a minimum, shall include:

(A) delineation of family contact and involvement, including family visits, mail, gifts, phone calls, parent meetings, and notification procedures for absences;

(B) religious affiliation and practices of the client; and

(C) date of individual plan development.

(5) The program shall ensure that each client has had a physical examination by a licensed physician within 30 days prior to admission. The client shall be checked for illness, fever, rashes, bruises, and injury by the program director at the time of admission.

(6) At the time of admission, the program shall be provided authorization from the prescribing physician for the administering of medications and any diet restrictions or recommendations.

(7) On or before the date of admission, authorization forms will be completed and signed by the client (if appropriate), the parent, or the guardian for obtaining medical and dental care for the client.

(e) Individual program plans.

(1) Within 30 days of admission, the program will develop an individualized, written habilitation plan for each client. Such plan shall, as a minimum, include:

(A) baseline profile to include the client's physical, mental, emotional, social, and self-care abilities;

(B) goals to include specific areas of emphasis, objectives to meet the goals, and time lines for evaluation of progress;

(C) services to be provided and by whom;

(D) progress notes;

(E) formal reviews;

(F) behavior management program and actions taken in relation to this program; and

(G) other recommendations.

(2) Each client's individual plan must be signed by the program director and the client (if appropriate), the parent, or the guardian.

(3) Each client's plan shall be formally reviewed and updated if necessary, at least annually, and such review shall include the program director, the client (if appropriate), the parent, or the guardian.

(4) The program shall identify and secure appropriate vocational, social, medical, recreational, and therapeutic services from the local community including establishment of method of payment, and these services will be noted in the individual plan.

(f) Nutrition.

(1) Clients shall be provided food of adequate quality and in sufficient quantity to supply necessary nutrients needed for proper growth and development. The program may use guidelines such as *Foods for Fitness: A Daily Food Guide* (Leaflet 424, U.S. Department of Agriculture).

(2) The program shall ensure that a client is provided at least three meals daily, at regular times, with not more than 14 hours between the evening meal and breakfast. Between meal snacks of nourishing quality shall be offered.

(3) Menus for general use and therapeutic modified diets shall be written at least one week in advance and copies shall be maintained by the program for a period of one year.

(4) Persons responsible for the preparation and serving of therapeutic diets shall be trained by a qualified dietician in dietary restrictions and food patterns to make comparative value substitutions when necessary.

(5) All persons involved with food preparation and serving shall receive in-service training to ensure that proper food handling techniques are practiced throughout food storage, preparation, and service. At least one staff person shall have a Texas Department of Health food handlers permit.

(6) All food and drink shall be of safe quality and prepared and served in a sanitary manner. For instance:

(A) food preparation, dining and storage areas, and equipment and furniture shall be clean and in good repair;

(B) all food shall be stored off the floor. All food items, except those which are to be washed or peeled, shall be stored in covered containers that are insect and rodent proof or shall be stored in the refrigerator;

(C) one-time-use paper and plastic dishes, utensils, and containers shall not be used more than once; and

(D) all milk and milk products shall be Grade A pasteurized or from sources approved by the Texas Department of Health.

(g) Medical care.

(1) The program shall maintain health records of each client to include:

(A) allergies, including allergies to medication;

(B) immunization history;

(C) vision and hearing evaluations;

(D) history of serious illnesses, injuries, or major surgery;

(E) current medications; and

(F) authorization forms and releases of information.

(2) Each client shall have an annual physical examination by a licensed physician, with vision and hearing evaluations, as recommended by the examining physician.

(3) Each client shall have an annual dental examination by a licensed dentist.

(4) All medication shall be administered according to the instructions on the label by a designated staff member who has received in-service training in the dispensing of medication.

(5) Prescription medications shall be in the original container, labeled with the

client's name, date, instructions, and physician's name.

(6) All medications shall be kept in a locked storage area unless refrigerated. In that case, they will be kept separate from food in a designated, locked container.

(7) Medications prescribed for a client who is discharged shall go with the client at the time of discharge unless agreed upon by the client (if appropriate), the parent, or the guardian that medication should be disposed of.

(8) Medications that are out of date shall be disposed of.

(9) Medications that are discontinued by the client's physician shall be disposed of.

(10) The program shall have a written medication schedule for each client for whom medication is prescribed. Records shall show the medications given, dosage, time given, and the name of the person administering the medication.

(11) The program shall have arrangements for prompt medical services, including emergency medical services.

(h) Client rights.

(1) The program shall allow clients to bring personal belongings to the program and acquire personal possessions.

(2) Clients shall not be required to perform at public gatherings.

(3) The program shall not use reports or pictures from which clients can be identified without prior written consent from the client (if appropriate), parent, or guardian.

(4) The program shall adopt, as a minimum, the Texas Commission for the Deaf policy on procedures for reporting client abuse.

(5) The program shall require each staff member to read and sign a statement clearly defining abuse and neglect and outlining staff responsibility to report all incidents.

(6) The program shall provide opportunities for a client to visit with parents, guardians, and/or significant others. This shall be discussed at the time of admission and during the development of the individual written plan.

(7) Money earned or received as a gift by the client shall be deemed to be that client's personal property. Management of such money will be in accordance with the individual plan.

(8) The program shall maintain a separate accounting system for each client's money.

(9) In accordance with his/her individual plan, a client may pay some of his/her room, board, and related expenses.

(10) During the admission process, the program shall determine the wishes of the client (if appropriate), the parents, or the guardians regarding religious affiliation and attendance.

(11) The program shall have written policies and procedures regarding be-



behavior management and control which shall be explained to the client (if appropriate), the parents or guardian, staff, and placing agencies. Behavior management techniques to be utilized will be explicitly outlined in the individual plan.

(12) The program shall prohibit all cruel and unusual punishment, including, but not necessarily limited to:

- (A) physical punishment (i.e., hitting);
- (B) inappropriate physical exercises;
- (C) requiring taking an uncomfortable position;
- (D) group punishments;
- (E) verbal abuse and/or humiliation;
- (F) withholding meals;
- (G) denial of family visitation;
- (H) denial of sufficient sleep;
- (I) denial of shelter, clothing, or bedding;
- (J) chemical, mechanical, or excessive physical restraint; and
- (K) assignment of unduly strenuous work.

(13) The program shall have a written grievance procedure, and a copy of the procedure shall be provided to the client, parent, or guardian at the time of admission.

(i) Health and safety.

(1) Scaled floor plans showing measurements and purposes of rooms shall be submitted to the Texas Commission for the Deaf.

(2) As a minimum, each bedroom and hallway of the facility shall be equipped with smoke detectors, which will be tested at least monthly to ensure proper working order.

(3) The program shall, as a minimum, install three rechargeable, five-pound fire extinguishers with ABC rating and shall set up an annual inspection/maintenance schedule. One extinguisher shall be located and mounted in the kitchen, and the others should be located and mounted near exits.

(4) As a minimum, two flashing signal smoke detectors shall be strategically located to alert hearing impaired persons.

(5) Every bedroom shall have at least one outside window, which can be obtained from the inside without the use of a key or tool. The ground floor bedroom windows must provide a clear opening for emergency exit that is a minimum width of 20 inches and a minimum height of 24 inches.

(6) Emergency lighting shall be provided for interior stairs. Outside stairs shall be adequately lighted.

(7) Gas pipes shall be pressure tested annually by the local gas company or licensed plumber and documentation provided stating there are no leaks.

(8) The program shall have written plans and procedures for meeting disasters

and emergencies such as fire and severe weather. All staff shall know these procedures.

(9) The facility and yard shall be maintained, repaired, and cleaned so that they are not dangerous to the health and safety of clients.

(10) All operable exterior windows and doors used for ventilation shall be screened.

(11) Equipment and furniture shall be safe and sturdy.

(12) The program shall ensure that clients are provided adequate protection from flammable and poisonous substances.

(13) Furniture in living areas shall not block exits.

(14) A double occupancy sleeping room shall have at least 60 square feet per person, excluding closets and lavatories.

(15) A single occupancy sleeping room shall have at least 80 square feet per person, excluding closets and lavatories.

(16) Each client shall have his/her own bed and mattress. Beds shall be clean and comfortable.

(17) Bathrooms shall provide for individual privacy. Bathrooms shall be provided at a minimum ratio of one for each five clients. Bathrooms shall be cleaned daily.

(j) Discharge.

(1) At least two months prior to planned discharge of a client, a planning group consisting of the program director, at least one staff person involved in the training of the client, and the client (if appropriate), the parent, or guardian shall formulate an after-care plan specifying the services, supports, and resources to be provided to the client after discharge.

(2) When a client is being placed in another program following discharge, representatives of the planning group shall, whenever possible, meet with representatives of that program prior to the client's discharge.

(3) The program shall have a written policy concerning emergency discharge and all other discharges not in accordance with the client's individual written plan.

(4) The program shall give confirmation notice 72 hours prior to the discharge date to the responsible agency, parent, or guardian.

(5) When a client is discharged, the program shall compile a complete written discharge summary within 30 days of discharge, to be placed in the client's case record. At a minimum, this summary shall include:

(A) name, address, telephone number, and relation of the person to whom the client is discharged;

(B) summary of the services provided while the client was in the program;

(C) summary of the client's accomplishments during participation in the program;

(D) needs which continue to require remediation; and

(E) after-care plan and responsible parties.

(6) When the discharge date is not in accordance with the client's individual written plan, the following items shall be added to the summary:

(A) circumstances leading to the unplanned discharge; and

(B) actions taken by the program and the reasons for these actions.

(k) Record keeping.

(1) The program shall maintain and retain necessary, pertinent case information concerning services, progress notes, behavior management, injuries, and accidents on all clients. Such information and documents shall be maintained and retained by the program for a period of not less than five years subsequent to the dismissal or discharge date of any client.

(2) The program shall have a written procedure for the maintenance and security of all records, specifying who shall supervise the maintenance of records, who shall have custody of records, and to whom the records may be released.

(3) The program shall maintain the confidentiality of all clients' records. Employees of the program shall not disclose or knowingly permit the disclosure of any information concerning the client or his/her family, directly or indirectly to any unauthorized person.

(4) The program shall make available at reasonable times, and for reasonable periods, those books and supporting documents kept current by the program pertaining to these services for the purposes of inspection, monitoring, auditing, or evaluating by the Texas Commission for the Deaf, contracting state agencies, and/or by appropriate state auditors.

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

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

TRD-852406

Fred R. Tammen  
Executive Director  
Texas Commission for  
the Deaf

Earliest possible date of adoption:

April 26, 1985

For further information, please call  
(512) 475-2492.

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## Operations

★40 TAC §181.27

The Texas Commission for the Deaf proposes new §181.27, concerning the provision of services for elderly deaf individuals in the State of Texas. This

section will define more clearly potential contracting organizations procedures in providing services to fulfill statutory authority.

Fred R. Tammen, executive director, has determined that for the first five-year period the rule will be in effect there will be fiscal implications as a result of enforcing or administering the rule. The anticipated effect on state government is an estimated additional cost of \$119,000 in 1985, \$120,000 each year in 1986 and 1987, and \$125,000 each year in 1988 and 1989. There is no anticipated effect on local government or small businesses.

Mr. Tammen 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 continued services for the State of Texas' deaf in assisting them to maintain their independence and self-sufficiency. 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 Kristy Godinich, Texas Commission for the Deaf, P.O. Box 1294, Austin, Texas 78711.

The new section is proposed under the Human Resources Code, Chapter 81, §181.006, which provides the Texas Commission for the Deaf with the authority to provide direct services to the deaf, including services to the elderly deaf and hearing-impaired.

**§181.27. Services for Elderly Deaf Individuals.**

(a) Description of services. The Texas Commission for the Deaf is responsible for developing and providing services for elderly deaf individuals in the State of Texas. These elderly deaf programs provide for a wide array of services, and are generally provided through contracts with community-based organizations. It is the intent of the commission to establish elderly deaf programs for the purpose of assisting elderly deaf persons in maintaining their independence and self-sufficiency.

(b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Commission—Texas Commission for the Deaf.

(2) Contractor—Community-based organization with which the Texas Commission for the Deaf contracts for the provision of services to elderly deaf individuals.

(3) Coordinator/worker—Person designated by the contractor to be responsible for work and/or supervision of work with elderly deaf clients.

(4) Elderly deaf individual(s)—Individual(s) who are Texas residents, are at least 60 years of age, and have a significant hearing impairment which inhibits comprehension of proceedings or communication with others.

(c) Eligibility for services. In order to be eligible for services, the elderly deaf individual must:

(1) be at least 60 years of age;

(2) be a resident of the State of Texas; and

(3) have a significant hearing impairment which inhibits comprehension of proceedings or communication with others.

(d) Contracting procedures. The commission will prepare and publish guidelines requesting proposals for the establishment of programs and services for elderly deaf persons.

(e) Contractor selection. The commission will review all timely submitted proposals, select, and contract with the organization(s) which most nearly meet published guidelines and can provide such services with the amount of funding available.

(f) Program guidelines. Guidelines for elderly deaf programs will provide assurances that the contractor will, as a minimum:

(1) designate a coordinator/worker for the elderly deaf program;

(2) provide for a comprehensive range of direct and indirect services to include, as a minimum:

(A) assessing each person's services needs and making appropriate referrals;

(B) providing assistance in personal, economic, and medical matters, per-

sonal adjustment, socialization, and transportation;

(C) developing an on going social program and/or working with existing social programs to include elderly deaf persons;

(D) providing activities which assist in activities of daily living;

(E) acting as liaison with other agencies serving the elderly to include elderly deaf in existing programs; and

(F) providing information and referral services to those agencies to help ensure appropriate service provision;

(3) utilize, to the highest degree possible, local, community, and state resources;

(4) help to ensure the health, safety, and well being of clients participating in the program;

(5) furnish the commission with reports, as required, in the format published by the commission; and

(6) establish and maintain a method to secure and maintain the confidentiality of records and services relating to clients in accordance with any and all applicable state and federal laws, rules, and regulations.

(g) Conditions for termination of services. Services provided by the elderly deaf program may be terminated if:

(1) the elderly deaf client dies, moves out-of-state, or no longer desires the services and notifies the contractor; or

(2) the contractor fails to comply with contract requirements.

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

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

TRD-852407

Fred R. Tammen  
Executive Director  
Texas Commission for  
the Deaf

Earliest possible date of adoption:

April 26, 1985

For further information, please call  
(512) 475-2492.

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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 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 31. Health Maintenance Special Supplemental Food Program for Women, Infants, and Children

★ 25 TAC §31.1

The Texas Department of Health adopts an amendment to §31.1, without changes to the proposed text published in the October 26, 1985, issue of the *Texas Register* (9 TexReg 5527).

Adoption of the *WIC Policy and Procedure Manual* is in accordance with the requirements promulgated by the U.S. Department of Agriculture (USDA), Food and Nutrition Service, in 7 Code of Federal Regulations §246.4(a)(8).

The manual is designed to provide guidance and increase the efficiency of operations of the local health agencies which have contracted with the state to provide Women, Infants, and Children Supplemental Food Program (WIC) services in their areas.

The manual is divided into the nine functional areas.

The accounting area provides guidance to local agencies in the area of financial management as required by the Uniform Grant and Contract Management Standards for State Agencies, developed under Texas Civil Statutes, Article 4413, §32g.

The food delivery area outlines procedures to be followed by all local agencies in the provision of WIC foods to participants and the accounting for and management of food instruments. This area also outlines procedures to be followed by contracted vendors in the provision of and reimbursement for WIC foods.

The auditing area outlines the procedures to be followed by local agencies in obtaining the independent organization-

wide audit required every two years by the Uniform Federal Assistance Regulations in 7 Code of Federal Regulations 3015 Part IV.

The nutrition education area establishes procedures and guidelines to be followed in the provision and documentation of nutrition education to program participants.

The certification area covers procedures established by USDA and the WIC Program in determining the eligibility for services by potential participants.

The monitoring area covers the procedures by which state WIC Program personnel review local agencies to insure compliance with program requirements.

The general administration area covers various unrelated areas such as administrative appeals, requests for information, disposal of records, contracts and agreements, outreach, applications, participant abuse and the like.

The affirmative action plan (AAP) area covers procedures followed by the department to rank counties throughout Texas in priority of need for participation in the WIC Program.

The civil rights area describes procedures to be followed to protect the rights of all applicants and participants and provide guidelines for the processing of civil rights complaints.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4414b, §1.05(a) (4), which provide the Texas Board of Health with the authority to adopt rules to implement its statutory programs. One of the programs is the Special Supplemental Food Program for Women, Infants and Children under 42 United States Code §1788(c)(1), which authorizes the U.S. Department of Agriculture to enter into a grant arrangement with the department of Health covering this program. The grant arrangement requires the department to follow USDA regulations.

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

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

Issued in Austin, Texas, on March 18, 1986.

TRD-852387

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

Effective date: April 8, 1986

Proposal publication date: October 26, 1984  
For further information, please call  
(512) 465-2640.

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## Chapter 157. Emergency Medical Care Emergency Medical Services

★ 25 TAC §157.77

The Texas Department of Health adopts new §157.77, with changes to the proposed text published in the October 2, 1984, issue of the *Texas Register* (9 TexReg 5086).

The new section provides criteria for curricula and course standards, application procedures, and the approval and/or denial of the course application.

The new section also establishes minimum standards for the training of emergency medical services (EMS) personnel for each level of certification.

One commenter said that many training programs have clinical and EMS vehicle agreements on file with the department and should not be required to file a new agreement for each course.

The department agrees with the comment and has added the wording "if not previously on file with the department" to subsection (c)(2)(F).

One commenter said that the emergency care attendant (ECA) training course should include a unit on the determination of blood pressure.

The department agrees with the comment and has added the requirement that blood pressure by palpation and auscultation be taught in subsection (d)(1)(A).

One commenter said that the use of the military antishock trousers (MAST) at the emergency medical technician (EMT) level of training should be an optional skill.

The department agrees with the comment and has included MAST as an optional skill which shall be taught at the discretion of the medical director in subsection (d)(2)(A).

One commenter said that a minor emergency clinic should be considered for clinical training at the EMT level.

The department agrees with the comment and has included minor emergency clinic in subsection (d)(2)(C).

One commenter said that an emergency run should be defined.

The department agrees with the comment and has added the definition in subsection (d)(2)(D).

One commenter said that the clinical, in-hospital, training requirement of 16 hours in the Operating/Recovery Department for special skills-emergency medical technician (SS-EMT) and paramedic-emergency medical technician (P-EMT) training levels should be expanded to include other critical care areas.

The department agrees with the comment and has added "other critical care areas" to subsection (d)(3)(C) and subsection (d)(4)(C).

One commenter said that the SS-EMT and P-EMT student should be required to complete one human endotracheal intubation during the clinical or EMS vehicle training. The commenter said that the esophageal obturator insertion should not be an option for this training.

The department agrees with the comment, and subsection (d)(3)(E)(i) and subsection (d)(4)(E)(i) are changed.

One commenter said the training courses should include a P-EMT completion training course for those individuals who are currently certified as SS-EMT since a portion of the P-EMT course has been completed.

The department agrees with the comment and has added paragraph (5) P-EMT completion training course to subsection (d).

One commenter said that the requirement of a minimum of 10 students to be enrolled in a SS-EMT or P-EMT course for the course to be approved was a hardship on some rural areas.

The department agrees with the comment that this requirement may be a

hardship in some areas of the state and has added a waiver provision to subsection (e)(1)(B).

One commenter said that one program instructor could not adequately provide skills training for 14 students and that the ratio of program instructors to students should be reduced to one program instructor for every 10 students.

The department agrees with the comment and has changed subsection (e)(1)(C).

The groups or associations that commented on the new section were the Texas Emergency Medical Services Advisory Council, Coastal Bend Council of Governments, Hotel Dieu Medical Center, and El Paso City-County Health Unit.

The Coastal Bend Council of Governments was in favor of the new section.

No commenters were against the new section; however, those organizations making comments had questions or concerns and made recommendations for changes to certain subsections of the rule. Clarifying changes have been made in each subsection of the new section.

The new section is adopted under Texas Civil Statutes, Article 4447c, §§3.02, 3.04, and 3.06, which provide the Texas Board of Health with the authority to adopt rules to implement the Emergency Medical Services Act.

#### §157.77. EMS Training Program and Course Approval.

(a) Purpose. The purpose of this section is to establish minimum requirements for emergency medical services (EMS) training programs and course approval, including curricula and course standards.

(b) National curricula standards.

(1) The department adopts by reference the following national curricula:

(A) the current U.S. Department of Transportation (DOT) emergency medical services first responder training course, including Aids to Resuscitation Section;

(B) the current U.S. Department of Transportation (DOT) Basic Training Program for Emergency Medical Technician-Ambulance;

(C) the current U.S. Department of Transportation (DOT) national training course emergency medical technician-paramedic.

(2) Copies of the national curricula adopted by reference may be reviewed during normal working hours in the Texas Department of Health, Bureau of Emergency Management offices, 1101 East Anderson Lane, Austin, Texas 78752.

(3) In addition, the following subsections clarify and/or supplement the national curricula adopted by reference.

(c) Application procedures.

(1) The completed course approval application, indicating training course lev-

el, shall be submitted to the department a minimum of three weeks prior to the starting date of the emergency care attendant (ECA) or basic-emergency medical technician (B-EMT) course and/or a minimum of six weeks prior to the starting date of the special skills-emergency medical technician (SS-EMT) or paramedic-emergency medical technician (P-EMT) course.

(2) The course coordinator shall sign the application which shall include:

(A) proposed starting and ending date of the course;

(B) names of the program instructors, examiners, and guest lecturers;

(C) an outline of the course content and curriculum;

(D) location of the course;

(E) name and signature of medical director shall be required for SS-EMT and P-EMT courses;

(F) letters of cooperation from clinical and EMS provider facilities, if not previously on file with the department, including proposed schedule of total hours per clinical department and proposed total hours per EMS provider vehicle activity;

(G) projected number of students enrolled; and

(H) equipment to be used in course.

(3) The application for course approval may be obtained from the bureau offices and the public health region EMS offices.

(d) Course curricula.

(1) ECA training course.

(A) The minimum curriculum shall be the DOT emergency medical services first responder training course, as adopted by reference in subsection (b)(1)(A) of this section and, in addition, shall include units in the following:

(i) blood pressure by palpation and auscultation in the unit containing "Diagnostic Signs and Patient Examination" and the unit containing "Shock, Bleeding, and Primary Patient Survey"; and

(ii) oral suctioning in the unit containing "Aids to Resuscitation."

(B) The student shall be required to complete a minimum of 40 hours of formalized instruction.

(2) B-EMT training course.

(A) The minimum curriculum for the B-EMT training course shall be the DOT Basic Training Program for Emergency Medical Technician-Ambulance, as adopted by reference, in subsection (b)(1)(B) of this section, except however, those objectives pertaining to the use of the military antishock trousers or the pneumatic counter pressure device which shall be an optional skill. The teaching of the optional skill shall be at the discretion of the medical director and may be utilized only under medical direction/supervision.

(B) The student shall be required to complete a minimum of 100 hours of formalized instruction.

(C) The student shall be required to complete a minimum of 20 hours of clinical, in-hospital training. A minimum of 12 hours shall be required in the emergency department. An approved primary care facility, such as a minor emergency clinic, may suffice for the clinical, in-hospital training.

(D) The student shall be required to complete a minimum of three supervised emergency ambulance runs on a vehicle permitted as at least a basic life support vehicle. The supervision of these runs shall be provided by an individual certified as at least a B-EMT or by a program instructor as determined by the course coordinator. An emergency run is one in which a patient is transported from the scene to a primary care facility because the patient's condition is considered unstable.

(3) SS-EMT training course.

(A) The minimum curriculum shall be from the DOT national training course emergency medical technician-paramedic, as adopted by reference, in subsection (b)(1)(C) of this section containing the following units:

- (i) the emergency medical technician;
- (ii) human systems and patient assessment;
- (iii) shock and fluid therapy; and
- (iv) respiratory system.

(B) The student shall be required to complete a minimum of 60 hours of formalized instruction.

(C) The student shall be required to complete a minimum of 50 hours of clinical, in-hospital training. A minimum of 24 hours shall be required in the emergency department and a minimum of 16 hours shall be required in the operating/recovery department or other critical care unit(s).

(D) The student shall be required to complete a minimum of 50 hours of supervised experience on a permitted EMS vehicle functioning as an advanced life support (ALS) or mobile intensive care unit (MICU) at the time of runs. At least three runs shall be completed during which the patient receives ALS care. The supervision of this experience shall be provided by an individual certified as at least a SS-EMT or by a program instructor as determined by the course coordinator.

(E) The student during the clinical, in-hospital, or EMS vehicle training shall be required to successfully complete:

- (i) a minimum of one human endotracheal intubation; and
- (ii) a minimum of three peripheral intravenous needle and/or catheter insertions.

(4) P-EMT training course.

(A) The minimum curriculum for the P-EMT training course shall be the DOT national training course emergency medical technician-paramedic, as adopted by reference, in subsection (b)(1)(C) of this section except, however, those objectives per-

taining to the use of rotating tourniquets shall be included as an optional skill.

(B) The student shall be required to complete a minimum of 160 hours of formalized instruction.

(C) The student shall be required to complete a minimum of 140 hours of clinical, in-hospital training. A minimum of 40 hours of this training shall be in the emergency department and a minimum of 24 hours shall be in the operating/recovery department or other critical care unit(s).

(D) The student shall be required to complete a minimum of 100 hours of supervised experience on a permitted EMS vehicle functioning as a MICU at the time of the runs. At least five runs shall be completed during which the patient receives ALS care. The supervision of this experience shall be provided by an individual certified as a P-EMT or by a program instructor as determined by the course coordinator.

(E) The student, during the clinical, in-hospital, or EMS vehicle training shall be required to successfully complete:

- (i) a minimum of one human endotracheal intubation;
- (ii) a minimum of three peripheral intravenous needle and/or catheter insertions; and
- (iii) cardiac monitoring and care of at least two patients, including application of the electrocardiograph electrodes.

(5) P-EMT completion training course.

(A) The minimum curriculum for the P-EMT completion training course shall be the DOT national training course emergency medical technician-paramedic, as adopted by reference in subsection (b)(1)(C) of this section except, however, those units contained in the SS-EMT training course as in subsection (d)(3)(A) of this section, and those objectives pertaining to the use of rotating tourniquets shall be included as an optional skill.

(B) The student shall be required to complete a minimum of 100 hours of formalized instruction.

(C) The student shall be required to complete a minimum of 90 hours clinical, in-hospital, training. A minimum of 24 hours shall be required in the emergency department and a minimum of 16 hours shall be required in the operating/recovery department or other critical care unit(s).

(D) The student shall be required to complete a minimum of 50 hours of supervised experience on a permitted EMS vehicle functioning as a MICU at the time of the runs. At least two runs shall be completed during which the patient receives ALS care. The supervision of this experience shall be provided by an individual certified as a P-EMT or by a program instructor as determined by the course coordinator.

(E) The student, during the clinical, in-hospital, or EMS vehicle training shall be required to successfully complete

cardiac monitoring and care of at least two patients, including application of the electrocardiograph electrodes.

(e) Approval or denial of application.

(1) Approval of the EMS training program and course application shall be dependent on:

(A) meeting the requirements in subsection (c) and subsection (d) of this section;

(B) a minimum of 10 students enrolled in the course. Students enrolled for a SS-EMT or P-EMT training course shall be currently certified as at least a B-EMT. Students enrolled for P-EMT completion training course shall be currently certified as at least SS-EMT. A waiver may be requested for a course which has a special hardship need in meeting the minimum enrollment, such as geographical areas where travel to obtain necessary training would be extreme;

(C) one certified program instructor shall be required for every 10 students or fraction thereof. The program instructor shall be certified at the appropriate level for the training course as required in §157.78 (b) of this title (relating to Certification of Course Coordinator, Program Instructor, and Examiner).

(2) The EMS training program shall receive a letter of approval from the department for the course(s) indicating a course number.

(3) A course may be denied if the application is incomplete or not submitted as required in subsection (c) and subsection (e)(1) of this section.

(4) If an application is to be denied, the applicant shall be notified in writing of the proposed denial and shall be given an opportunity to request a hearing in accordance with §§1.21-1.32 of this title (relating to Formal Hearing Procedures).

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

Issued in Austin, Texas, on March 18, 1985.

TRD-852391

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

Effective date: April 8, 1985

Proposal publication date: October 2, 1984

For further information, please call  
(512) 465-2601.

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**★25 TAC §157.78**

The Texas Department of Health adopts new §157.78, with changes to the proposed text published in the October 2, 1984, issue of the *Texas Register* (2 Tex-Reg 5579).

The new section provides criteria which establish minimum standards for the certification and recertification of emergency medical services (EMS) course coordinator, program instructor, and examiner.

One commenter said that a physician or registered nurse (R.N.) should also be considered as a candidate for course coordinator, program instructor, or examiner certification.

The department agrees with the comment and has included a physician or R.N. in subsections (a)(1), (b)(1), and (c)(1).

One commenter said that scheduling of guest lecturers should be included in the responsibilities of the course coordinator.

The department agrees with the comment and has added guest lecturers to subsection (a)(3)(E).

One commenter said that the course coordinator should be responsible for the evaluation of the clinical, in-hospital, and EMS vehicle training.

The department agrees with the comment and has added paragraph (K) to subsection (a)(3).

One commenter said that the course coordinator should conduct a department-approved instructor orientation seminar and that all program instructors should attend the seminar prior to being certified.

The department agrees with the comment and has added paragraph (L) to subsection (a)(3) and has added the seminar attendance requirement for a program instructor candidate in subsection (b)(1).

One commenter said that a program instructor also should be able to teach the didactic content required in the EMS training course.

The department agrees with the comment and has included didactic content in subsection (b).

One commenter said that requiring an examiner candidate to conduct three supervised examination sessions was unrealistic, particularly in the rural areas where only one session a year may be conducted.

The department agrees with the comment and has reduced the requirement to one examination session in subsection (c)(1)(D).

One commenter said that requiring the course coordinator to submit the course

completion form to the department 24 hours prior to the examination session was unrealistic in that there is no administrative advantage in the requirement. Receiving the completion form prior to the examination session is appropriate.

The department agrees with the comment and has changed subsection (a)(3)(I).

One commenter said that the program instructor certification should be for four years instead of one year.

The department disagrees with the comment as the EMS Act, Texas Civil Statutes, Article 4447c, §3.04 (f), states that program instructors, examiners, and course coordinators who meet the minimum standards adopted under the Act, §3.02, shall be issued a certificate that is valid for one year.

The groups or associations that commented on the rule were the Texas Emergency Medical Services Advisory Council and the Coastal Bend Council of Governments.

No commenters spoke against the new section; however, those organizations making comments had questions or concerns and made recommendations for changes to certain subsections of the new sections. In addition clarifying changes have been made in each subsection of the rule.

The new section is adopted under Texas Civil Statutes, Article 4447c, §3.02 and §3.04, which provide the Texas Board of Health with the authority to adopt rules to implement the Emergency Medical Services Act.

**§157.78. Certification of Course Coordinator, Program Instructor, and Examiner.**

(a) Course coordinator. A course coordinator is an individual who has the overall responsibility for conducting an emergency medical services (EMS) training course. A course coordinator may be certified as a basic course coordinator or as an advanced course coordinator. A basic course coordinator shall coordinate an emergency care attendant (ECA) or basic emergency medical technician (B-EMT) training course. An advanced course coordinator shall coordinate a special skills-emergency medical technician (SS-EMT) or paramedic-emergency medical technician (P-EMT) training course, but may coordinate an ECA or B-EMT training course.

(1) A course coordinator candidate shall:

(A) have the following qualifications:

(i) be currently certified as at least a B-EMT to be a basic course coordinator; or

(ii) be currently certified as a P-EMT to be an advanced course coordi-

nator; or

(iii) be a licensed physician or licensed registered nurse (R.N.); and

(iv) be either a department certified program instructor and/or examiner;

(B) complete the application for course coordinator certification;

(C) complete the EMS course coordinator seminar conducted by the department; and

(D) achieve a passing grade of 80 on the department's course coordinator certification examination.

(2) After verification by the department of the information submitted by the candidate, the candidate who meets the requirements in paragraph (1) of this subsection shall be certified for one year commencing on the date of issuance of the certificate.

(3) A course coordinator shall be responsible for the following:

(A) plan for and evaluate the overall operation of the course;

(B) select the classroom, clinical, in-hospital, and EMS provider training facilities conducive for the level of course to be conducted;

(C) process student applications and select students;

(D) maintain an adequate inventory of training equipment including audio-visual resources;

(E) schedule classes and assign program instructors and guest lecturers. A guest lecturer is an individual who, upon the request of the course coordinator, conducts specific classroom lectures based upon an expertise in a given subject area;

(F) coordinate examinations and evaluate students;

(G) evaluate the effectiveness of the program instructors;

(H) act as liaison between students, program instructors, the institution, and the department;

(I) attest to the successful completion of the students as evidenced by the course coordinator completion form. The course coordinator completion form shall be received by the department's public health region EMS offices prior to conduction of the certification examination;

(J) assure that classroom instruction is provided by qualified lecturers;

(K) evaluate the effectiveness of the clinical, in-hospital, and EMS vehicle training; and

(L) conduct a department approved instructor's orientation seminar.

(4) Recertification of the course coordinator shall be dependent on:

(A) coordination of a minimum of one course per certification year;

(B) maintenance of EMS certification and/or professional licensure;

(C) completion of the seminar as required in paragraph (1)(C) of this subsection;

(D) achievement of a passing score of 80 on the department's course coordinator certification examination; and

(E) evaluation by the department to include evaluation of performance of students on the department's EMS certification examination.

(b) Program instructor. A program instructor is an individual who is responsible to the course coordinator and shall conduct the skills and/or didactic portion of an EMS training course. A program instructor may be certified as a basic program instructor or as an advanced program instructor. A basic program instructor shall teach the skills and/or didactic content required in the ECA and B-EMT training course and may teach the basic skills required in the SS-EMT and P-EMT training course. An advanced program instructor shall teach the skills and/or didactic content required in the SS-EMT or P-EMT training course.

(1) A program instructor candidate shall:

(A) have the following qualifications:

(i) be currently certified as at least a B-EMT to be a basic program instructor; or

(ii) be currently certified as a P-EMT to be an advanced program instructor; or

(iii) be a currently licensed physician or R.N.;

(B) be approved by the course coordinator;

(C) complete a department approved instructor's orientation session conducted by the course coordinator; and

(D) complete the department's application for program instructor certification.

(2) After verification by the department of the information submitted by the candidate, the candidate who meets the requirements of paragraph (1) of this subsection, shall be certified for one year commencing on the date of issuance of the certificate.

(3) A program instructor shall be responsible for the following:

(A) prepare and present the lecture/demonstration lessons assigned in accordance with the lesson objectives;

(B) prepare for and evaluate student performance at each skills practice session in accordance with the lesson objectives; and

(C) assure that training equipment is available and operational for each practice session.

(4) Recertification of the program instructor shall be dependent on:

(A) site evaluation of teaching effectiveness by the course coordinator;

(B) evaluation of performance of students on the department's skills examination;

(C) recommendation of the course coordinator;

(D) maintenance of EMS certification and/or professional licensure; and

(E) completion of a department approved instructor orientation session conducted by the course coordinator.

(c) Examiner. An examiner is an individual who conducts the skills examination, required for EMS personnel certification, under the direction of the department. An examiner may be certified as a basic examiner or as an advanced examiner. A basic examiner shall conduct the basic skills examinations for ECA and B-EMT level of certification and may conduct the basic skills examination for SS-EMT and P-EMT level of certification. An advanced examiner shall conduct the advanced skills examinations required for SS-EMT and P-EMT level of certification.

(1) An examiner candidate shall:

(A) have the following qualifications:

(i) be currently certified as at least a B-EMT to be a basic examiner; or

(ii) be currently certified as a P-EMT to be an advanced examiner; or

(iii) be a currently licensed physician or R.N.;

(B) complete the application for examiner certification;

(C) complete the examiner training seminar conducted by the department; and

(D) conduct a minimum of one examination session under the supervision of the department's designated examiner after which time the candidate will be evaluated on his ability to administer and evaluate the department's skills examinations.

(2) After verification by the department of the information submitted by the candidate, the candidate who meets the requirements of paragraph (1) of this subsection shall be certified for one year commencing on the date of issuance of the certificate.

(3) A basic examiner shall be responsible for the following:

(A) adhere to the department's standards for each skill examined;

(B) conduct the examination in an objective manner according to the criteria established by the department;

(C) validate the examination results on form(s) prescribed by the department; and

(D) submit prescribed forms and reports to the department through the course coordinator.

(4) An advanced examiner shall meet the requirements of paragraph (3) of this subsection and validate the examination results in conjunction with the course medical director.

(5) Recertification of the examiner shall be dependent on:

(A) conduction of a minimum of one examination session per year;

(B) evaluation of the examination session(s) by a department designated examiner;

(C) completion of the examiner training seminar conducted by the department;

(D) maintenance of EMS certification and/or professional licensure.

(d) A course coordinator, program instructor, and/or examiner certification may be revoked in accordance with the standards established in §157.23 of this title (relating to Criteria for Revocation of Coordinator, Instructor, and/or Examiner Certification).

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

Issued in Austin, Texas, on March 18, 1986.

TRD-852392

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

Effective date: April 8, 1985

Proposal publication date: October 2, 1984

For further information, please call  
(512) 465-2601.

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## 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 Examination and Corporate Custodian and Tax

★059.01.15.227

The State Board of Insurance adopts new Rule 059.01.15.227, with changes to the proposed text published in the January 22, 1985, issue of the *Texas Register* (10 TexReg 237).

The new rule is interpretative of the Insurance Code, Article 4.11, by specifying the date of valuation of certain investments referred to in the statute. The only change to the rule from the proposed text is in the last sentence, which is clarified.

The only comment received on the proposal was from the staff, which suggested that the last sentence of the rule be clarified by inserting the words "tax-

es on" before the word "premiums." The board agreed, and the rule is changed accordingly.

The new rule is adopted under the Insurance Code, Article 4.11, §13(b), pursuant to which the State Board of Insurance may establish rules which are reasonable for the implementation of that statute.

*.227. Valuation Date for Investments under the Insurance Code, Article 4.11.* The value to be reported for each investment under the Insurance Code, Article 4.11, shall be the admitted value reflected in the insurer's annual statement as of December 31 of the tax year, except demand deposits of banks, savings and loans, or other financial institutions. Such demand deposits shall be reported at the average of the month-end balance for each of the 12 months of the tax year. The month-end balances of de-

mand deposits shall be determined from the insurer's ledger accounts. This rule applies to taxes on premiums collected on and after January 1, 1985.

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

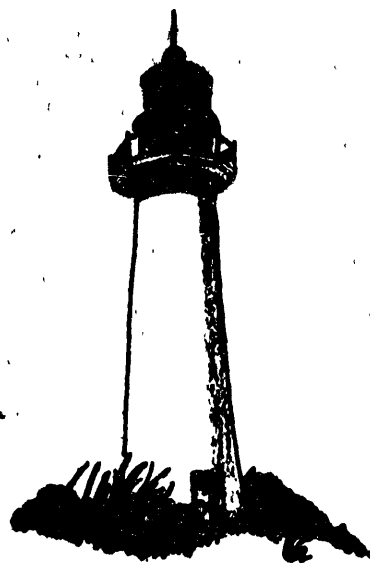
Issued in Austin, Texas, on March 18, 1985.

TRD-852417

James W. Norman  
Chief Clerk  
State Board of  
Insurance

Effective date: April 8, 1985  
Proposal publication date: January 22, 1985  
For further information, please call  
(512) 476-2950

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# Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Register*.

**Emergency meetings and agendas.** Any of the governmental entities named above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published.

**Posting of open meeting notices.** All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol, Austin. These notices may contain more detailed agendas than what is published in the *Register*.

## Texas Department of Corrections

**Monday, March 25, 1985, 2 p.m.** The Board of the Texas Department of Corrections met in emergency session in Room 304T, Texas Employment Commission Building, 1117 Trinity, Austin. According to the agenda, the board met in executive session in accordance with Texas Civil Statutes, Article 6252-17, §2(e), to consider Ruiz litigation and other pending litigation matters. The emergency status was necessary because agenda items requiring board resolution developed within seven-day usual posting period.

**Contact:** R. K. Procnier, P.O. Box 99, Huntsville, Texas 77340, (409) 295-6371, ext. 160.

**Filed:** March 20, 1985, 12:51 p.m.  
TRD-852445

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## Texas Education Agency

**Wednesday, March 27, 1985, 1 p.m.** The Long-Range Planning Committee of the State Board of Education of the Texas Education Agency (TEA) will meet in Room 101-E, TEA North Building, 1200 East Anderson Lane, Austin. According to the agenda, the committee will consider acceptance of the slate of candidates presented by the technical consultant team. The committee also will meet in executive session in accordance with the provisions of Texas Civil Statutes, Article 6252-17(g), to consider recommendations concerning candidates for the commissioner of education position.

**Contact:** W. N. Kirby, 201 East 11th Street, Austin, Texas 78701, (512) 475-3271.

**Filed:** March 19, 1985, 4:16 p.m.  
TRD-852435

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## Employees Retirement System of Texas

**Thursday, March 28, 1985, 9 a.m.** The Board of Trustees of the Employees Retirement System of Texas (ERS) will meet at the ERS Building, 18th and Brazos Streets, Austin. According to the agenda, the board will review and approve the February 28, 1985, minutes; discuss the report on retirement and death benefits granted January 1-31, 1985; hear a report of payments to survivors of law enforcement officers, firemen, etc., since January 16, 1985; consider investment advisor recommendations and action on investment of the system's funds; consider action on additions to an approved broker/dealer list; hear a report by SEI of the fund's performance for the year ended December 31, 1983; consider and act on a request for proposal of performance evaluation service; consider and act on an adoption of proposed changes to 34 TAC §81.11(g)(9); adopt a calendar to elect members to GIAC; hear a report by Rudd and Wisdom; consider appeals of contested cases of Myers, Wagnon, and Wilson; discuss the proposed 1985 operating budget; and hear the executive director's report. The board also will meet in executive session.

**Contact:** Clayton T. Garrison, ERS Building, 18th and Brazos Streets, Austin, Texas 78701, (512) 476-6431.

**Filed:** March 19, 1985, 2:46 p.m.  
TRD-852432

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## Texas Health Facilities Commission

**Thursday, March 28, 1985, 1:30 p.m.** The Texas Health Facilities Commission will meet in Suite 305, Jefferson Building, 1600 West 38th Street, Austin. According to the agenda summary, the commission will consider the following applications.

**Notices of Intent to Acquire Major Medical Equipment**  
Blackwood Vision, Ltd., a Texas limited

partnership, Greenville  
AS85-0222-136

Dallas Diagnostic Imaging Center, Ltd.,  
Dallas

AQ85-0213-110

Carrollton Diagnostic Imaging Center,  
Ltd., Farmers Branch

AO85-0213-111

**Notices of Intent to Acquire Existing Health Care Facilities**

National Medical Enterprises, Inc., Los Angeles, California

AH85-0213-114

AH85-0213-115

AH85-0213-116

San Saba National Bank, San Saba

AH85-0220-128

AlternaCare Corporation, Los Angeles, California

AS85-0221-129

Deep East Texas Regional Mental Health and Mental Retardation Services,  
Lufkin

AH85-0215-117

**Amendments of Certificate of Need Orders**

Mercy Hospital, Slaton

AH80-0818-048A(021185)

Southwest Texas Methodist Hospital,  
San Antonio

AH82-0812-072A(012585)

Brookhaven Nursing Home, Ferris

AN83-0630-670A(011785)

**Petition for Reissuance**

A. W. Schlesinger Geriatric Center, Inc.,  
Beaumont

AN84-0203-077R(013085)

**Certificates of Need**

Heartland of Austin, Austin

AN83-0805-082

Austin Continued Care Manor, Round  
Rock

AN84-0629-423

Southwest Texas Methodist Hospital,  
San Antonio

AH84-1128-753

Fairfield Memorial Hospital, Fairfield

AH84-1218-806

Canterbury Villa of Beaumont,  
Beaumont

AN84-1128-752

Collinsville Care Home, Collinsville  
AN84-1121-733  
The San Antonio State Chest Hospital,  
San Antonio  
AH84-1130-761  
Raleigh Hills Hospital, Houston  
AH84-0629-420  
Northpark Community Hospital, El Paso  
AH84-0910-577

Contact: John R. Neel, P.O. Box 50049,  
Austin, Texas 78763.

Filed: March 20, 1985, 9:12 a.m.  
TRD-852439

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### Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids

Friday and Saturday, March 5 and 6, 1985,  
9 a.m. daily. The Examination Committee  
of the Texas Board of Examiners in the Fit-  
ting and Dispensing of Hearing Aids will  
meet at the Holiday Inn Holidome, Ex-  
pressway 83 at Second Street, McAllen. Ac-  
cording to the agenda, the committee will  
review and revise the state examination.

Contact: Wanda F. Stewart, 510 South  
Congress Avenue, Suite 104, Austin, Texas  
78704, (512) 475-3429.

Filed: March 21, 1985, 9:30 a.m.  
TRD-852466

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### Texas Housing Agency

Wednesday, March 27, 1985, 2 p.m. The  
Programs and Legislation Committee of the  
Texas Housing Agency will meet in the con-  
ference room, Suite 700, 411 West 13th  
Street, Austin. Items on the agenda include  
consideration and possible action on multi-  
family developments including, but not  
limited to, the Coventry Apartments, Vic-  
toria; public hearing procedures regarding  
multifamily developments; a plan for recy-  
cling single family funds; the adoption of  
the proposed 1985 single family financing  
structure and program guidelines; and pro-  
posed legislation.

Contact: Earline Jewett, P.O. Box 13941,  
Austin, Texas 78711, (512) 475-0812.

Filed: March 19, 1985, 3:24 p.m.  
TRD-852433

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Thursday, March 28, 1985, 10 a.m. The  
Board Directors of the Texas Housing  
Agency will meet in the conference room,  
Suite 700, 411 West 13th Street, Austin. Ac-  
cording to the agenda, the board will con-  
sider action on proposed reorganization of

committees; inducements of multifamily de-  
velopments, including the Coventry Apart-  
ments, Victoria; public hearing procedures  
regarding multifamily developments; a plan  
for recycling single family funds; adoption  
of the proposed 1985 single family financing  
structure and program guidelines; recom-  
mendations of the Finance and Audit Com-  
mittee with regard to renegotiation of a fi-  
nancial advisor contract; and recommenda-  
tions of the Committee on Request for  
Proposals.

Contact: Earline Jewett, P.O. Box 13941,  
Austin, Texas 78711, (512) 475-0812.

Filed: March 20, 1985, 3:49 p.m.  
TRD-852458

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### State Board of Insurance

Friday, March 29, 1985, 9 a.m. The Com-  
missioner's Hearing Section of the State  
Board of Insurance will meet in Room 353,  
1110 San Jacinto Street, Austin. According  
to the agenda, the section will conduct a  
public hearing to consider the reinsurance  
agreement whereby Crawford Life Insurance  
Company, Henderson, will be reinsured by  
Landmark Life Insurance Company,  
Brownwood.

Contact: J. C. Thomas, 1110 San Jacinto  
Street, Austin, Texas 78786, (512) 475-4353.  
TRD-852465

Filed: March 20, 1985, 4:41 p.m.  
TRD-852465

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### Public Utility Commission of Texas

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

Monday, April 8, 1985, 1:30 p.m. A pre-  
hearing conference in Docket 6178—appli-  
cation of the City of Kyle to amend a water  
and sewer certificate of convenience and  
necessity within Hays County.

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

Filed: March 20, 1985, 3:17 p.m.  
TRD-852454

Friday, May 10, 1985, 10 a.m. A hearing  
on the merits in Docket 6134—application  
of Great Southwest Telephone Corporation  
to detariff Romain Telephone Company's  
embedded mobile customer premises  
equipment.

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

Filed: March 19, 1985, 1:42 p.m.  
TRD-852427

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### Texas Savings and Loan Department

Wednesday, March 27, 1985, 9 a.m. The  
Texas Savings and Loan Department will  
meet at 1004 Lavaca Street, Austin. Accord-  
ing to the agenda summary, the department  
will conduct a hearing to accumulate a rec-  
ord of evidence regarding the application  
for a savings and loan association charter  
for Landmark Savings Association at 1002  
Austin Avenue, Georgetown, Williamson  
County, from which record the commis-  
sioner shall determine whether to grant or  
deny the application.

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

Filed: March 19, 1985, 4:11 p.m.  
TRD-852434

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### Boards for Lease of State-Owned Lands

Tuesday, April 2, 1985. Boards of the  
Boards for Lease of State-Owned Lands will  
meet in Room 833, General Land Office,  
Stephen F. Austin Building, 1700 North  
Congress Avenue, Austin. Boards, times  
and agendas follow.

1:15 p.m. The Board for Lease of Texas  
Parks and Wildlife Department will ap-  
prove the minutes of the previous board  
meeting and consider and approve bids  
received at the oil, gas, and other minerals  
lease sale.

1:45 p.m. The Board for Lease of Texas  
Department of Mental Health and Mental  
Retardation will approve the minutes of the  
previous board meeting and consider and  
approve bids received at the oil, gas, and  
other minerals lease sale.

2 p.m. The Board for Lease of Texas  
Department of Corrections will approve the  
minutes of the previous board meeting and  
consider and approve bids received at the  
April 2, 1985, oil, gas, and other minerals  
lease sale.

Contact: Linda K. Fisher, Stephen F.  
Austin Building, 1700 North Congress  
Avenue, Room 837, Austin, Texas 78701,  
(512) 475-0352.

Filed: March 19, 1985, 3:49 p.m.  
TRD-852451-852453

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### **Texas State University System**

**Friday, March 29, 1985, 8 a.m.** The Board of Regents of the Texas State University System will meet in the conference room, second floor, Administration Building, Sul Ross State University, Alpine. According to the agenda, the board will review construction bids for award of construction contracts at Southwest Texas State University.

**Contact:** Lamar Urbanovsky, P.O. Box N, Austin, Texas 78712, (512) 475-3876.

**Filed:** March 20, 1985, 12:19 p.m.  
TRD-852444

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### **Texas Water Commission**

**Tuesday, April 9, 1985, 9:30 a.m.** The Texas Water Commission will meet in the county courtroom, Real County Courthouse, Market Street, Leakey. According to the agenda, the commission will consider an application by North American Weather Consultants, Inc., for a permit to conduct weather modification operations to change or attempt to change the natural development of clouds and rainfall in Edwards and Kinney Counties.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.  
**Filed:** March 20, 1985, 3:21 p.m.  
TRD-852455

**Thursday, April 25, 1985, 9:30 a.m.** The Texas Water Commission will meet in the jury assembly room, Galveston County Courthouse, 722 Moody, Galveston, and in the city council chambers, Galveston City Hall, 823 25th Street, Galveston. According to the agenda summary, the commission will consider the application of the Transitional Learning Community at Galveston, P.O. Box 1528, to the Texas Department of Water Resources for proposed Permit 02747 to authorize the discharge and/or recycling of treated process and domestic wastewater effluent during the months of November-March at a volume not to exceed an average flow of 120,000 gallons per day from a facility which treats wastewater from a commercial laundry. During the months of April through October, the applicant is to dispose of or recycle the 120,000 gallons per day average by irrigation on three five-acre fields. During this period, water collected in the recycle pond by the subsurface drainage system may be recycled to the irrigation fields or to the laundry, but may not be discharged into or adjacent to the waters in the State of Texas.

**Contact:** Carl X. Forrester, P.O. Box 13067, Austin, Texas 78711, (512) 475-1317.

**Filed:** March 20, 1985, 3:21 p.m.  
TRD-852456, 852424

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### **Texas Department of Water Resources**

**Wednesday, March 28, 1985, 9 a.m.** The Texas Water Development Board of the Texas Department of Water Resources made emergency additions to the agenda of a meeting held in Room 2.104, Bass Hall, LBJ School of Public Affairs, University of Texas campus, Austin. The additions concerned consideration of financial assistance for the Upper Guadalupe River Authority in the amount of \$2.435 million from the water loan assistance fund to effectuate emergency repairs to its reservoir, and a six-month extension of a \$125,000 loan commitment to the City of Big Sandy which is set to expire on April 19, 1985. The emergency status was necessary because the reservoir of the Upper Guadalupe River Authority, which is the source of supply of fresh water for the City of Kerrville, was severely damaged by flood waters of the Guadalupe River. Emergency repairs were required immediately because, if not made, the reservoir could have been totally lost with the next flood. The authority had to have its application considered by the board so that contracts could be let by April 1, 1985. The extension of the City of Big Sandy's commitment needed to be considered before it expired.

**Contact:** Charles E. Nemir, P.O. Box 13087, Austin, Texas 78711, (512) 475-3187.

**Filed:** March 19, 1985, 2:33 p.m.  
TRD-852431

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### **Texas Woman's University**

**Thursday, March 28, 1985, 1:30 p.m.** The Board of Regents of Texas Woman's University will meet on the 16th floor, Administration and Conference Tower, Denton. According to the agenda summary, the board will consider the December 6, 1984, minutes; student centers fee legislation; the purchase of real estate; a report regarding institutional ethnicity; personnel additions and changes; gifts and grants; agreements and contracts; federal funds; the sale of surplus property; purchases and renewals of insurance coverage; change orders; certificates of substantial completion; contract meal plan rates for the summer 1985 session; residence hall room rates for fiscal year 1985-1986 and a rental deposit; the small class report for spring 1985; a change in the name of the School of Library Science; a baccalaureate degree program in information science; a master's degree program in computing applications; voluntary modification of the employment policy; and the president's report. The board also will meet in executive session.

**Contact:** Dr. Mary Evelyn Blagg Huey, Texas Woman's University, Denton, Texas

76204, (817) 383-1466.

**Filed:** March 19, 1985, 1:40 p.m.  
TRD-852428

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### **Regional Agencies Meetings Filed March 19**

**The Amarillo Mental Health and Mental Retardation Center, Board of Trustees Executive Committee,** will meet in Room G-15, Psychiatric Pavilion, 7201 Evans Street, Amarillo, on March 28, 1985, at noon. The Board of Trustees will meet in Room J-13, Psychiatric Pavilion, 7201 Evans Street, Amarillo, on the same day at 1 p.m. Information may be obtained from Claire Rigler, P.O. Box 3250, Amarillo, Texas 79106, (806) 353-7235.

**The Mental Health and Mental Retardation Authority of Brazos Valley, Board of Trustees,** met in emergency session in Room 104, Community Center, 1300 Jersey Street, College Station, on March 21, 1985, at 1:30 p.m. Information may be obtained from Ann Pye-Shively, Ph.D., P.O. Box 4588, Bryan, Texas 77805, (409) 696-8585.

**The Deep East Texas Regional Mental Health and Mental Retardation Services, Board of Trustees,** will meet in the Ward R. Burke Community Room, Administration Facility, 4101 South Medford Drive, Lufkin, on March 26, 1985, at 5:30 p.m. Information may be obtained from Jim McDermott, Ph.D., 4101 South Medford Drive, Lufkin, Texas 75901, (409) 639-1141.

**The Region IX Education Service Center, Board of Directors,** will meet at 301 Loop 11, Wichita Falls, on April 11, 1985, at 2 p.m. Information may be obtained from Dr. Jim O. Rogers, 301 Loop 11, Wichita Falls, Texas 76305, (817) 322-6928.

**The Lee County Appraisal District, Board of Directors,** will meet at 218 East Richmond Street, Giddings, on March 27, 1985, at 9 a.m. Information may be obtained from James L. Dunham, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618.

**The Northeast Texas Municipal Water District, Board of Directors,** met at 1003 Linda Drive, Daingerfield, on March 25, 1985, at 7 p.m. Information may be obtained from Homer Tanner, P.O. Box 680, Daingerfield, Texas 75638, (214) 645-2241.

**The Upper Leon River Municipal Water District, Board of Directors,** will meet in the general office of the filter plant, Proctor Lake, Comanche County, on March 27, 1985, at 6:30 p.m. Information may be obtained from Zollie Skaggs, Box 67,

Comanche, Texas 76442, (817) 879-2258.  
TRD-852471

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#### Meetings Filed March 20

The Central Texas Council of Governments, Central Texas Private Industry Council, will meet in the community room, northwest corner square, Hamilton National Bank, Hamilton, on March 27, 1985, at 1:30 p.m. Information may be obtained from Walton B. Reedy, P.O. Box 729, Belton, Texas 76513, (817) 939-3771.

The Lower Colorado River Authority, Board of Directors, made an emergency addition to the agenda of a meeting held at 3700 Lake Austin Boulevard, Austin, on March 21, 1985, at 9 a.m. Information may be obtained from Elof H. Soderberg, P.O. Box 220, Austin, Texas 78767, (512) 474-5931, ext. 330.

The Lubbock Regional Mental Health and Mental Retardation, Board of Trustees, met at 3800 Avenue H, Lubbock, on March 25, 1985, at noon. Information may be obtained from Gene Menefee, 1210 Texas Avenue, Lubbock, Texas 79401, (806) 763-4213.

The Trinity River Industrial Development Authority, Board of Directors, will meet at the authority's office, FM Road 1988, Livingston, on March 26, 1985, at 9 a.m.

Information may be obtained from Ramona A. Winer, P.O. Box 60, Arlington, Tarrant County, Texas 76010, (817) 467-4343.  
TRD-852438

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#### Meetings Filed March 21

The Bexar-Medina-Atascosa Counties Water Control and Improvement District 1, Board of Directors, will meet at the district office, Highway 81, Natalia, on March 27, 1985, at 9 a.m. Information may be obtained from C. A. Mueller, P.O. Box 170, Natalia, Texas 78509, (512) 663-2132.

The Deep East Texas Council of Governments, Board of Directors, will meet at the community center, Coldspring, on March 28, 1985, at 1:30 p.m. Information may be obtained from Rhonda Ruckel, 274 East Lamar, Jasper, Texas 75951, (409) 384-5704.

The Region XI Education Service Center, Board of Directors, will meet at 3001 North Freeway, Fort Worth, on April 9, 1985, at noon. Information may be obtained from R. P. Campbell, Jr., 3001 North Freeway, Fort Worth, Texas 76106, (817) 625-5311, ext. 102.

The Region XVIII Education Service Center, Board of Directors, will meet at the Region

XVIII Education Service Center, LaForce Boulevard, Midland, on April 4, 1985, at 7:30 p.m. Information may be obtained from J. W. Donaldson, P.O. Box 6020, Midland, Texas 79701, (915) 563-2380.

The Jasper County Appraisal District, Board of Directors, will meet at 206 East Main Street, Kirbyville, on March 28, 1985, at 6:30 p.m. Information may be obtained from David W. Luther, County Courthouse Annex, Jasper, Texas 75951, (409) 384-2544.

The Middle Rio Grande Development Council, Board of Directors Regional Review Committee will meet at the Holiday Inn, Del Rio, on March 27, 1985, at 2 p.m. and Brown Plaza, 302 Cantu, Del Rio, on March 28, 1985, at 9:30 a.m. Information may be obtained from Michael M. Patterson, P.O. Box 702, Carrizo Springs, Texas 78834, (512) 876-3533.

The Sabine Valley Regional Mental Health and Mental Retardation Center, Board of Trustees, will meet at the center's office, Highway 80 West at Sun Camp Road, Longview, on March 28, 1985, at 7 p.m. Information may be obtained from Ronald R. Cookston, P.O. Box 6800, Longview, Texas 75608, (214) 297-2191.

TRD-852467

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# The Legislature

For the purpose of public information, the *Register* publishes a listing of the bills that have been submitted to the governor during each legislative session and the status of these bills. A bill will be listed after the bill has passed both the House and the Senate and again when the Governor acts upon it.

## Bills Submitted to the Governor

March 18

**SB 27** Relating to the repeal of certain legal provisions concerning the lease or sale of a county hospital.

Sponsor: Geistweidt

**SB 65** Relating to filling certain vacancies on the Legislative Budget Board, Legislative Library Board, Legislative Audit Committee, Legislative Council, or other interim committees.

Sponsor: Schluter

**SB 172** Relating to the membership of the Southern Regional Education Compact.

Sponsor: Delco

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March 19

**HB 51** Relating to the term "intoxicated" as that term is used in defining the offense

of driving while intoxicated and in the law governing the taking of specimens of body substances.

Sponsor: Sarpalius

**HB 448** Relating to the creation of, jurisdiction of, and method of selection of judges and presiding judges for the municipal courts of record in San Antonio, and to court clerks for those courts.

Sponsor: Krier

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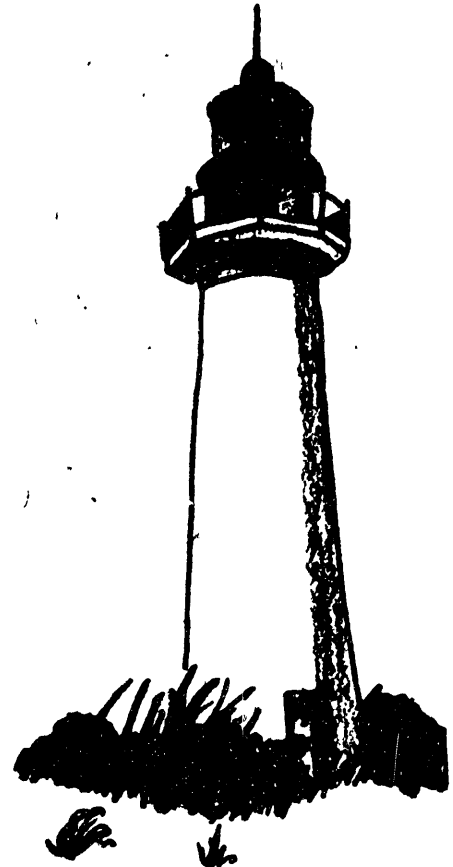
## Bills Signed by the Governor

March 19

**SB 166** Relating to certain exceptions from the temporary license requirements for local recording agents.

Effective date: September 1, 1985

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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.

## Banking Department of Texas Public Hearing

The hearing officer of the State Banking Board will conduct a hearing at 9 a.m. on Tuesday, May 7, 1985, at 2601 North Lamar Boulevard, Austin, on the charter application for Southwest Bank of Irving, Irving, Dallas County.

Additional information may be obtained from William F. Aldridge, Director of Corporate Activities, Banking Department of Texas, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on March 15, 1985.

TRD-852410 William F. Aldridge  
Director of Corporate Activities  
Banking Department of Texas

Filed: March 18, 1985  
For further information, please call (512) 475-4451.

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## Comptroller of Public Accounts Decision 15,812

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 sold a variety of goods to a variety of purchasers. After an audit, the petitioner submitted further documentation to support claimed tax-free sales. The Tax Division agreed to many deletions. In some, however, the only documentation was a copy of the customer's sales tax permit. The comptroller held that sales tax is due on contested items. The petitioner apparently confused a resale certificate and a sales tax permit. They are not one and the same. All businesses make some taxable purchases for use in their operation, even if they also make tax-free purchases of inventory items that they intend to resell. Therefore, a copy of a sales tax permit shows nothing other than the customer has, in fact, applied for and received a permit. It does not show what the customer intends to do with the items purchased. A resale certificate is a customer's signed statement to a seller that the customer intends to resell the goods he purchases.

Issued in Austin, Texas, on March 15, 1985.

TRD-852441 Bob Bullock  
Comptroller of Public Accounts

Filed: March 20, 1985  
For further information, please call (512) 475-1813.

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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-27B 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 March 11-15, 1985, as is required by MW-27B.

Total allocated principal amount of private activity bonds authorized to be allocated by MW-27B through March 15, 1985:

\$33,298,296

Comprehensive listing of bond issues which have received a reservation date as per MW-27B during the week of March 11-15, 1985:

| ISSUER   | USER                                    | AMOUNT        |
|--|---|---------------|
| City of El Paso Industrial Development Authority, Inc. | Regal Supply and Chemical Company, Inc. | \$1.3 million |
| City of Austin   | Austin Travis County Livestock Show     | \$4.5 million |

Comprehensive listing of bonds issued as per MW-27B during the week of March 11-15, 1985:

| ISSUER  | USER                           | AMOUNT          |
|---|--------------------------------|-----------------|
| The Laredo Industrial Development Corporation | Laredo News, Inc.              | \$1.3 million   |
| Montgomery County Hospital District           | Woodlands Place Nursing Center | \$5.045 million |

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

TRD-852437 Rebecca J. Hefflin  
Associate Director  
Texas Economic Development  
Commission

Filed: March 20, 1985  
For further information, please call (512) 472-5059.

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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 the applications, that person must file a proper request to become a party or interested person to the applications 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 50949, 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 the 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.

Medical Horizons, Ltd., for Nacogdoches Medical Center, Nacogdoches

AH83-0815 113A(030585)

CN/AMD—Request for amendment of Certificate of Need AH83-0815-113, which authorized the construction of an 18,000-square-foot fourth floor to the existing three-story facility, the renovation of 3,700 square feet, and the relocation of physical therapy and respiratory therapy departments from the first floor to the proposed new fourth floor. The certificate of need also authorized an increase in the bed capacity and number of operating beds from 143 (95 medical/surgical, 20 pediatric, 20 obstetrics, and eight ICU beds), to 150 (106 medical/surgical, 20 pediatric, 16 obstetrics, and 8 ICU beds) without any change in the licensed bed capacity of 150 beds. The certificate holder now proposes not to alter its original operating capacity of 143 beds or its licensed bed capacity of 150 beds and not to construct the fourth floor addition. The certificate holder proposes instead to construct an 8,246 square foot ambulatory care center adjacent and attached to the first floor of the facility and to renovate 8,957 square feet of ancillary space on the first floor of the existing facility. The departments of physical therapy, respiratory therapy, diagnostic services, outpatient surgery, and cystoscopy, will be relocated to the new outpatient

services unit. An extension of the completion deadline from February 17, 1986, to July 1, 1986, is also requested.

Jewell Enterprises, Inc., Arlington  
AN85-0311-161

NIEH—Request for a declaratory ruling that a certificate of need is not required for Jewell Enterprises, Inc., to acquire by purchase Camlu Care Center of Fredericksburg, an existing 90-bed nursing facility located in Fredericksburg, from Triple C of Texas. Upon acquisition, the name of the facility will be changed to Fredericksburg Nursing Home.

Mill Creek Properties, Inc., Arlington  
AN85-0311-164

NIEH—Request for a declaratory ruling that a certificate of need is not required for Mill Creek Properties, Inc., to acquire by lease Camlu Care Center of Fredericksburg, an existing 90-bed ICF nursing facility located in Fredericksburg, from Jewell Enterprises, Inc. Upon acquisition, the name of the facility will be changed to Fredericksburg Nursing Home.

St. Paul Hospital doing business as St. Paul Medical Center, Dallas

AH85-0314-169

DR—Request for a declaratory ruling that a certificate of need is not required for St. Paul Hospital, doing business as St. Paul Medical Center, to establish a minor emergency center and ambulatory care clinic in approximately 4,295 square feet of leased space in the Gateway Plaza located in Garland. The facility will provide basic minor emergency care and ambulatory care, including radiography and laboratory work. The center also plans to provide community health education programs. No surgical services will be provided other than those routinely performed in minor emergency centers. The total project cost is \$310,396.

Southwest Dallas Day Surgery Center Partnership for Southwest Dallas Surgery Center, Inc., Dallas

AS83-0415-352A(031485)

CN/AMD—Request for an extension of the completion deadline from March 2, 1985, to September 2, 1985, in Certificate of Need AS83-0415-352, as amended by Certificate of Need AS83-0415-352A(041084), which authorized the certificate holder to construct, equip, and operate a 8,984 square foot freestanding ambulatory surgical center at 1010-1102 Wheatland Road in Duncanville.

Vida y Salud-Health Systems, Inc., Crystal City  
AN85-0315-171

DR—Request for a declaratory ruling that a certificate of need is not required for Vida y Salud-Health Systems, Inc., to construct a new medical wing containing approximately 3,255 square feet adjacent to the existing building. No additional services will be added. The project cost is \$218,425.

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

TRD-852442

John R. Neel  
General Counsel  
Texas Health Facilities  
Commission

Filed: March 20, 1985

For further information, please call (512) 476-8940.

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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 March 15, 1985, the savings and loan commissioner received an application for approval of the acquisition of control of Petroplex Savings Association, Midland, by Jack Sommerfield of Dallas.

Any inquiries may be directed to the Texas Savings and Loan Department, 1004 Lavaca Street, Austin, Texas 78701, (512) 475-7991.

Issued in Austin, Texas, on March 18, 1985.

TRD-852422      Russell R. Oliver  
                         General Counsel  
                         Texas Savings and Loan Department

Filed: March 19, 1985  
For further information, please call (512) 475-7991.

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## **Texas Water Commission Applications for Waste Disposal Permits**

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of March 11-15, 1985.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 475-2678.

Listed is the name of the applicant and the city in which each facility is located; type of facility; location of the facility; permit number; and type of application—new permit, amendment, or renewal.

March 11-15, 1985

Celanese Chemical Company, Inc., Bishop; chemical and plastic manufacturing plant; adjacent to U.S. Highway 77, approximately one mile southwest of the City of Bishop, Nueces County; 00579; renewal

Kaiser Cement Corporation, Longhorn Cement Division, San Antonio; nonleaching cement plant; approximately 1.5 miles north of the intersection of IH 35 with Loop 410 in the City of San Antonio, Bexar County; 01630; renewal

The City of Alpine; wastewater treatment plant; approximately 2½ miles northeast of the City of Alpine on the west bank of Alpine Creek, Brewster County; 10117-01; renewal

The City of Bowie; sewage treatment plant; south of Bowie, approximately 900 feet east and 700 feet south of the Chicago, Rock Island, and Pacific Railroad crossing on Mill Street, Montague County; 10071-01; renewal

The City of Pecan Gap; wastewater treatment plant; 0.5 mile west and 0.3 mile south of the intersection of FM Road 64 and FM Road 128 and immediately west of South Third Street, Delta County; 10744-01; renewal

Round Rock Lime Company, Blum; plant manufacturing quicklime and hydrated lime; approximately three miles west-southwest of the Town of Blum on the south side of the A.T. and S.F. Railway line where FM Road 933 and FM Road 67 intersect, Hill County; 02014; renewal

The City of Alice; wastewater treatment plant; one mile north of State Highway 44 and two miles east of U.S. 281, northeast of the City of Alice, Jim Wells County; 10536-01; renewal

Nueces County Water Control and Improvement District 5, Banquete; wastewater treatment plant; at the crossing of Banquete Creek and County Road 40, which is approximately 1¼ miles east of FM Road 666 and ½ mile south of State Highway 44 near Banquete, Nueces County; 11583-01, renewal

The City of Decatur, wastewater treatment plant; approximately 1,300 feet east of FM Road 51, one mile south of the intersection of FM Road 51 and U.S. Highway 81 in Decatur, Wise County, 10009-01; renewal

Amirali Damji, Houston; sewage treatment plant; adjacent to Northbelt Highway at Morales Road in Harris County; 12175-01; renewal

City of Waller; wastewater treatment plant; approximately 4,500 feet southeast of the intersection of U.S. Highway 290 and FM Road 362, and near the south end of Walnut Street, Waller County; 10310-01; amendment

Westlake Municipal Utility District 1, Houston; wastewater treatment facility; north of South Mayde Creek, approximately 800 feet north of the intersection of Saums Road and Greenhouse Road, Harris County; 11284-01; renewal

Gulf Coast Waste Disposal Authority, Houston; wastewater treatment plant; on the south bank of the Houston Ship Channel, approximately ½ mile west and upstream of the Washburn Tunnel, Harris County; 01740; renewal

The City of Kyle; wastewater treatment plant; ¼ mile southeast of the intersection of IH 35 and FM Road 150, south of FM Road 150 Hays County; 11041-01; amendment

Cecos International, Inc., Odessa; waste disposal well; approximately 1,980 feet west of the east line and 660 feet north of the south line of §25, Block 42,

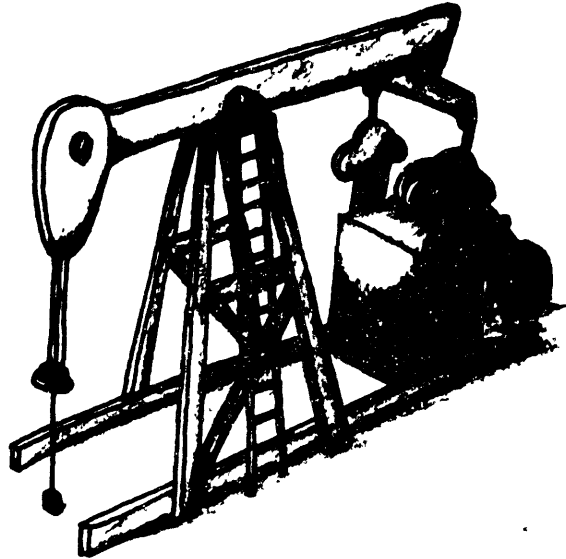
**T & P RR. Co. Survey, Ector County; WDW-146;  
amendment**

**Explosive Control, Inc., Houston; Class I  
hazardous/commercial industrial solid waste storage  
and processing facility; on a private road beginning  
400 yards east of Old Waverly Presbyterian Church  
Road in Old Waverly, San Jacinto County;  
HWS0088-01; new permit**

**Issued in Austin, Texas, on March 15, 1985.**

**TRD-852386      Mary Ann Hefner  
                         Chief Clerk  
                         Texas Water Commission**

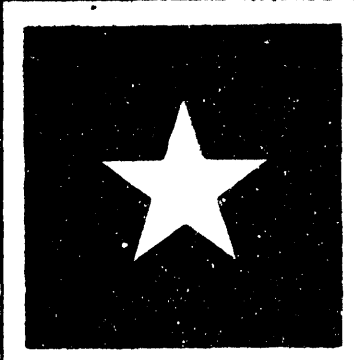
**Filed: March 18, 1985  
For further information, please call (512) 475-4514.**



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