

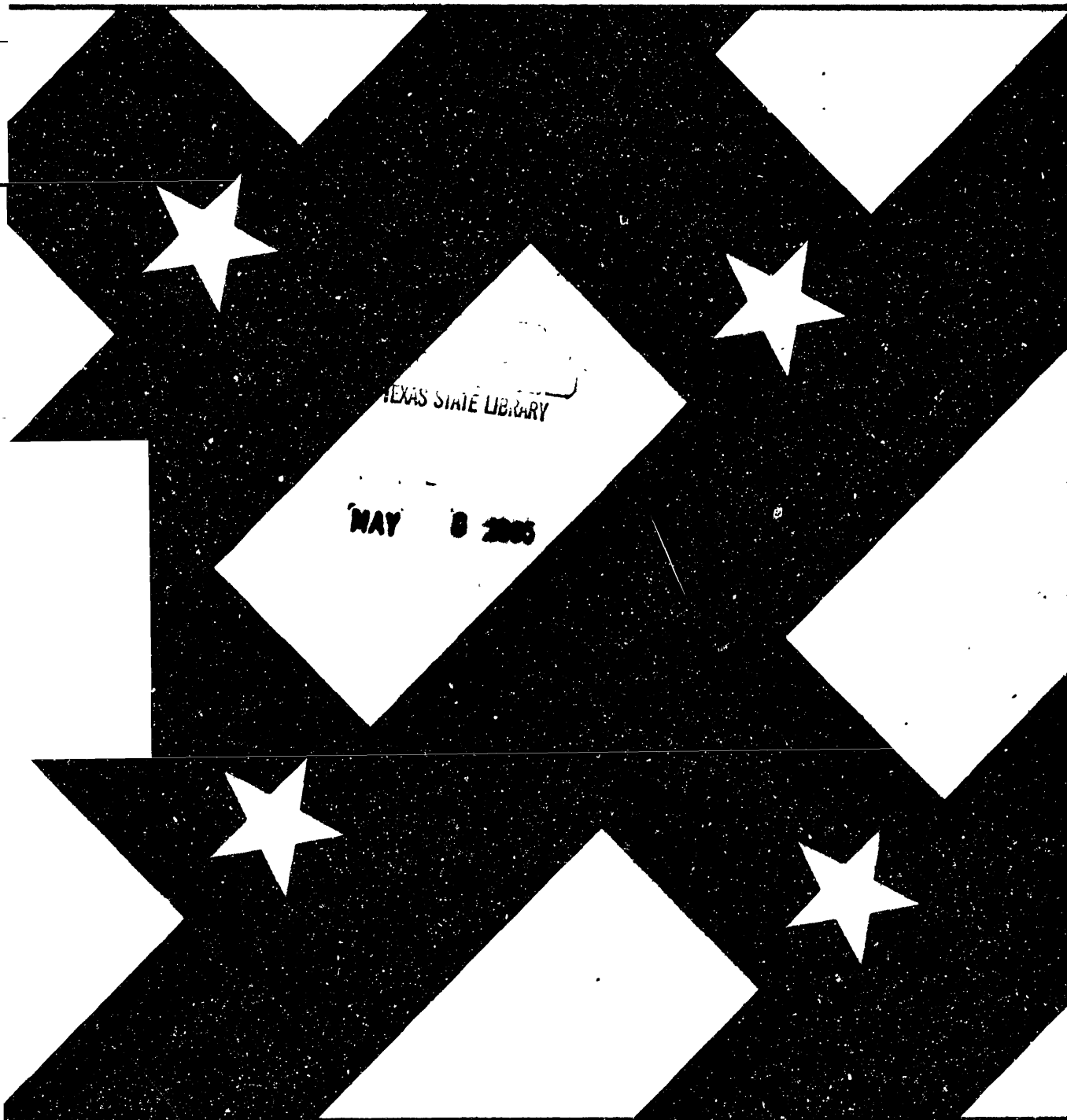
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# Texas Register

Volume 10, Number 35, May 7, 1985

Pages 1381 - 1458



## Highlights

■ **Texas Department of Health** adopts on emergency basis a new section concerning the Crippled Children's Services Program. Effective date - April 30.....page 1384

■ **Texas Savings and Loan Department** proposes new sections in a chapter concerning

books, records, accounting practices, financial statements, and reserves. Earliest possible date of adoption - June 7.....page 1385

**The Comptroller of Public Accounts** proposes a new section in a chapter concerning amusement services. Earliest possible date of adoption - June 7.....page 1403

**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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POSTMASTER Please send Form 3579 changes to the *Texas Register*, PO Box 13824, Austin, Texas 78711-3824

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- Governor—appointments, executive orders, and proclamations
- Secretary of State—summaries of opinions based on election laws
- State Ethics Advisory Commission—summaries of requests for opinions and opinions
- Attorney General—summaries of requests for opinions, opinions, and open records decisions
- Emergency Rules—rules adopted by state agencies on an emergency basis
- Proposed Rules—rules proposed for adoption
- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date
- Adopted Rules—rules adopted following a 30-day public comment period
- Open Meetings—notices of open meetings
- In Addition—miscellaneous information required to be published by statute provided as a public service

Specific explanations on the contents of each section can be found on the beginning page of the section. The division also publishes monthly, quarterly, and annual indexes to aid in researching material published.

**How To Cite:** Material published in the *Texas Register* is referenced by citing the volume in which a document appears, the words "TexReg," and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 6 (1981) is cited as follows: 6 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2, in the lower left-hand corner of the page, would be written "10 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 10 TexReg 3."

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

## Texas Administrative Code

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

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

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

TAC stands for the *Texas Administrative Code*;

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



## Texas Register Publications

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

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Subscriptions — one year (96 regular issues and four index issues), \$90; six months (48 regular issues and two index issues), \$60. Single copies of most issues of the *Texas Register* are available at \$3.00 per copy.

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# The Governor

As required by Texas Civil Statutes, Article 6252-13a, §6, the *Register* publishes executive orders issued by the Governor of Texas. Appointments and proclamations are also published. Appointments are published in chronological order. Additional information on documents submitted for publication by the Governor's Office can be obtained by calling (512) 475-3021.

*Editor's note: The following appointments have been submitted by the governor to the date of the 69th Legislature, 1985, for confirmation.)*

## Appointments Submitted April 23

### Coastal Industrial Water Authority

To the Board of Directors for a term to expire March 31, 1987:

Wallace Claypool,  
9 TwinCircle  
Houston, Texas 77042

Claypool is replacing John Fonteno,  
of Houston, whose term expired.

### Public Utility Counsel

For a term to expire February 1, 1987:

James G. Boyle  
3804 Clawson Road  
Austin, Texas 78704

Boyle is being reappointed.

### Radiation Advisory Board

For a term to expire April 16, 1989:

Russel F. Cash  
3219 Pasadena Boulevard  
Pasadena, Texas 77503

Cash is replacing Frank L. Paschal, Jr.,  
El Paso, whose term expired.

### Commission on Jail Standards

For a term to expire January 31, 1991:

Joe Corley  
Sheriff  
Montgomery County Courthouse  
Conroe, Texas 77301

Mr. Corley is replacing Dallas L. Smith, Jr.,  
of Midland, whose term expired.

### Dairy Advisory Board

For a term to expire December 31, 1986:

J. Fred Davis  
P.O. Drawer D  
Haslet, Texas 76052

Mr. Davis is being appointed to this authority pursuant to the Agriculture Code, Texas Civil Statutes, §13.202, 62nd Legislature.

### Real Estate Research Advisory Committee

For a term to expire January 31, 1987:

David L. Fair  
4200 St. Johns Drive  
Dallas, Texas 75205

Mr. Fair is replacing James Rick Perry of  
Haskell, who resigned.

### Texas State Board of Physical Therapy Examiners

For a term to expire January 31, 1991:

Patricia K. Winchester  
P.O. Box 806  
Midlothian, Texas 76065

Ms. Winchester is replacing Thomas K.  
Waugh, El Paso, whose term expired.

Issued in Austin, Texas, on April 23, 1985.

TRD-853643 Mark White  
Governor of Texas

★ ★ ★

## Appointment Submitted April 24

### Texas Tech University

To the Board of Regents for a term to expire January 31, 1991:

Wendell Mayes, Jr.  
1510 West 24th Street  
Austin, Texas 78703

Mr. Mayes is replacing B. Joe Pevehouse  
of Midland, whose term expired.

Issued in Austin, Texas, on April 24, 1985.

TRD-853643 Mark White  
Governor of Texas

★ ★ ★

## Appointments Submitted April 25

### Texas Tech University

To the Board of Regents for terms to expire January 31, 1991:

J. Fred Bucy  
P.O. Box 201050  
Dallas, Texas 75220

Mr. Bucy is being reappointed.

Dr. William Gordon McGee  
5008 Vista del Monte  
El Paso, Texas 79922

Dr. McGee is replacing Dr. Nathan  
Galloway of Odessa, whose term expired.

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

TRD-853643 Mark White  
Governor of Texas

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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, or 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 37. Maternal and Child Health Services

#### Crippled Children's Services Program

##### ★25 TAC §37.107

The Texas Department of Health adopts on an emergency basis new §37.107, concerning medical eligibility criteria for the Crippled Children's Services Program. The emergency status is necessary because it appears imminent that the Crippled Children's Services Program will exceed its authorized expenditures. To prevent this occurrence while at the same time preserving the program's public health function, the department has

adopted the emergency rule which tightens the medical eligibility criteria which applicants have to meet to participate in the program. This more restrictive criteria emphasizes medical conditions which are rehabilitative.

This new section also is proposed for final adoption in this issue of the *Texas Register*. To adopt this section on an emergency basis, a new section number (§37.107) was assigned to it; however, in the final adoption of the section, it will be renumbered §37.97.

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 4419c, §3, which provides the Texas Board of Health with the authority to adopt rules to implement the Crippled Children's Services Program.

**§37.107. Medical Eligibility Criteria.** The department adopts by reference the medical eligibility criteria mentioned in these sections. A copy of the criteria is indexed and filed in the Bureau of Crippled Children's Services, Texas Department of Health, 1101 East Anderson Lane, Austin, Texas, and is available for public inspection during regular working hours.

Issued in Austin, Texas, on April 30, 1985.

TRD-853831

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

Effective date: April 30, 1985  
Expiration date: August 28, 1985  
For further information, please call  
(512) 465-2880.

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# Proposed

## Rules

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

**Symbols in proposed amendments.** New language added to an existing rule is indicated by the use of **bold text**. Brackets indicate deletion of existing material within a rule.

### TITLE 7. BANKING AND SECURITIES

#### Part IV. Texas Savings and Loan Department

##### Chapter 64. Books, Records, Accounting Practices, Financial Statements, Reserves

###### ★7 TAC §64.1

The Texas Savings and Loan Department proposes new §64.1, concerning location of books and records. This new section states that an association shall keep a complete set of books of account at its home office in addition to control records of all business transacted at any branch or agency office.

L. L. Bowman III, Texas savings and loan commissioner, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule.

Mr. Bowman also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is the appropriate location for books of account for associations to facilitate examinations and audits of an association. 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 L. L. Bowman III, Commissioner, Texas Savings and Loan Department, P.O. Box 1089, Austin, Texas 78767, or hand-delivered to 1004 Lavaca Street, Austin.

The new section is proposed under Texas Civil Statutes, Article 342-114, which provide the Savings and Loan Section of the Finance Commission of Texas with the authority to promulgate general rules and regulations not inconsistent with the constitution and statutes of this state and, from time to time, to amend the same.

**§64.1. Location of Books and Records.** Unless otherwise authorized by the commissioner, an association shall keep at its home office correct and complete books of ac-

count and minutes of the meeting of members and directors. Complete records of all business transacted at the home office shall be maintained at the home office. Records of business transacted at any branch or agency office may be kept at such branch or agency office, provided that control records of all business transacted at any branch or agency office shall be kept at the home office.

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

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

TRD-853757

Russell R. Oliver  
General Counsel  
Texas Savings and Loan  
Department

Earliest possible date of adoption:  
June 7, 1985  
For further information, please call  
(512) 475-7991.

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###### ★7 TAC §64.2

The Texas Savings and Loan Department proposes new §64.2, concerning accounting practices. The new section allows the commissioner to require that associations observe certain accounting principles and practices.

L. L. Bowman III, Texas savings and loan commissioner, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule.

Mr. Bowman 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 is the provision for the commissioner to require reasonable and uniform accounting practices from associations regulated by the department, thus promoting the sound operation of associations regulated by the department. There is no anticipated economic cost to in-

dividuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to L. L. Bowman III, Commissioner, Texas Savings and Loan Department, P.O. Box 1089, Austin, Texas 78767, or hand-delivered to 1004 Lavaca Street, Austin.

The new section is proposed under Texas Civil Statutes, Article 342-114, which provide the Savings and Loan Section of the Finance Commission of Texas with the authority to promulgate general rules and regulations not inconsistent with the constitution and statutes of this state and, from time to time, to amend the same.

**§64.2. Accounting Practices.** Every association shall use such forms and observe such accounting principles and practices as the commissioner may require from time to time.

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

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

TRD-853758

Russell R. Oliver  
General Counsel  
Texas Savings and Loan  
Department

Earliest possible date of adoption:  
June 7, 1985  
For further information, please call  
(512) 475-7991.

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###### ★7 TAC §64.3

The Texas Savings and Loan Department proposes new §64.3, concerning reproduction and destruction of records. The new section allows an association to copy original records and dispose of same. The copy, if properly made, is deemed the original record.

L. L. Bowman III, Texas savings and loan commissioner, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule.

Mr. Bowman also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is the allowance for savings associations to microfilm or copy records. If proper copies are made, the originals may be destroyed. This section promotes the overall efficiency of the daily business activities of associations. 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 L. L. Bowman III, Commissioner, Texas Savings and Loan Department, P.O. Box 1089, Austin, Texas 78767, or hand-delivered to 1004 Lavaca Street, Austin.

The new section is proposed under Texas Civil Statutes, Article 342-114, which provide the Savings and Loan Section of the Finance Commission of Texas with the authority to promulgate general rules and regulations not inconsistent with the constitution and statutes of this state and, from time to time, to amend the same.

**§64.3. *Reproduction and Destruction of Records.*** Any association may cause any or all records kept by such association to be copied or reproduced by any photostatic, photographic, or microfilming process which correctly and permanently copies, reproduces, or forms a medium for copying or reproducing the original record on a film or other durable material, and such association may thereafter dispose of the original record. Any such copy or reproduction shall be deemed to be an original record. A facsimile, exemption, or certified copy shall, for all purposes, be deemed a facsimile, exemption, or certified copy of the original record.

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

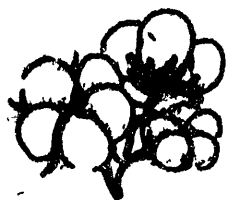
Issued in Austin, Texas, on April 29, 1985.

TRD-853759

Russell R. Oliver  
General Counsel  
Texas Savings and Loan  
Department

Earliest possible date of adoption:  
June 7, 1985  
For further information, please call  
(512) 475-7991.

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#### ★ 7 TAC §64.4

The Texas Savings and Loan Department proposes new §64.4, concerning financial statements and annual reports. The new section requires that each association under the department's jurisdiction file and publish a statement of its financial condition annually in the month of January in the form approved by the commissioner.

L. L. Bowman III, Texas savings and loan commissioner, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule.

Mr. Bowman 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 yearly publication of financial statements, which affords the public proper notice of the financial condition of savings and loan associations under the department's jurisdiction. 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 L. L. Bowman III, Commissioner, Texas Savings and Loan Department, P.O. Box 1089, Austin, Texas 78767, or hand-delivered to 1004 Lavaca Street, Austin.

The new section is proposed under Texas Civil Statutes, Article 342-114, which provide the Savings and Loan Section of the Finance Commission of Texas with the authority to promulgate general rules and regulations not inconsistent with the constitution and statutes of this state and, from time to time, to amend the same.

**§64.4. *Financial Statements; Annual Reports.*** Every association shall prepare and publish annually in the month of January of each year in a newspaper of general circulation in the county in which the home office of such association is located a statement of its financial condition as of the last business day of December of the preceding year in the form prescribed or approved by the commissioner. On or before the last day of January in each year, every association shall make an annual written report to the commissioner upon a form to be prescribed and furnished by the commissioner, of its affairs and operations, which shall include a complete statement of its financial condition, including a statement of income and expense since its last previous similar report, for the 12 months ending on the last business day of December of the previous year. Every such report shall be signed by the president, vice president, or secretary. Every association shall also make such other reports as the commissioner may from time to time require, which reports shall be in such form and filed on such dates as he may prescribe and shall, if required by him, be

signed in the same manner as the annual report.

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

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

TRD-853760

Russell R. Oliver  
General Counsel  
Texas Savings and Loan  
Department

Earliest possible date of adoption:  
June 7, 1985  
For further information, please call  
(512) 475-7991.

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#### ★ 7 TAC §64.5

The Texas Savings and Loan Department proposes new §64.5, concerning misdescription of transactions. The new section prohibits an association from knowingly making an entry on its books which is not truly descriptive of the transaction causing the entry to be made.

L. L. Bowman III, Texas savings and loan commissioner, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule.

Mr. Bowman 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 requirement that savings and loan associations under the department's jurisdiction not engage in any device of bookkeeping which results in an entry which is not descriptive of the transaction. This requirement enhances the sound regulation of associations by the department. 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 L. L. Bowman III, Commissioner, Texas Savings and Loan Department, P.O. Box 1089, Austin, Texas 78767, or hand-delivered to 1004 Lavaca Street, Austin.

The new section is proposed under Texas Civil Statutes, Article 342-114, which provide the Savings and Loan Section of the Finance Commission of Texas with the authority to promulgate general rules and regulations not inconsistent with the constitution and statutes of this state and, from time to time, to amend the same.

**§64.5. *Misdescription of Transactions.*** No association by any system of account or any device of bookkeeping shall, either directly or indirectly, knowingly make an entry upon its books that is not truly descrip-



tive of the transaction which causes the entry.

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

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

TRD-853761 Russell R. Oliver  
General Counsel  
Texas Savings and Loan  
Department

Earliest possible date of adoption:

June 7, 1985

For further information, please call  
(512) 475-7991.

★ ★ ★

#### ★ 7 TAC §64.6

The Texas Savings and Loan Department proposes new §64.6, concerning charging off or setting up reserves against bad debts. The new section allows the commissioner to order that assets which have depreciated in value or are overstated in value be charged off or a special reserve be set up for the value of the depreciated or overstated asset by transfers from surplus or paid in capital.

L. L. Bowman III, Texas savings and loan commissioner, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule.

Mr. Bowman also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is an allowance for the commissioner to order an association to account properly on its books for depreciated or overvalued assets, which helps to insure that savings institutions in this state are operated in a sound manner. 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 L. L. Bowman III, Commissioner, Texas Savings and Loan Department, P.O. Box 1089, Austin, Texas 78767, or hand-delivered to 1004 Lavaca Street, Austin.

The new section is proposed under Texas Civil Statutes, Article 342-114, which provides the Savings and Loan Section of the Finance Commission of Texas with the authority to promulgate general rules and regulations not inconsistent with the constitution and statutes of this state and, from time to time, to amend the same.

§64.6. *Charging Off or Setting Up Reserves Against Bad Debts.* The commissioner, after a determination of value, may order that assets in the aggregate, to the ex-

tent that such assets have depreciated in value, or to the extent the value of such assets, including loans, are overstated in value for any reason, be charged off, or that a special reserve or reserves equal to such depreciation or overstated value be set up by transfers from surplus or paid in capital.

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

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

TRD-853762 Russell R. Oliver  
General Counsel  
Texas Savings and Loan  
Department

Earliest possible date of adoption:

June 7, 1985

For further information, please call  
(512) 475-7991.

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### Chapter 65. Loans and Investments

#### ★ 7 TAC §65.2

The Texas Savings and Loan Department proposes amendments to §65.2, concerning real estate loans. The amendments set forth certain conditions concerning the priority of liens under which an association may make a loan and allow a loan up to 100% of the appraised value or the purchase price, whichever is less, when a first lien is obtained.

L. L. Bowman III, Texas savings and loan commissioner, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule.

Mr. Bowman 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 provision of lending requirements pertaining to lien priority and amount which may be loaned on security of real estate. Such requirements promote the sound regulation of savings associations in this state. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to L. L. Bowman, Commissioner, Texas Savings and Loan Department, P.O. Box 1089, Austin, Texas 78767, or hand-delivered to 1004 Lavaca Street, Austin.

The amendments are proposed under Texas Civil Statutes, Article 342-114, which provide the Savings and Loan Section of

the Finance Commission of Texas with the authority to promulgate general rules and regulations not inconsistent with the constitution and statutes of this state and, from time to time, to amend the same.

#### §65.2. Real Estate Loans.

(a) (No change.)

(b) An association may make additional real estate loans secured by liens subordinate to its own first lien upon the same property. Additional security may also be taken by the association in connection with any such loan if deemed necessary and proper.

(c) An association may purchase real estate loans upon security of the same character against which such association may make an original loan and also may lend money on the security of such real estate loans.

(d) An association may participate with other lenders in real estate loans of any type that the association could originate.

(e) An association may sell with or without recourse any real estate loan it holds or any participating interest therein.

(f) An association may service any real estate loans sold by the association.

(g)[(b)] All loans on real estate made by an association shall be repayable in monthly installments of principal and interest within a period not exceeding 40 years from the date the loan is made except in the following instances:

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

(h)[(c)] Pursuant to Texas Civil Statutes, Article 852a, §5.05(2) [§5.02], every association may make or purchase participations in loans secured by real estate provided that the amount outstanding to any one borrower does not exceed the net worth of the association as defined in this chapter.

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

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

TRD-853763 Russell R. Oliver  
General Counsel  
Texas Savings and Loan  
Department

Earliest possible date of adoption:

June 7, 1985

For further information, please call  
(512) 475-7991.

★ ★ ★

#### ★ 7 TAC §65.14

The Texas Savings and Loan Department proposes new §65.14, concerning investment in securities. The new section allows an association to invest in securities guaranteed by the United States or Texas and other securities which are safely guaranteed or insured. An association must in-

sure that the securities are delivered to the association or bank acting as trustee for the association within one business day after paying for the securities.

L. L. Bowman III, Texas savings and loan commissioner, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule.

Mr. Bowman 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 rules is an allowance for savings associations to invest in securities which are deemed to be adequately guaranteed or insured and requires physical possession of the securities, or reasonable substitute, all of which promote the sound regulation of savings associations in this state. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to L. L. Bowman III, Commissioner, Texas Savings and Loan Department, P.O. Box 1089, Austin, Texas 78767, or hand-delivered to 1004 Lavaca Street, Austin.

The new section is proposed under Texas Civil Statutes, Article 342-114, which provide the Savings and Loan Section of the Finance Commission of Texas with the authority to promulgate general rules and regulations not inconsistent with the constitution and statutes of this state, and from time to time, to amend the same.

**§64.14. Investment in Securities.** An association shall have power to invest in obligations of, or guaranteed as to principal and interest by, the United States or this state; in stock of a federal home loan bank of which it is eligible to be a member, and in any obligations or consolidated obligations of any federal home loan bank or banks; in stock or obligations of the Federal Savings and Loan Insurance Corporation; in stock or obligations of a national mortgage association created by federal law or any successor or successors thereto; in demand, time, or savings deposits with any bank or trust company the deposits of which are insured by the Federal Deposit Insurance Corporation; in stock or obligations of any corporation or agency of the United States or this state, or in deposits therewith to the extent that such corporation or agency assists in furthering or facilitating the association's purposes or power; in savings accounts of any association operating under the provisions of this Act and of any federal association; in bonds, notes, or other evidences of indebtedness which are a general obligation of any city, town, village, county, school district, or other municipal corporation or political subdivision of this state; and in such other securities or obligations approved by the commissioner. No security owned by an

association shall be carried on its books at more than actual cost thereof unless a different treatment is permitted by the commissioner in writing. An association investing in securities under this section shall insure that the securities are delivered to the association or a bank acting as trustee for the association within one business day after paying for or becoming obligated to pay for the securities. The association may employ as trustee a federal home loan bank, a federal reserve bank, or the trust department of a bank which is insured by the Federal Deposit Insurance Corporation. When employing any of the foregoing banks as trustee to accept delivery of the securities, the association shall insure that it receives a trust receipt issued by the bank for the securities within one business day of the bank's receipt of the securities.

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

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

TRD-853764

Russell R. Oliver  
General Counsel  
Texas Savings and Loan  
Department

Earliest possible date of adoption:  
June 7, 1985

For further information, please call  
(512) 475-7901.

★ ★ ★

#### ★ 7 TAC §65.15

The Texas Savings and Loan Department proposes new §65.15, concerning conditions for originating, making, or selling loans. The new section sets forth the basic conditions under which a loan may be originated or sold in a safe and sound manner.

L. L. Bowman III, Texas savings and loan commissioner, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule.

Mr. Bowman also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is the setting of conditions for making or selling loans in a safe and sound manner and the protection of the overall financial soundness of the savings and loan industry. Thus, the depositors of these institutions are benefited. 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 L. L. Bowman III, Commissioner,

Texas Savings and Loan Department, P. O. Box 1089, Austin, Texas 78767, or hand-delivered to 1004 Lavaca Street, Austin.

The new section is proposed under Texas Civil Statutes, Article 342-114, which provide the Savings and Loan Section of the Finance Commission of Texas with the authority to promulgate general rules and regulations not inconsistent with the constitution and statutes of this state and from time to time, to amend same.

**§65.15. Conditions for Originating, Making or Selling Loans.** No association shall

(1) make a real estate loan to an officer or director of the association unless such loan is first approved unanimously by its board of directors and such approval recorded in the minutes of the meeting of the board at which such loan was approved

(2) make a real estate loan or loan to any one borrower in the aggregate in excess of \$50,000 or the sum of its loan reserves, surplus, and capital stock, if an

(3) make a real estate loan unless an appraisal by an appraiser or committee of appraisers appointed by the board of directors is first made and filed in writing with the association as a part of its permanent files; reappraisals may be required by the commissioner on real estate security loans at the expense of the association;

(4) make a real estate loan which is not secured by a first and prior lien upon the property described in the mortgage deed of trust, or other instrument creating or constituting such lien, unless every prior lien thereon is owned by the association;

(5) make a real estate loan, unless the association is furnished with either a satisfactory abstract of title or a policy of title insurance issued by a title company authorized to insure titles in this state showing that the lien securing such loan meets the requirements of paragraph (4) of this section;

(6) make a real estate loan unless the insurable improvements thereon are insured against loss by a fire and extended coverage policy or its equivalent issued by an insurance company authorized to do business in this state;

(7) sell or transfer a prior lien held by the association while retaining a junior lien on the same security to secure an unsatisfied obligation due the association unless such junior lien or liens were created in connection with a loan guaranteed in any manner and amount by the United States or any instrumentality thereof, or the loan is a property improvement loan as defined in this chapter;

(8) fail to promptly record in the proper county records every mortgage, deed of trust, or other instrument, creating, constituting or transferring any lien securing in whole or in part any real estate loan or the association's interest therein.

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

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

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

TRD-853785 Russell R. Oliver  
General Counsel  
Texas Savings and Loan  
Department

Earliest possible date of adoption:

June 7, 1985

For further information, please call  
(512) 475-7991.

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★7 TAC §65.17

The Texas Savings and Loan Department proposes new §65.17, concerning loan documentation. The new section sets forth the documents which are required to be in a loan file for a loan on security of real estate.

L. L. Bowman III, Texas savings and loan commissioner, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule.

Mr. Bowman also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is the provision of proper loan documentation which will promote the making, selling, or participation in loans in a safe and sound manner by savings associations under the department's jurisdiction. 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 L. L. Bowman III, Commissioner, Texas Savings and Loan Department, P.O. Box 1089, Austin, Texas 78767, or hand-delivered to 1004 Lavaca Street, Austin.

The new section is proposed under Texas Civil Statutes, Article 342-114, which provide the Savings and Loan Section of the Finance Commission of Texas with the authority to promulgate general rules and regulations not inconsistent with the constitution and statutes of this state and, from time to time, to amend same.

§65.17. *Loan Documentation on Security of Real Estate.*

(a) An association shall maintain one permanent loan file which shall contain all documents, as required in subsection (b)(1)-(7) of this section, and which shall be located at the association's home office or other duly authorized location. Other files containing loan documentation may be maintained at the association's discretion.

(b) The following documents shall be included in an association's permanent loan

file when funding, purchasing, or participating in a loan made on the security of real estate:

(1) an application for a loan, signed by applicant borrower, or his agent, which discloses the purpose for which the loan is sought and the identity of the security property;

(2) a financial statement of the applicant signed by such applicant or a written credit report prepared by the association or by others at the request of the association, disclosing the financial ability of the applicant;

(3) documentation showing when and by whom the loan was approved and the terms and conditions of approval;

(4) a loan settlement statement indicating in detail the expenses, fees, and charges the applicant borrower has paid or is obligated to pay to the association or any other person in connection with a loan;

(5) an abstract of title or policy of title insurance issued by a title company authorized to insure titles in this state showing that the lien securing the loan is a first and prior lien on the property described in the mortgage, deed of trust, or other instrument creating or constituting such lien, unless every prior lien thereon is owned by the association;

(6) where applicable, an insurance policy issued by an insurance company authorized to do business in this state, insuring the insurable improvements on the real estate against loss by fire;

(7) a copy of the properly recorded mortgage, deed of trust, or other instrument creating, constituting, or transferring any lien securing in whole or in part any real estate loan, or the association's interest therein.

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

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

TRD-853786 Russell R. Oliver  
General Counsel  
Texas Savings and Loan  
Department

Earliest possible date of adoption:

June 7, 1985

For further information, please call  
(512) 475-7991.

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★7 TAC §65.19

The Texas Savings and Loan Department proposes new §65.19, concerning investment in office buildings occupied by an association. The new section limits the investment which associations may make in office buildings occupied by an association.

L. L. Bowman III, Texas savings and loan commissioner, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule.

Mr. Bowman 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 that, by limitation on the amount of investment which may be made by an association in office buildings occupied by the association, the commissioner can insure sound and prudent business investment practices by associations. 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 L. L. Bowman III, Commissioner, Texas Savings and Loan Department, P.O. Box 1089, Austin, Texas 78767, or hand-delivered to 1004 Lavaca Street, Austin.

The new section is proposed under Texas Civil Statutes, Article 342-114, which provide the Savings and Loan Section of the Finance Commission of Texas with the authority to promulgate general rules and regulations not inconsistent with the constitution and statutes of this state and, from time to time, to amend same.

§65.19. *Investment in Office Buildings Occupied by an Association.* An association may not invest more in office buildings occupied by the association than an amount equal to the aggregate dollar value of its loss reserves and surplus plus the par value of any outstanding capital stock as reflected by its books at the time of such investment unless the investment of a greater amount is authorized by the commissioner in writing.

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

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

TRD-853787 Russell R. Oliver  
General Counsel  
Texas Savings and Loan  
Department

Earliest possible date of adoption:

June 7, 1985

For further information, please call  
(512) 475-7991.

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★7 TAC §65.21

The Texas Savings and Loan Department proposes new §65.21, concerning the valuation of real property on books of an association. The new section sets the parameters for the valuation of real property on the books of an association to a sum not exceeding the total amount invested by the association.

L. L. Bowman III, Texas savings and loan commissioner, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule.

Mr. Bowman also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is the prudent valuation of real property on the books of an association which will promote the sound regulation of saving and loan associations under the jurisdiction of the Texas Savings and Loan Department. 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 L. L. Bowman III, Commissioner, Texas Savings and Loan Department, P.O. Box 1089, Austin, Texas 78767 or hand-delivered to 1004 Lavaca Street, Austin.

The new section is proposed under Texas Civil Statutes, Article 342-114, which provide the Savings and Loan Section of the Finance Commission of Texas with the authority to promulgate general rules and regulations not inconsistent with the constitution and statutes of this state and, from time to time, to amend the same.

§65.21. Valuation of Real Property on Books of Association. No association shall carry any real estate on its books at a sum in excess of the total amount invested by such association on account of such real estate, including advances, costs, and improvements, but excluding accrued but uncollected interest, unless the commissioner has specifically approved in writing a higher valuation. An association selling real estate under a contract of sale may carry the amount due the association under the terms of such contract as an asset upon its books; provided that at no time shall the contract be considered as having an asset value greater in amount than the sales price agreed upon in the contract, or greater in amount than the value at which such property so sold was permitted to be carried upon the books of the association.

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

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

TRD-853768

Russell R. Oliver  
General Counsel  
Texas Savings and Loan  
Department

Earliest possible date of adoption:

June 7, 1985

For further information, please call

(512) 475-7991.



★7 TAC §65.23

The Texas Savings and Loan Department proposes new §65.23, concerning appraisal of real estate owned. The new section requires that an association appraise a parcel of real estate at the time of acquisition by the association and upon completion of any permanent improvements.

L. L. Bowman III, Texas savings and loan commissioner, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule

Mr. Bowman also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is the appraisal of real estate by an association before acquisition and upon completion of any permanent improvement which insures that the purchase or improvement is in the best interest of the association and that the association is acting in a prudent manner in the transaction. 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 L. L. Bowman III, Commissioner, Texas Savings and Loan Department, P.O. Box 1089, Austin, Texas 78767, or hand-delivered to 1004 Lavaca Street, Austin

The new section is proposed under Texas Civil Statutes, Article 342 114, which provide the Savings and Loan Section of the Finance Commission of Texas with the authority to promulgate general rules and regulations not inconsistent with the constitution and statutes of this state and, from time to time, to amend the same.

§65.23. Appraisal of Real Estate Owned. An association shall appraise every parcel of real estate at the time of acquisition and upon completion of any permanent improvements. The report of such appraisal shall be in writing and kept in the records of the association.

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

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

TRD-853769

Russell R. Oliver  
General Counsel  
Texas Savings and Lo  
Department

Earliest possible date of adoption:

June 7, 1985

For further information, please call

(512) 475-7991.



TITLE 22. EXAMINING  
BOARDS

Part XIX. Polygraph  
Examiners Board  
Chapter 395. Code of  
Operating Procedure for  
Polygraph Examiners

★22 TAC §395.17

The Polygraph Examiners Board proposes new §395.17, concerning validation question and normalizing, baseline question procedures. This new section more closely regulates the polygraph profession in an area the board determines to be critical.

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

Ms. Moore 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 that the polygraph industry will be more closely regulated in areas that the board determines to be critical. 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 Candy M. Moore, P.O. Box 4087, Austin, Texas 78773.

The new section is proposed under Texas Civil Statutes, Article 4413(29cc), which provide the Polygraph Examiners Board with the authority to regulate persons who purport to be able to detect deception or to verify truth of statements through the use of instrumentation.

§395.17. Validation Question and Normalizing, Baseline Question Procedures.

(a) Any question not narrowly, directly, and specifically related to the test

matter at issue may be asked an examinee only for the purposes of normalizing baseline reactions, or for the purpose of validating and evaluating the relevant issue question reactions.

(b) All questions asked the examinee during the actual examination, including relevant issue questions, validation questions, or normalizing, baseline questions, must be discussed by the examiner, prior to the actual testing, with the examinee; if requested to do so, the examiner must discuss with the examinee the nature and purpose of all questions to be asked, and the final wording must be approved by the examinee prior to the actual examination.

(c) No question may be asked during the actual examination that is designed solely for the purpose of the examiner prying into the personal, intimate, or private life of the examinee

(d) All questions asked the examinee during the actual examination must conform to generally recognized and accepted test question wording, and must be designed as and constructed for the purpose of normalizing, baseline reactions; or validating relevant issue question reactions; or must be relevant to the specific issue under investigation, as herein defined.

(e) Any questions asked by the examiner prior to the actual examination that the examinee ultimately refuses to answer may not be asked by the examiner during the actual examination.

(f) It is a violation of this regulation to ask any question during the examination that was not reviewed by the examiner prior to the actual examination and agreed to by the examinee.

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

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

TRD-853618

Candy M. Moore  
Executive Director  
Polygraph Examiners  
Board

Earliest possible date of adoption:

June 7, 1985

For further information, please call

(512) 465-2058.

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## Chapter 401. Grievance Review of Disciplinary Action

### ★ 22 TAC §401.1

The Polygraph Examiners Board proposes new §401.1, concerning grievance review of disciplinary action. The new section provides employees an opportunity to appear before a grievance committee if the need should arise.

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

Ms. Moore also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is an opportunity for employees to appear before a grievance committee if the need should arise. 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 Candy M. Moore, P.O. Box 4087, Austin, Texas 78773.

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

#### §401.1. Grievance Policy.

(a) Policy. It is the policy of the Polygraph Examiners Board to receive and process points of contention concerning disciplinary action when an employee or former employee makes proper application. Such requests shall be processed in a fair and prompt manner. However, the procedures outlined in this section do not apply to employees who have completed less than 12 months of their current period of service.

(1) No employee shall be disciplined, penalized, coerced, or otherwise prejudiced in employment for exercising the rights provided for in this policy.

(2) In exercising any of the rights provided for by this policy, an employee may represent himself, or may be represented by an attorney at his own expense.

(3) An employee who has become involved in a grievance hearing at his own request may not thereafter refuse to answer or reply to questions related to the review. If such should occur, the review or appeal procedure will be discontinued and the employee will have forfeited the right to this hearing.

(b) Grievance hearing officer. The chairman may designate the grievance hearing officer. The hearing officer will be responsible for the integrity of the hearing process, maintain an orderly procedure, and will assure a fair and impartial hearing. He will restrict the employee's plea and evidence to the points of contention set forth in the employee's written request for a hearing. In addition, he may request the attendance or testimony of any agency member and order further investigation as he deems necessary. The hearing officer will use his personal discretion in determining who shall appear before a hearing.

(c) Grievance board hearing committee. The committee will be appointed by the

chairman and shall consist of not more than three members. The chairman may sit as a member of the committee. All committee members must be board members at the time of the hearing. Committee members, who the chairman determines have a real or apparent conflict of interest in the outcome of the proceedings, are not eligible to participate. In such cases, the chairman shall appoint another board member to sit on the committee during the proceedings.

(d) Grievance board hearing committee procedures. Employees who qualify for a hearing before the grievance board hearing committee and desire to exercise the right must submit a written request to the executive officer. This written request must contain the points of contention of the employee, a statement that an attorney will or will not represent the employee, and the names of any agency members or other persons the employee desires to have present for the purpose of presenting evidence or giving testimony.

(1) The request for a hearing must be received by the executive officer within 10 days from the date of the formal written notice of disciplinary action. A claim that the written notice of disciplinary action was not received by the employee will not be a defense. When properly appealed, disciplinary action will be stayed pending the grievance board hearing.

(2) When a request has been received from the employee within the specified time limit, the executive officer will confer with the chairman.

(3) Once all preliminary matters have been resolved, proper written notice containing the date, location, and other pertinent information will be furnished to the employee. Included in this notice will be the chairman's selection for the members to serve on the grievance board hearing committee.

(4) Either party may request a court reporter. The hearing officer will determine if a court reporter is necessary and make arrangements for the court reporter to be present. This expense will be paid by the requesting party. Copies of the transcript will be paid for by the parties requesting them. Other expenses incurred by the appealing employee or expenses for witnesses he requests who are not members of this agency must be paid by the employee.

(5) The hearing officer may request the presence and assistance of a representative from the attorney general's office at such hearings.

(6) A finding rendered by a grievance board hearing committee will be based on majority rule. A finding rendered by a grievance board hearing committee may take the form of one of the following:

(A) support the departmental disciplinary action taken;

(B) recommend a lesser or greater disciplinary action; or

(C) recommend no disciplinary action to be taken.

(7) Upon completion of the hearing, the hearing officer will furnish the finding to the executive officer.

(8) Attorneys participating in the hearing process are reminded that this hearing is not being conducted informally, but orderly. Testimony shall be taken under oath.

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

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

TRD-853619 Candy M. Moore  
Executive Officer  
Polygraph Examiners  
Board

Earliest possible date of adoption:  
June 7, 1985

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

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## TITLE 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 37. Maternal and Child Health Services

##### Crippled Children's Services Program

The Texas Department of Health proposes the repeal of §§37.81-37.106 and new §§37.81-37.98, 37.98, and 37.107, concerning the Crippled Children's Services Program. The sections cover the areas of eligibility for client services; services provided to clients; application process; authorization of services; denial, modification, and termination of services; rights and responsibilities of parents, guardians, and conservators; providers and facilities; payment for services; development and improvement of standards and services; appeal procedures; and miscellaneous sections.

Section 37.107 also is adopted on an emergency basis in this issue of the *Texas Register*. It will be renumbered to §37.97 at the time of final adoption; therefore, in this proposal, §37.97 has been reserved.

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 a reduction in cost of \$6.4 million in 1986 and \$5.6 million in 1987-1990. There are no an-

anticipated fiscal implications for local government or small businesses.

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 updated and clarified rules and fiscal requirements. The anticipated economic cost to individuals who are required to comply with the rules as proposed could be as little as \$20 per medical condition to \$44,500 per medical condition per child per year for patients eliminated from coverage who would become responsible for their own medical bills.

Comments on the proposal may be submitted to Punam Myer, M.D., M.P.H., Chief, Bureau of Crippled Children's Services Program, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78758-3179. Comments will be accepted for 30 days after publication of this proposal in the *Texas Register*. In addition, a public hearing will be held on the proposed rules at 9 a.m. Monday, May 20, 1985, in the auditorium, Texas Department of Health, 1100 West 49th Street, Austin, Texas.

#### 25 TAC §§37.81-37.106

*(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 4419c, §3, which provides the Texas Board of Health with the authority to adopt rules to implement the Crippled Children's Services Program.

- §37.81. Purpose.
- §37.82. Definitions.
- §37.83. General Purpose.
- §37.84. Introduction.
- §37.85. Conditions Covered.
- §37.86. Conditions Not Covered.
- §37.87. Application Process.
- §37.88. Eligibility Criteria.
- §37.89. Eligibility Determination.
- §37.90. Authorization of Services.
- §37.91. Service Providers.
- §37.92. Consultants.
- §37.93. Services Provided.
- §37.94. Service Limitations.
- §37.95. Payment for Services.
- §37.96. Third-Party Resources.
- §37.97. Service Modification, Suspension, or Termination.
- §37.98. Payment Suspension or Termination/Quality Assurance.
- §37.99. Utilization Review.
- §37.100. Rights and Responsibilities of Parents/Guardians or the Adult Patient.

- §37.101. Advisory Committees.
- §37.102. Gifts and Donations.
- §37.103. Cooperation with Other Agencies.
- §37.104. Confidentiality of Information.
- §37.105. Appeal Procedure.
- §37.106. Nondiscrimination Statement.

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

Issued in Austin, Texas, on April 30, 1985.

TRD-853832 Robert A. MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of  
Health

Proposed date of adoption:  
July 20, 1985

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

★ ★ ★



#### ★ 25 TAC §§37.81-37.96, 37.98, 37.107

The new sections are proposed under Texas Civil Statutes, Article 4419c, §3, which provide the Texas Board of Health with the authority to adopt rules to implement the Crippled Children's Services Program.

§37.81. Purpose. The purpose of these sections is to implement the Crippled Children's Services Program authorized by Texas Civil Statutes, Article 4419c. The program of the Texas Department of Health was created by the legislature to provide rehabilitation services to crippled children who are eligible for services. By law, the program shall provide:

- (1) early identification of crippled children;
- (2) diagnosis and evaluation of crippled children;
- (3) rehabilitation services to crippled children; and
- (4) development and improvement of standards and services for crippled children.

§37.82. Definitions. The following words and terms, when used in these sec-

tions, shall have the following meanings unless the context clearly indicates otherwise:

**Act**—The Crippled Children's Services Act, Texas Civil Statutes, Article 4419c.

**Active case**—All aspects of eligibility have been met. Eligibility continues for a period not to exceed one year's duration, as long as each of the eligibility criteria (a medical condition that is coverable by the program, expectation of improvement/increase in functional independence, financial need, age, and residency) are met.

**Advisory committee**—Those persons appointed by the department to serve in an advisory capacity to the program staff.

**Applicant**—A person making application for the program, but not currently determined eligible.

**Approved hospitals**—Hospitals approved by the board to provide services to persons covered by the program.

**Approved providers**—Physicians or dentists approved by the board to provide services to persons covered by the program.

**Board**—Texas Board of Health.

**Cancer**—A malignant disease characterized by unrestricted growth of abnormal cells, the natural course of which is fatal; it includes, but is not limited to, leukemia, lymphoma, and histiocytosis.

**Central office**—The administrative staff of the Crippled Children's Services Program, Texas Department of Health, mailing address: 1100 West 49th Street, Austin, Texas 78756-3179.

**Commissioner**—The commissioner of health.

**Crippled child**—Any person under 21 years of age whose physical functions, movements, or sense of hearing are impaired by reason of a joint, bone, ossicular chain, muscle, neurological defect or deformity, or cancer, to the extent that the person is or may be expected to be totally or partially incapacitated for education or remunerative occupation. Persons with cystic fibrosis, regardless of age, are covered by the legislation.

**Date of service**—The actual date the service was initiated.

**Department**—Texas Department of Health.

**Eligible person**—A person who meets all program requirements for eligibility.

**Eligibility date**—The effective date of initial eligibility for the program, which is:

(A) the date all eligibility requirements were met; or

(B) the date of service if the central office was notified of the need for an application to be made and if all written information to establish eligibility was received in the central office within 30 days.

**Emergency**—The sudden onset of a life-threatening situation in which a severe debilitating condition or death would result

if immediate medical care were not provided.

**Expectation of improvement**—The person's diagnosis or condition must be such that it is reasonable to expect that as a result of treatment the problem will be corrected or controlled or that increased function will be gained.

**Facility**—Includes hospitals, ambulatory surgical centers, and outpatient clinics.

**Increase in functional independence**—The person should have more independent functioning related to the basic activities of daily living, with or without equipment, based on progress in relation to age appropriate tasks or developmental milestones.

**Other benefits**—Any other resource available to the eligible patient or the legally responsible adult(s) if the patient is a minor, for the costs of rehabilitation services, including third party insurance, personal financial resources or a legal cause of action, settlement, or judgment in behalf of the patient.

**Patient**—An eligible recipient of Crippled Children's Services, also referred to as eligible person.

**Program**—Crippled Children's Services Program, Texas Department of Health Central Office, mailing address: 1100 West 49th Street, Austin, Texas 78756-3179.

**Rehabilitation**—The process of restoring the functions(s) of the body destroyed or impaired by congenital defect, disease, or injury. There must be expectation of improvement based on the medical prognosis made by the physician, while increase in functional independence will be determined by the functional status and potential of the patient as certified by the physician.

**Specialty center**—A facility and staff which, by virtue of fulfillment of program established minimum standards, is designated by the board for program use for comprehensive diagnostic and treatment services for a specific medical condition.

**State**—The State of Texas.

**Treatment plan**—The patient's plan of care (time and treatment specific) certified by and implemented under the supervision of a program approved physician.

**§37.83. Eligibility for Patient Services.** In order for a patient to be eligible for crippled children's services, the patient has to meet the medical, financial, and related criteria in this section.

(1) Medical criteria.

(A) Basic requirements. To be medically eligible for the crippled children's services program, the patient must have a coverable condition and there must be an expectation of improvement or increase in functional independence. Eligibility under the coverable condition does not mean that the patient is eligible for services under other coverable conditions.

(B) Categories of coverable conditions. The coverable conditions are listed in subparagraph (C) of this paragraph. These conditions include the general conditions described in the Act and the specific conditions approved by the board. The list in subparagraph (C) of this paragraph serves only as a broad guideline to assist potential applicants. The approved specific medical diagnoses for each of these conditions are described in §37.107 of this title (relating to Medical Eligibility Criteria).

(C) List of coverable conditions.

(i) orthopedically crippling conditions;

(ii) neurological disorders including epilepsy and spina bifida;

(iii) cardiovascular conditions;

(iv) cleft lip and/or palate and other severe craniofacial conditions;

(v) congenital anomalies of the gastrointestinal tract;

(vi) cystic fibrosis;

(vii) cancer;

(viii) chronic otological conditions affecting the ossicular chain or if associated with cleft palate;

(ix) congenital anomalies of the external genitalia and genitourinary tract, excluding kidneys;

(x) hemophilia;

(xi) orthopedic complications of sickle cell anemia;

(xii) neurofibromatosis; and

(xiii) severe burns.

(D) Expectation of improvement/increase in functional independence.

(i) The Act provides that a person is not eligible to receive services from the program unless there is expectation of improvement of the condition, or an increase in functional independence, as defined in §37.82 of this title (relating to Definitions). The two conditions of cancer and cystic fibrosis are exceptions to this policy.

(ii) Expectation of improvement will be based on the medical prognosis made by the physician, while increase in functional independence will be determined by the functional status and potential of the patient as certified by the physician. The criteria for these two components are established by the program and may be utilized to set priorities if budgetary limitations make it necessary to restrict services. The criteria by priority are as follows:

Criteria for Expectation of Improvement by Priority Level

Priority	Expectation of Improvement
1	Excellent
2	Good
3	Fair
4	Poor
5	Grave

**Criteria for Increase in Functional Independence by Priority Level**

Priority	Increase in Functional Independence
1	Independent
2	Requires Minimal Assistance
3	Requires Moderate Assistance
4	Requires Maximum Assistance
5	Maintenance Only

(E) List of conditions not covered. Examples of conditions not covered include:

- (i) prematurity;
- (ii) hyaline membrane disease and respiratory distress syndrome;
- (iii) failure to thrive;
- (iv) apnea;
- (v) acute infectious diseases;
- (vi) digestive, metabolic, or endocrine disorders;
- (vii) fractures not requiring surgery or extensive hospitalization;
- (viii) ophthalmologic conditions;
- (ix) cases requiring only custodial care;
- (x) cases requiring cosmetic surgery;
- (xi) cases requiring life support systems without potential for rehabilitation, including, but not limited to, ventilatory support;
- (xii) emotional and psychological conditions;
- (xiii) comatose conditions;
- (xiv) conditions requiring organ transplantation or experimental procedures.

**(2) Financial criteria.**

(A) Financial need. Financial need is established on the basis of family income and assets which are legally available to the family.

(i) Family income. The family income used to determine eligibility is the gross income of those persons who have a legal obligation to provide for the applicant. Income includes earned wages, pensions or allotments, child support payments, alimony, or any monies received on a regular basis for family support purposes. Verification of income will be required as set out in §37.85(e) of this title (relating to Application Process of Patient). If the applicant is over the age of 18 and is determined to be in school, the applicant is considered to be a responsibility of the parent, guardian, or conservator; if an applicant is over the age of 18, is not in school and/or has been gainfully employed or is living independently, eligibility will be determined by the applicant's individual situation.

(ii) Assets. Assets legally owned or available to the family must be considered as a source of support to provide services for the applicant. Assets include such items as savings, real property other than a homestead, stocks, bonds, mutual or trust funds, IRA's, etc. Exemptions include a homestead (or a farm homestead

of not over 200 acres); one automobile for an individual/two for a two parent family; and total assets limited to the amounts established for Supplemental Security Income eligibility, as follows:

**Supplemental Security Income (SSI) Set Limitations**

Effective Date	One Parent Family (or Single Adult)	Two Parent Family
1-1-85	\$1,600	\$2,400
1-1-86	1,700	2,550
1-1-87	1,800	2,700
1-1-88	1,900	2,850
1-1-89	2,000	3,000

(iii) Priority level based on federal poverty guidelines. Income guide-

lines are based on percentages of the current federal poverty guidelines and may be adjusted by the program with the consent of the commissioner to meet budgetary limitations. Full coverage and partial coverage are based by program priority on percentages of federal poverty guidelines. Income guidelines are maintained on a current basis and are adopted by reference in §37.98 of this title (relating to Income Guidelines). The program will designate priority levels to receive full coverage and partial coverage, depending on available funds. Priority levels in descending order are as follows:

**Program Priorities Based On Federal Poverty Income Guidelines**

- Priority 1—100% or below
- Priority 2—101%—125%
- Priority 3—126%—150%
- Priority 4—151%—175%
- Priority 5—176%—200%
- Priority 6—201%—225%
- Priority 7—226%—250%

(B) Full coverage/partial coverage.

(i) If the factors considered for financial eligibility are within program guidelines, the eligible person will be allowed full coverage as defined by the program. Program payment is considered to be payment in full for conditions approved for program coverage. Items covered may include physicians' services, hospitalization, occupational and physical therapy, drugs and limited medical supplies, and medical equipment approved for treatment of the condition.

(ii) Depending on funds available, the program may qualify eligible persons for partial coverage of qualifying medical conditions. For medical procedures covered by the program, program payment is considered to be payment in full. All other medical expenses are the financial responsibility of the eligible person or their legally responsible agent.

(3) Other benefits available. Any other resource available to the eligible person, or the parent/guardian/conservator if the patient is a minor, must be utilized prior to the use of program funds. This includes benefits from a legal cause of action, set-

tlement, or judgment in behalf of the patient, as well as personal financial resources and third party insurance.

(4) Health insurance. All health insurance policies held by the applicant and/or family must be listed on the application. If insurance eligibility was effective prior to program eligibility, premium payments on individual or group health insurance must continue. If insurance cannot be maintained:

(A) verification of uninsurability from the carrier or the employer must be provided to the program; or

(B) verification of loss of employment and/or inability to make premium payments must be provided.

(5) Age. The applicant must be under the age of 21 except for persons with cystic fibrosis. Age verification may be required. Persons 18 years of age or over:

(A) may be required to verify age; and

(B) must be claimed as a dependent on the parent's income tax return.

**(6) Residency.**

(A) The person must be a bona fide resident of Texas. A bona fide resident means a person who:

(i) is physically present within the geographic boundaries of the state;

(ii) has an intent to remain within the state, whether permanently or for an indefinite period;

(iii) actually maintains an abode within the state (i.e., house or apartment, not merely a post office box);

(iv) does not claim residency in any other state or country;

(v) is a minor child residing in Texas and his/her parent(s) or managing conservator or the guardian of the child's person is a bona fide resident; or

(vi) is a person residing in Texas who is the legal dependent spouse of a bona fide resident; or

(vii) is an adult residing in Texas and his/her legal guardian is a bona fide resident.

(B) A minor assumes the residency status of the parent, guardian, or conservator, with the exception that a child born in the United States of illegal alien parents residing in Texas, is eligible for program services. The child must be considered to be a resident of the state.

(C) Verification of residency will be requested in the form of a valid driver's license, voter registration, motor vehicle registration, rent or utility receipts for two months prior to the date of application, school records, or other proof of residency if determined valid by the central office.

(7) Determination of initial eligibility.

(A) The final determination of eligibility is made by central office personnel using the information provided by Parts A and B of the application. The program may request verification of any information



given to establish eligibility, but at a minimum will require that documentation of income and residency be submitted with Part A of the application.

(B) Eligibility criteria are:

- (i) a medical condition that is coverable by the program;
- (ii) expectation of improvement/increase in functional independence;
- (iii) financial need;
- (iv) age; and
- (v) residency.

(C) The person's case is considered to be active when all aspects of eligibility have been met and continues for a period not to exceed one year's duration, as long as each of the eligibility criteria in subparagraph (B) of this paragraph are met. The program will respond in writing within 15 working days after the application is received in the central office regarding eligibility status.

(D) Medical eligibility covers only those conditions that are listed on Part B of the application that are coverable and approved by the program. Program coverage of additional conditions will require the submission of another Part B for further medical eligibility determination.

(E) At the time initial eligibility is established, an eligibility date will be determined and entered into the program record. The eligibility date assigned will be:

- (i) the date all requirements for eligibility were met;
- (ii) the date of service if the central office was notified of the need for an application to be made, and if all written information to establish eligibility was received in the central office within 30 days of the date of service.

(8) Determination of continuing eligibility. Eligibility is established for a maximum of one year. Financial and medical eligibility must be reestablished on at least an annual basis.

(A) Medical. On-going coverage of long term conditions may be provided if written plans of care are submitted which are time and treatment specific and are updated at least once per year. The program may request medical reports at any time the information submitted to the program is insufficient to determine continued eligibility or the need for specific services is unclear. Episodic conditions will require short-term treatment plans on a more frequent basis. If the medical condition is improved to the degree the person no longer qualifies for the program, the case is considered closed. If the condition no longer meets the criteria for expectation of improvement/increase in functional independence, the person will be considered ineligible and the case will be closed. Administrative review is available.

(B) Family circumstances.

(i) To maintain eligibility for program benefits the person must:

- (1) continue to reside in the state;

(ii) be age eligible;

(iii) be in financial need as defined by the program;

(iv) continue health insurance premiums, if applicable;

(v) apprise the program within 30 days of changes in the following:

- (-a-) permanent home address;
- (-b-) insurance coverage;
- (-c-) employment;
- (-d-) income;
- (-e-) assets.

(iii) The program may request current information when there is indication of a change of family circumstances but no less often than once a year.

(iii) Verification of income and residency will be required.

(iv) If insurance eligibility was established prior to program eligibility, premium payments on individual or group health insurance must continue. Noncompliance with this requirement will result in the termination of program benefits. If the person is considered uninsurable, verification of denial of coverage will be required from the carrier or the employer. If the family is unable to continue premium payments, verification of unemployment or financial inability to continue premium payments will be required by the program.

#### §37.84. Services Provided to Patients.

The Crippled Children's Program provides no direct services but utilizes a reimbursement process through authorization of services rendered by approved and other participating providers. The patient should receive services as close to the home community as possible except in those situations where program contracts or policies require treatment at specific facilities or specialty centers.

(1) Types of assistance.

(A) Initial examination (early identification).

(i) This service is available to those persons whose financial, residence, and age eligibility has been established and who are suspect of having a condition coverable by the program. Any licensed physician in the state may provide the examination, but authorization prior to the exam is required if program payment is to be made. Payment for the examination, inclusive of any office tests or procedures, will be according to program fee schedules. Part B of the application must be submitted as the medical report and attached to the voucher for payment. Only a program approved physician can be reimbursed for further diagnosis, evaluation, and rehabilitation services.

(ii) The examination is available to persons who do not have a family physician nor access to any medical resource in the local community. The examination is made to establish a medical diagnosis so that the applicant can be referred to the appropriate specialty. If the eligible appli-

cant's condition is definable to the extent that a referral can be made directly to a specialist, an approved physician must be used.

(B) Diagnosis and evaluation.

Only program approved physicians and dentists may be reimbursed for specialty diagnosis and evaluation. If the diagnostic workup is to include any procedures that are not routine, these must be outlined in the request for services in order for program reimbursement to be made. A medical report must be submitted to the central office on Part B of the application form and must contain prognosis and a plan of treatment, including procedures, equipment, medications, follow-up visits/care by the provider, and any services required in the home community.

(C) Rehabilitation services. As defined by the Act, rehabilitation services means a process of physical restoration of body functions destroyed or impaired by congenital defect, disease, or injury, and may include hospitalization, medical and dental care, braces, artificial appliances, durable medical equipment, medical supplies, and occupational and physical therapy. To be eligible for program reimbursement, the treatment phase must be determined by a care plan which will need periodic updating, depending on the condition. The program may establish criteria to determine the necessity of updating plans.

(2) List of services. The following list provides a brief description of the services the program may provide. Authorization must be requested for all services. Services may be limited as to frequency, duration, and cost for budgetary and administrative reasons.

(A) Initial examinations. With authorization prior to service delivery, any person who is suspect of having a condition coverable by the program and who is financially and age eligible may have an examination by any licensed physician in the state.

(B) Medical evaluation and treatment. These services must be provided by physicians approved to participate in the program, except in emergency situations.

(C) Dental evaluation and treatment. Dental care is limited to correction of conditions related to cleft palate and other severe craniofacial anomalies, and to treatment which is essential to prevent bacterial endocarditis before and after cardiac surgery.

(D) Treatment in approved facilities. Hospital care must be provided in facilities approved for program participation, except in emergency situations. The length of stay is limited according to diagnosis and condition of the patient.

(E) Braces and prosthetic devices. These devices must be related to a condition covered by the program and prescribed by an approved physician or dentist whose specialty is related to the condition for which the device is requested.

(F) Medications. Medications must be prescribed by an approved provider for treatment of a condition covered by the program. Payment is made only after delivery of the medications. The provider must submit proof of receipt by the patient and a copy of the physician's prescription with the voucher.

(G) Durable medical equipment. Equipment must be related to a condition covered by the program and must be prescribed by an approved provider whose specialty is related to the equipment requested. Some equipment may be supplied on a contract basis and therefore ordered from a specific supplier. The provider must submit proof of receipt by the patient and a copy of the physician's prescription with the voucher.

(H) Medical supplies. Supplies must be necessary in the treatment of a program covered condition and prescribed by an approved physician or dentist. The provider must submit proof of receipt by the patient and a copy of the physician's prescription. Articles of routine daily living (for example, diapers) are not provided.

(I) Speech-language pathology. Services are restricted to treatment of cleft palate and cranio-facial anomalies and must be provided by a speech-language pathologist licensed by the state and prescribed by a physician approved for program participation. Initial evaluations, treatment plans, and periodic progress reports covering no more than six months must be submitted to substantiate the need for services.

(J) Occupational and physical therapy. Services must be provided by a therapist licensed by the state and prescribed by a physician approved for program participation. Occupational and physical therapy services must be provided by comprehensive rehabilitation centers, hospitals, or physicians' offices except under extenuating circumstances. Initial evaluations, treatment plans, and periodic progress reports covering no more than six months must be submitted to substantiate the need for services.

(K) Transportation. The program may provide transportation for the patient and, if needed, a responsible adult, to the nearest medically appropriate facility. The lowest cost appropriate commercial carrier should be used. The program cannot assist if the patient is eligible for transportation through Medicaid.

(L) Meals and lodging. The program may provide meals and lodging. The purpose is to enable a parent to obtain inpatient or outpatient care for a child at a center located away from their home or to reduce the length of stay of hospitalization. No meals or lodging are available if the visit is not overnight or if the patient's home town is within a 50 mile radius of the treatment center. The reason for the inpatient or outpatient visit must be directly related to a condition covered by the program.

(M) Transporting of deceased patient. The following services may be provided:

(i) transportation cost for the remains of a patient who expires in an approved facility while receiving program services if the patient was not in the family's city of residence, and the transportation cost of a parent or other person accompanying the remains;

(ii) expenses incidental to embalming of the deceased, as required for transportation;

(iii) a casket purchased at a minimum price as required for transportation;

(iv) other necessary expenses directly related to the care of the deceased's remains and the return of the remains to the place of burial within the state.

(3) Full coverage. To be eligible for full coverage a person must meet all eligibility requirements of the program and be at or below the percentage of the federal poverty guidelines in effect for the program according to income priority levels. Full coverage may be limited or restricted if necessary to remain within available funding. The program will notify patients and providers of the extent of coverage when eligibility is determined and when authorization is requested.

(4) Partial coverage. Persons whose financial circumstances are above the level allowed for full coverage may be eligible for partial coverage which covers inpatient hospitalization and medical services rendered during this hospitalization. Income priority levels are established by the program at percentage rates of the federal poverty guidelines as described in §37.83(2)(A)(iii) this title (relating to Eligibility for Patient Services).

(5) Limitations. The program may limit or restrict services to remain within available funding and to provide effective and efficient administration. If funding shortages occur, priority will be given to those persons already eligible and receiving services over those making initial application. The eligibility date will be used to make this determination. Services also may be limited by the following means (not listed by priority):

(A) conditions covered;  
(B) services provided;  
(C) changes in income priority levels;

(D) limit of expenditures—by case, by service, by diagnosis, by annual cost;

(E) expectation of improvement;  
(F) level of independent functioning;

(G) length of stay (LOS) by procedure.

#### §37.85. Application Process of Patient.

(a) Availability of application. Applications are available to anyone seeking assistance from the program. Application

forms may be obtained from any local or regional health department or the central office. Many hospitals and physicians have application forms available. The completed application form is sent to the central office for eligibility determination. The application is in two parts: Part A provides eligibility information regarding family circumstances; Part B provides medical eligibility information. Copies of the application forms (Part A and Part B) are available from the central office. To be considered by the program, the application must be made on department forms labeled Part A and Part B shown to be effective after September 1, 1985.

(1) To be eligible for the program, the applicant must:

(A) have a medical condition that is coverable by the program;

(B) have a condition for which there is expectation of improvement and/or an increase in functional independence;

(C) be in financial need as defined by the program;

(D) be under the age of 21 except for persons with cystic fibrosis;

(E) be a resident of Texas as defined by the program.

(2) The person is considered to be an applicant from the time the central office is notified (in writing or by telephone) that the person wishes to make application until the determination of eligibility is made by the central office. The program will respond in writing within 15 working days after Parts A and B of the application are received in the central office regarding eligibility status. Applications will be considered:

(A) denied if eligibility requirements are not met;

(B) incomplete if sufficient family information is not provided (Part A) or if a form effective before September 1, 1985, is used;

(C) pending if medical information is not yet available (Part B);

(D) approved if all criteria are met.

(b) Part A—family circumstances.

(1) The applicant, or parent/guardian/conservator if a minor, must submit a properly completed, signed, and notarized application form to the central office. Any documentation requested on the application must be attached to the form or it will be returned as incomplete.

(2) Information required on Part A includes, but is not limited to:

(A) data about the applicant—name, present location, date of birth, place of birth, social security number if applicable, and whether the applicant is currently eligible for Medicaid;

(B) data about the applicant's legally responsible person(s)—name, relationship, present address and permanent address, telephone, how long at present ad-

dress, whether a resident of the state (requires verification), citizenship status;

(C) health insurance policies providing coverage for the applicant—insurer, policy number, group number, certificate number, and amount of monthly premium;

(D) income of legally responsible person(s)—requires verification;

(E) assets of legally responsible person(s)—description, value, monthly income available;

(F) other members of the household—name, relationship, age, marital status;

(G) other benefits available to the family or applicant;

(H) parent's statement of applicant's medical or health problem;

(I) name of family physician or medical facility used, if applicable;

(J) agreement to furnish the program a copy of the police report if applicant was injured in an auto accident (the police report must be received in the central office before any payment will be made);

(K) whether applicant's legally responsible adult can provide transportation out of town for medical treatment, if necessary.

(L) name, address, and phone number of person assisting the applicant's family in completing the application.

(3) An application, Part A, is considered incomplete for any of the following reasons:

(A) failure to provide information as requested on the form;

(B) lack of supporting documents, as requested on the form (i.e., income, residency, etc.);

(C) omission of signature on the application of parent/guardian/conservator or the adult applicant;

(D) failure of notarization.

(c) Part B—medical information.

(1) In order to determine medical eligibility for the program, Part B of the application form must be completed and sent to the central office. The physician must provide at least the following:

(A) applicant's name, current address, date of birth, and Crippled Children's case number if available;

(B) diagnosis by International Classification of Diseases, Ninth Edition, Clinical Modification, (ICD-9 Codes) and name(s);

(C) services needed, including procedures (with ICD-9 Codes), equipment, and medications;

(D) names and addresses of facilities to be utilized;

(E) medical prognosis;

(F) functional status, current and future;

(G) treatment plan for a period not to exceed 12 months, including follow-up visits, occupational therapy and physical

therapy services, drugs, equipment, and any services required in the home community.

(2) An initial examination is available to persons who do not have a family physician nor access to any medical resource in the local community. The examination is made to insure referral of the applicant to the appropriate specialty. Part A of the application process must be completed and the person determined eligible before authorization for an initial examination can be made. Part B must be submitted as the medical report and attached to the voucher for payment.

(d) Emergency situations. An emergency must be reported by telephone within five working days of emergency care. An emergency is defined as the sudden onset of a life-threatening situation in which a severe debilitating condition or death would result if immediate medical care were not provided. Central office staff will require specific information: the nature of the emergency; diagnosis; services being requested; name and address of facility; name and address of physician; name, current address, and date of birth of patient/applicant; name, address, and telephone of parents if patient/applicant is a minor. Before any payment for services can be authorized, the central office must receive a completed application (Part A and Part B) no later than 30 days after the date of service was initiated. Failure to comply with this 30-day deadline will forfeit the provider's and patient's/applicant's right to any claim for payment.

(e) Verification. The program may request verification of any information given to establish eligibility. This may include more documentation than required on the application if there is incomplete, inadequate, or conflicting information provided. Verification of income, assets, and residency is required as a minimum. Any application that is not accompanied by appropriate documentation will be returned to the sender as an incomplete application. The following information is required.

(1) Residency.

(A) Verification of Texas residency must be attached to the application and may be in the form of a copy of:

(i) a valid driver's license;

(ii) voter registration;

(iii) motor vehicle registration;

(iv) rent or utility receipts for two months prior to the month of application;

(v) school records;

(vi) other documents of proof of residency if considered valid by the central office.

(B) If the applicant is a minor, the residency status of the parent/conservator is applied.

(2) Age. The program may require verification of age through a copy of the ap-

plicant's birth certificate or Texas public school record.

(3) Income/assets.

(A) All income of the applicant or legally responsible person(s) must be verified in at least one of the following ways:

(i) copy of the most recent pay check;

(ii) copy of the most recent pay check stub/monthly employee earnings statement;

(iii) employer's written verification of gross monthly income;

(iv) pension/allotment award letters;

(v) Internal Revenue Service Form 1040 and supporting schedules for the most recently completed year. The program may require submission of this item to verify income and assets.

(B) If the applicant is over the age of 18, a copy of the legally responsible person's Internal Revenue Service Form 1040 may be required to establish the applicant as a dependent.

(C) If the responsible person(s) is unemployed, a statement of termination from the employer or evidence of Texas unemployment insurance enrollment is required. If the applicant can be confirmed as Medicaid eligible, no verification of income is required.

(D) The program will request current information on family circumstances on an annual basis or at any time there appears to have been a change that would affect eligibility status.

(f) Notification of acceptance. The applicant will be notified of eligibility status by mail with 15 working days after Part A and Part B of the application have been received in the central office. Any limitations or restrictions of services will be explained, whether related to financial status, the treatment plan, or the budgetary limitations of the program. Any questions regarding coverage should be addressed to the program and not the provider. Incomplete applications will be returned to the applicant.

(g) Denial. The denial of any application to the program will be in writing and will include the reason(s) for such denial. The applicant has the right of administrative review and an administrative hearing as set out in §37.96 of this title (relating to Appeals).

(h) Reapplication. Any person has the right to reapply for program coverage at any time or when there is change of situation or condition. If there has been no service authorized by the program since September 1, 1984, reapplication will be required for continued program coverage. An updated Part A and Part B must be received by the program on each patient at least once every 12 months so that eligibility can be redetermined.

**§37.86. Authorization of Services for Patient.**

**(a) Types of authorization.**

**(1) Regular authorization.** Authorization is the program's method of approving the payment of services for an active case. If an authorization is issued, it provides a guarantee of payment to the provider. A request for authorization may be received by telephone or in writing prior to the date of service or within five working days of the service date. All conditions of eligibility must be met to be considered an active case. These conditions include: a completed application, current and sufficient financial information, current and sufficient medical information, services that are related to a coverable condition, determination by the program that the applicant is eligible, and either:

(A) an approved provider if required under these §37.90 of this title (relating to Approved Providers and Facilities);

(B) services prescribed by an approved physician or dentist; or

(C) a provider as classified in §37.91 of this title (relating to Other Participating Providers and Facilities). Any procedures or treatment must be among those services listed under §37.84(2) of this title (relating to Services Provided to Patient). The program may prioritize or restrict services according to budgetary limitations. It is the provider's responsibility to request services in specific terms so that an authorization may be issued and sufficient monies encumbered to cover the cost of the service.

**(2) Conditional authorization.** A conditional authorization is the program's method of approving payment on a conditional basis when there is insufficient information available in the central office to determine eligibility. This situation could occur when a new application needs to be made or approved patient information needs updating. A conditional authorization may be issued to the provider with the understanding that the authorization will be honored by the program only if all information needed to establish or confirm eligibility is received in the central office within 30 days of the date the service was initiated, and if all conditions of eligibility are met. The voucher sent to the provider will be marked "conditional" and will list the information and requested documentation needed by the program before payment can be made. Documentation should be attached to the voucher. Conditional authorizations will be canceled after the 30 day deadline if the information is not received.

**(3) Recurring authorization.** A recurring authorization is the program's method of approving a series of services related to an on-going course of treatment for a period of up to six months. Recurring authorizations will be issued only if a written plan of treatment is submitted to the program.

**(b) Third-party reimbursement.** Under the provisions of the law, any private or public medical insurance or other benefits available to the patient must be utilized prior to the use of program funds.

**(1) Public or private health insurance.**

**(A) Any health insurance policies that provide coverage to the applicant/patient must be utilized before the program can be of assistance.** Providers must request authorization of service but must bill private insurance to determine the amount of coverage available prior to submitting any claim to the program for payment. Third-party explanation of benefits (EOB's) must accompany any claim sent to the program for payment. If a claim is rejected by a third party, the provider may bill the program if the service was authorized, and if the rejection letter or EOB is received by the program within 30 days of the date of the rejection, but no later than 180 days from the date of service. Claims rejected by Medicaid or any private insurance on the basis of late filing will not be considered for payment by the program.

**(B) The program will not supplement any Medicaid payments; however, services beyond Medicaid coverage can be provided.**

**(2) Liability cases.** If a patient who is eligible for the program has been involved in an accident that involves potential liability, services may be authorized. The program will file an intervention action at the direction of the commissioner through the attorney general's office in the liability suit to gain reimbursement of expended state funds.

**(c) Full coverage/partial coverage.** The determination of eligibility for the program includes the decision of whether full coverage or partial coverage only will be provided, according to the family's financial status. Authorization of services will be dependent on the coverage allowable.

**(d) Encumbrance system.** At the time of authorization, an encumbrance of monies approximate to the cost of service or according to fee schedules as established by the program will be executed in order to provide a means of fiscal accountability and guarantee of payment to providers.

**(e) Limitations.** The program may limit or restrict services to remain within available funding and to provide effective and efficient administration. The program may establish priorities by type of service for budgetary reasons.

**(1) Authorization of inpatient care is limited to 60 days during a 12-month period and specifically to the number of days allowable according to condition and procedure.** Any extension of the specific allowable will require a conditional authorization from the central office and will be based on medical justification. Friday and weekend admissions are not allowed unless an emergency exists. In emergency situations, unap-

proved providers may request a maximum of two days authorization, or coverage until the patient is stabilized, whichever is less.

**(2) Authorization for inpatient rehabilitation care.** Payment of rehabilitation inpatient care is limited to 90 days during a 12-month period. An initial admission not to exceed 30 days must be based on the functional status and potential of the patient as certified by the physician. Any extension will be dependent on the patient's medical condition, plan of treatment, and progress.

**(3) Physical and occupational therapy services.**

**(A) Physical and occupational therapy services are limited to certain conditions and must not be available from any other source.** Services may be provided when progress can reasonably be expected, and when one or more of the following circumstances exist:

(i) the child is age 0-3 and progress can reasonably be expected;

(ii) the child is over three years of age, not presently eligible for special education services through the public school system, and has experienced a change in medical status resulting in a handicapping condition requiring therapy services;

(iii) the child needs short term therapy to assist the rehabilitation process following medical intervention, for example, surgery;

(iv) the child and/or family needs the assistance of a therapist for instruction in activities of daily living, with or without the use of specialized equipment, to develop independence in the home environment.

**(B) Services are authorized in relation to evaluation and therapy plan, and may be limited as to frequency and duration.**

**(4) Other limitations.** The program may limit or restrict services to remain within available funding and to provide effective and efficient administration. Services may be limited in the following ways (not listed by priority):

(i) conditions covered;

(ii) services provided;

(iii) changes in income guidelines;

(iv) limit of expenditure by case, diagnosis, service, or annual cost;

(v) expectation of improvement;

(vi) level of independent functioning;

(vii) length of stay (LOS) by procedure.

**(f) Services related to surgery (anesthesiology, radiology, pathology).** Services related to surgery are considered authorized at the time of the authorization for surgery, if the individual anesthesiologist, radiologist, and/or pathologist request authorization for payment of services within five working days of the date of service. If the patient is covered by public or private health

insurance, a copy of the letter of rejection must be attached to the claim and received in the central office within 30 days of the date of rejection (see subsection (a)(1) and (2) of this section).

(g) Approved facilities. The program may make special arrangements with medical facilities or providers to provide specialty services for medical screening, diagnosis, treatment, and follow-up for groups of patients for cost-effective reasons. Any such arrangements must be in writing as a letter of agreement or contract.

(h) Out-of-state services.

(1) Since the Act requires that physicians and dentists be licensed to practice in Texas and hospitals be approved by the Board of Health, authorizations for out-of-state services for medical, dental, or hospital care will not be made. The quality of care at medical centers within the state is comparable to that available in other major centers out-of-state, and services should be provided as close to the patient's home as possible. No out-of-state payments will be made for accidents or injuries or illness that occur out of the state.

(2) Exceptions may be made in those situations that develop in Texas where it is clearly a hardship or clearly a great risk for a child to be transported to an adequate medical facility in Texas when an out-of-state facility within 50 miles of the Texas border is closer. Under these circumstances, all program policies and procedures will apply, including the legal requirement that physicians and dentists licensed to practice in Texas be utilized.

#### **§37.87. Denial/Modification/Suspension/Termination of Services.**

(a) Reasons.

(1) Any person requesting or receiving benefits from the program may be notified that such benefits may be denied, modified, suspended, or terminated if:

(A) application information is erroneous or falsified;

(B) the person is no longer a resident of Texas;

(C) pertinent information is not provided when requested;

(D) the medical condition is no longer considered rehabilitative;

(E) the medical condition is improved to the degree that the person no longer qualifies for services;

(F) obligated reimbursement is not provided the program;

(G) the patient attains the age of 21, except for patients with cystic fibrosis; or

(H) program funds are reduced or curtailed.

(2) Persons eligible prior to September 1, 1985, and who have received program benefits after April 1, 1985, will remain eligible for program benefits for a one-time only grace period ending March 31, 1986, or six months after the program

notifies the responsible person, whichever is earlier. After March 31, 1986, all patients must qualify within the criteria stated in these rules to remain eligible for program coverage. Patients eligible prior to September 1, 1985, and who have not received program benefits after April 1, 1985, must reapply for program benefits.

(b) Procedure. The program will notify the parent/guardian/conservator or the patient, if an adult, of the action taken and the reasons for such action in writing. The right of appeal is available as stated in §37.96(a) of this title (relating to Appeals).

#### **§37.88. Rights and Responsibilities of Parents/Guardian/Conservator or the Adult Patient.**

(a) Rights. The parent/guardian/conservator shall have the right:

(1) to apply for eligibility determination;

(2) of free choice of providers within program limitations of approved providers;

(3) to receive services as close to the home community as possible, except when program contracts or policies require the use of specific facilities or specialty centers;

(4) of notification of modification, suspension, or termination of service;

(5) to refuse entry into the home to any employee, agent, or representative of the department;

(6) to appeal program decisions within 30 days of the date of written notification of program decisions.

(b) Responsibilities. The parent/guardian/conservator shall have the responsibility:

(1) to provide accurate information regarding any change of circumstance which might affect eligibility, within 30 days of such change;

(2) to reimburse the program if third-party payments are made directly to the patient or parent/guardian/conservator for services or equipment purchased by the program;

(3) to consult the provider regarding authorization of service prior to service delivery;

(4) to utilize provided services appropriately, especially to keep appointments and to use supplies and equipment judiciously;

(5) to utilize insurance and other assets and to inform service providers of such benefits/assets;

(6) to notify the program of any other benefits available to the patient at the time of application or thereafter;

(7) to bear a portion of the expense of medical or dental care if deemed financially able by the program. Items of routine daily living, such as diapers, are not covered by the program.

#### **§37.89. Providers and Facilities.**

(a) The Act authorizes the board to select the physicians, dentists, facilities, and specialty centers to participate in the program according to criteria and procedures adopted by the board in these sections. Because of the varied needs of handicapped children and many disciplines that work with these children, the program has two types of facilities and providers:

(1) those who have made application for participation in the program and have been notified that they are "approved"; and

(2) those not required to be approved by the program that are considered "other participating providers."

(b) In addition, the law requires that all providers accept program payment as payment in full for services furnished or rendered. Since program fee schedules may be lower than customary charges, the program will make every effort to inform all providers of the program's policies and procedures prior to the delivery of any service.

**§37.90. Approved Providers and Facilities.** The following groups of providers must be processed through an application process to determine their desire to participate within the program's rules as approved by the board and to determine their qualifications in relation to the criteria for participation as decided by the board.

(1) Physicians and dentists. To be approved for program participation the person must submit a fully completed application and attach the documents as requested on the form. Criteria and stipulations include but are not limited to:

(A) a valid license to practice medicine or dentistry in Texas;

(B) board certification in a recognized specialty of the Texas American Board of Medical Specialties, or certification by American dental specialty boards (this requirement may be waived by the program only in exceptional situations, for example, medical emergencies and geographic coverage).

(C) an established practice located within Texas;

(D) a specialty practice in the state for at least one year (in exceptional situations, this requirement may be waived);

(E) the agreement to abide by program rules and regulations and to accept program fees as payment in full.

(2) Hospitals.

(A) Criteria for hospital approval includes, but is not limited to:

(i) current approval by the Joint Commission on Accreditation of Hospitals;

(ii) location within Texas, unless as provided in §37.86(h) of this title (relating to Authorization of Services for Patient).

(iii) program approved medical staff sufficient to meet anticipated program case load;

(iv) a definable pediatric unit or facilities, equipment, and qualified staff necessary to meet the special needs of program eligible patients, as determined by the program;

(v) an occupancy rate during the previous two years not less than the statewide average for the period;

(vi) on-site visits and/or audit privileges to program staff.

(B) To facilitate the availability of medical treatment in all areas of the state, while retaining the assurance of quality care, approval of some hospitals may be on a conditional basis, with restrictions limiting the hospital to treatment of certain specific conditions. Application materials should be updated at least every two years. The program may contract with a limited number of facilities to assure program cost containment.

(3) Ambulatory surgical care facilities.

(A) Ambulatory surgery services may be utilized by the program as a cost efficient means as long as quality of care is assured. Any hospital approved for program participation whose Joint Committee on Accreditation of Hospitals accreditation includes hospital-sponsored ambulatory care services may be utilized for ambulatory surgery. Other facilities that apply for approval and that meet the criteria as set forth by the program, may also qualify for participation. The program may contract with a limited number of facilities to assure program cost containment. As a minimum, such criteria must include:

- (i) rights of patients;
- (ii) governance;
- (iii) administration;
- (iv) quality of care;
- (v) quality assurance program;
- (vi) medical records;
- (vii) facilities and environment;
- (viii) surgical services;
- (ix) pathology and medical laboratory services;
- (x) radiology services; and
- (xi) other professional and technical services.

(B) The program also may use Medicare certification for ambulatory surgical services provided such centers are proficient in pediatric oriented surgery or services related to handicapping conditions. The criteria used by the Bureau of Licensing and Certification, Special Health Services, Texas Department of Health, includes:

- (i) staff requirements;
- (ii) record keeping;
- (iii) state licensure (not applicable in Texas);
- (iv) administration;
- (v) medical staff; and
- (vi) surgical services.

(4) Specialty centers. The program may recognize centers in various localities

in the state which may be designated for program use for diagnosis and treatment of certain conditions needing specialized evaluation and treatment, and comprehensive planning and follow-up. Such facilities must meet specific criteria as set forth by the program. Lists of facilities which are approved for program participation may be obtained from the program.

(5) Other approved providers and facilities. With changes in the health delivery system and in consideration of cost effectiveness and efficiency, the program may, with the approval of the board, establish other areas of approved providers and facilities.

(6) Provider application for program approval.

(A) Applications may be obtained from the central office on request. A copy of the program's rules and regulations and a provider's manual will be mailed to the applicant to provide current information regarding the program. The completed application will be reviewed by program staff for correctness and to verify that all professional criteria have been met, including required documentation. Notification of the status of the application will be made within 15 days of program receipt of the application.

(B) Any provider may withdraw from program participation at any time by notifying the program in writing of its desire to do so.

(7) Denial/modification/suspension/termination of provider or facility approval.

(A) The program may deny, modify, suspend or terminate the approval of providers or facilities for due cause. Any provider or facility submitting false or fraudulent claims or failing to provide and maintain quality services or medically acceptable standards is subject to review, fraud referral, and/or administrative sanctions.

(B) A due process hearing is available to any provider for the resolution of conflict between the program and the provider.

**§37.91. Other Participating Providers and Facilities.** The program may use other types of providers that are not required to apply for approval, and may use nonapproved providers for emergency or follow-up care, or in areas of the state where there are no approved providers available. Like approved providers, unapproved providers must adhere to program rules and the following payment procedure to be assured of program payment.

(1) Examples. Examples of other participating providers and facilities are:

(A) non-approved physicians used for emergencies or follow-up in the local community;

(B) nonapproved hospital outpatient clinics used for follow-up care or related services;

(C) pharmacists;

(D) comprehensive rehabilitation centers, private therapists;

(E) medical supply and/or equipment companies;

(F) meals/lodging facilities;

(G) transportation companies or providers; and

(H) consultants.

(2) Authorization. Providers must request authorization prior to the delivery of service or within five working days of the service date. No payment in advance of service delivery can be made. See §37.86(a) of this title (relating to Authorization of Services for Patient).

(3) Quality assurance. All providers and facilities must meet state licensing, registration, or certification laws as required for their discipline or organization.

(4) Program fee schedules. All providers and facilities must accept the fees as set by the program as payment in full. This means that the provider or facility cannot bill parent/guardian/conservator or the adult recipient for the difference between their regular fees and those paid by the program.

**§37.92. Contracts and Written Agreements.** In order to conserve funds and effectively administer the program, the central office may contract on a bid basis for treatment, equipment, medications, supplies, and other services. The program may enter into contracts or written agreements with individuals or organizations in regard to the development and improvement of standards and services for the program. The program may utilize consultants from any medical or dental specialty or other discipline to address specific issues and problems in relation to the identification, diagnosis and evaluation, or rehabilitation of handicapped children or young adults.

**§37.93. Payment of Services.** Payment for any service authorized by the program may be made only after the delivery of the service. If a service has been authorized by the program for payment, the family must not be billed for the service or be required to make a preadmission or pretreatment payment or deposit. Providers and facilities must agree to accept established fees as payment in full although such fees may be below usual and customary charges.

(1) Claims payment, denial, rejection. All payments made in behalf of a recipient will be for claims received by the program within 90 days after the date of service rendered (90-day filing deadline), and/or within the submission deadlines listed in subparagraphs (B)-(C) of this paragraph. Claims will either be paid, denied, or rejected.

(A) Claims will be paid if submitted on the program approved voucher, if authorized and if required documentation is received with the voucher.

(B) Denied claims are claims which are incomplete, submitted on the wrong form, or contain inaccurate information when originally submitted.

(i) Payment may be made if the provider corrections are accomplished and the claim is returned to the program within 30 days from the program's notice of denial or within the initial 90-day filing deadline, whichever is later.

(ii) If the claim is incomplete because it lacks other third-party explanation of benefits (EOB), payment may be made if the original claim and completed EOB's are received by the program within 30 days from the date of the third-party EOB, but no later than 180 days from the date of service.

(iii) Claims that have been denied in error by the program may be reconsidered for payment if the claims, with the error identified, are returned to the program within 30 days of the date of the denial notice, or within the initial 90-day filing deadline, whichever is later.

(iv) Claims that have been denied and are resubmitted for payment must be corrected and be accompanied by a copy of the program notice of denial. Corrections must be made to the original voucher (claim) if at all possible. If a new voucher is submitted, the original claim form must accompany the new voucher. Additional services will not be considered for payment on a resubmitted claim.

(C) Rejected claims are claims which fail to meet the filing deadline or are for ineligible recipients or services.

(i) Claims which have been rejected in error by the program may be reconsidered for payment if the claims, with the error identified, are returned to the program within 30 days of the date of the rejection notice, or within the initial 90-day filing deadline, whichever is later.

(ii) Claims which have been rejected but filed within the 90 day period, if resubmitted for payment, must be corrected. A copy of the program rejection notice must accompany the original claim. Corrections must be made on the original voucher (claim) if at all possible. If a new voucher is prepared, the original voucher must accompany the new claim form. Additional services will not be considered for payment on a resubmitted claim.

(D) Denied or rejected claims which do not meet the criteria in subparagraphs (B) or (C) of this paragraph may still be appealed through the program administrative review process or through the due process hearing procedure of the department.

## (2) Hospitals.

### (A) Ratio of costs to charges.

(i) Inpatient and outpatient charges will be adjusted by the hospital's most recent ratio of costs to charges (RCC). This ratio cannot exceed 100%. The program may reimburse at less than 100% of

the RCC due to equity of reimbursement and/or availability of funds.

(ii) All hospitals are required to submit within 90 days after the close of their fiscal year a sworn statement of costs and charges used to determine their current RCC allowable under the provisions of Title XVIII and charges used to determine their current RCC. Hospitals may request revision of their RCC at any time during the year by submitting the required statement of allowable costs and charges. When requested, hospital records supporting these statements must be made available for examination by duly authorized representatives of the program. The ratio of costs to charges must be applied to the total bill, excluding personal items. A patient abstract summary and/or discharge summary must be submitted with the payment voucher for inpatient services. A periodic evaluative report should be submitted at least every 6 months to determine the medical necessity for the patient to continue receiving outpatient services.

(B) Other methods of payment. The program may utilize other methods of payment to hospitals if the RCC is discontinued by Medicare or if the program adopts a more cost effective method to pay for inpatient care. The program must give at least a 30-day notice to approved hospitals at any time there is a change in method of payment.

(3) Claims with insurance coverage. Any health insurance policies that provide coverage to the applicant/patient must be utilized before the program can be of assistance. Providers must bill private or public insurance to determine the amount of coverage available prior to submitting any claim to the program for payment. The provider may bill the program if the service was authorized, and if the explanation of benefits (EOB) or the rejection letter is attached to the voucher and is received by the program within 30 days of the date of the rejection, but no later than 180 days after the date of service.

(4) Program fee schedules. The program has adopted fee schedules which apply to most authorized services. Fee schedules are revised as appropriate in relation to available funding and customary charges. The program may adopt other fee schedules through contract or written agreement for budgetary or administrative reasons.

(5) Required documentation. The program requires documentation of the delivery of goods and services from the provider or facility. Program provider information is available to various kinds of providers and facilities on request and notification will be given regarding changes in policies and procedures for required documentation needed.

(6) 90-day claims submission deadline. No claim may be considered for program payment if it reaches the central

office later than 90 calendar days after the date of service, except for claims involving third party reimbursement, as provided in paragraph (1) of this section.

§37.94. *Payment Suspension or Cancellation.* The program may suspend or cancel payment for services if false or fraudulent claims are submitted by a provider or supplier. Any provider or supplier failing to provide and maintain quality services or medically acceptable standards is subject to review, fraud referral, and/or administrative sanctions. Providers may request a due process hearing from the department.

## §37.95. *Development and Improvement of Standards and Services.*

(a) Advisory committees. The department may establish advisory committees to assist the program with the development of policy alternatives as recommendations to the department. Such areas as medical criteria for program coverage and standards for providers may be addressed by the committee. The composition of advisory committees should include representation by physicians, dentists, facilities, other providers, and the general public. The department will decide the composition, mission, and member compensation of each committee prior to the establishment of the committee. In addition to policy advisory committees, the department may establish an advisory medical review team to review exceptional medical cases; of applicants and patients and recommend to the program the extent of coverage permissible under the existing medical policies of the program.

### (b) Utilization review.

(1) Utilization review activities may be accomplished through monitoring systems developed to ensure that services are of the appropriate quality and quantity. Utilization review will focus on the medical necessity of all services and the quality of care as reflected by the choice of services provided and the type of provider involved, to ensure an efficient and cost effective administration of the program.

(2) For economies of scale, and with the consent of the commissioner, the program may contract for concurrent or retrospective reviews of all or part of patient care services reimbursed through the program.

(c) Quality assurance. The program may establish a quality assurance unit to review the delivery of services at all levels, that is, central office, regional and local health departments, and direct service providers. The unit may provide professional support as well as reviewing service delivery components. It should also review consumer satisfaction.

(d) Cooperation with other agencies. The department will cooperate with public agencies, federal, state, and local, and with private agencies and individuals interested in the welfare of crippled children. The program will make every effort to establish co-

operative agreements with other state agencies to define the responsibilities of each agency in relation to specific programs to avoid duplication of services.

**§37.96. Appeals.**

(a) Right of appeal. Any person aggrieved by a program decision to modify, suspend, or terminate benefits or participation rights may appeal the decision in the following manner:

(1) Administrative review.

(A) Within 10 working days after receiving notice of modification, suspension, or termination of benefits, the person aggrieved must respond to, or question, the program's decision and notify the central office by certified mail of their request for an administrative review of the program's decision. Additional information bearing on the decision may be submitted at this time.

(B) Upon receipt of this response, a program administrative review team will affirm or reverse the proposed action, and respond in writing to the person, giving the reason(s) for the decision.

(C) Any person aggrieved by the program's administrative review may request a due process hearing from the department.

(2) Due process.

(A) Within 10 working days after receiving the administrative review team's decision, the person must send a notice to the central office by certified mail requesting a due process hearing.

(B) The department will set a date and time at the Texas Department of Health Central Office in Austin, Texas, for the hearing.

(C) The hearing will be conducted in accordance with the provisions of the Act.

(b) Confidentiality of information. All medical records and other information maintained by the department which is confidential by law shall not be disclosed to the public.

(c) Gifts and donations. The department may receive gifts and donations in behalf of the program, which are deposited in the state treasury and-reappropriated to the program.

(d) Nondiscrimination statement. The Texas Department of Health operates in compliance with the Civil Rights Act of 1964, Title VI, (Public Law 88-352) and 45 Code of Federal Regulations Part 80 so that no person will be excluded from participation in, or otherwise subjected to discrimination on the grounds of race, color, or national origin.

**§37.98. Income Guidelines.** The department adopts by reference the income guidelines set out in these sections. A copy of the guidelines is indexed and filed in the Bureau of Crippled Children's Services, Texas Department of Health, 1101 East Anderson Lane, Austin, Texas, and is available for

public inspection during regular working hours.

**§37.107. Medical Eligibility Criteria.** The department adopts by reference the medical eligibility criteria mentioned in these sections. A copy of the criteria is indexed and filed in the Bureau of Crippled Children's Services, Texas Department of Health, 1101 East Anderson Lane, Austin, Texas, and is available for public inspection during regular working hours.

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

Issued in Austin, Texas, on April 30, 1985.

TRD-853833

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

Proposed date of adoption:

July 20, 1985

For further information, please call  
(512) 465-2880.

★ ★ ★

## Chapter 157. Emergency Medical Care

### Emergency Medical Services

#### ★ 25 TAC §157.79

The Texas Department of Health proposes new §157.79, concerning medical direction/supervision of prehospital care.

Stephen Seale, chief accountant III, has determined that there will be no fiscal implications for state or local governments or small business as a result of enforcing or administering the rule.

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 establishment of the qualifications, authority, and responsibility of the physician providing medical direction/supervision of prehospital care. There is no anticipated possible economic cost to individuals who are required to comply with the rules as proposed.

Comment on the proposal may be submitted to Charles H. Gregory, M.D., Chief, Bureau of Emergency Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Comments will be accepted for 90 days after publication of the rule in *Texas Register*. In addition, a public hearing on this rule will be held at 10 a.m. on Thursday, July 18, 1985, in the auditorium, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

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

#### §157.79. Medical Direction/Supervision of Prehospital Care.

(a) Purpose. The purpose of this section is to provide guidelines for the medical direction/supervision of prehospital care delivered by certified Emergency Medical Services (EMS) personnel as defined in §157.62 of this title (relating to Definitions). This section is not intended to, and shall not be construed to, replace the requirements of the Medical Practice Act, Texas Civil Statutes, Article 4495b, or the rules promulgated under 22 TAC Chapter 197 (relating to Emergency Medical Service).

(b) Qualifications of a medical director. The medical director shall be:

(1) a physician licensed to practice in Texas;

(2) familiar with the design and operation of EMS systems;

(3) experienced in prehospital emergency care of acutely ill or injured patients; and

(4) actively involved in:

(A) the emergency management of acutely ill and/or injured patients;

(B) the training and/or continuing education of EMS personnel under the medical director's supervision at their level of certification;

(C) the medical audit, review, and critique of basic and advanced level of EMS personnel; and

(D) the administrative and legislative processes affecting regional and/or state prehospital EMS organizations.

(c) Authority and/or responsibility of the medical director. The medical director in conjunction with the local EMS administrator and other local advisory boards or committees shall:

(1) approve the level of prehospital care which may be rendered locally by each of the EMS personnel employed by and/or volunteering with the EMS under the medical director's supervision, regardless of the level of state certification, before the certificant is permitted to provide prehospital care to the public;

(2) establish and monitor field performance standards for the EMS personnel of the service;

(3) establish and monitor training standards equal to and/or above the minimum standards as in §157.77 of this title (relating to EMS Training Program and Course Approval);

(4) develop, implement, and revise protocols (standing delegation orders) governing prehospital care and medical aspects of patient triage, transport, transfer, dispatch, extrication, rescue, and radio-telephone-telemetry communication by the EMS;



(5) inspect, evaluate and approve the performance specifications for all patient care equipment used by the EMS service including equipment required by §§157.67-157.69 of this title (relating to Basic Life Support Vehicle Requirements for a Permit, Advanced Life Support Vehicle Requirements for a Permit, and Mobile Intensive Care Unit Requirements for a Permit), and/or exceeding these minimum requirements;

(6) plan, develop, and implement a system for the ongoing medical audit of prehospital patient care rendered by the EMS and field performance by individual physicians, nurses, or EMS personnel. This auditing system shall provide for, but not be limited to:

(A) routine and unscheduled on-site evaluation of the field and base station physicians, nurses, or EMS personnel under the medical director's supervision;

(B) a comprehensive mechanism for receipt, investigation, and disposal of medically related complaints about the service provided by the EMS;

(C) an organized method for internal collection of operational and patient care data, including access to both prehospital and outcome records to permit identification of problems impacting the quality of patient care;

(7) make formal recommendations on medically related aspects of operation of the EMS;

(8) function as the primary liaison with the EMS administrative hierarchy and the local medical community, ascertaining and being responsive to their needs; and

(9) develop a letter of agreement between the medical director(s) and the EMS administrative hierarchy outlining the specific responsibilities and authorities. The agreement should outline the process or procedure by which the medical director, as required by 22 TAC Chapter 197 (relating to Emergency Medical Service), may withdraw responsibility for the EMS personnel noncompliance with the EMS Act, Texas Civil Statutes, Article 4447o, rules promulgated this chapter and accepted medical standards.

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

Issued in Austin, Texas, on April 30, 1985.

TRD-853834

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

Proposed date of adoption:  
August 17, 1985

For further information, please call  
(512) 485-2801.

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## Chapter 325. Solid Waste Management

The following proposals submitted by the Texas Department of Health will be serialized in the May 10, 1985, issue of the *Texas Register*. The proposed date of adoption for the documents is July 20, 1985.

Subchapter A. General Information  
§325.3, §325.5  
(amendment)

Subchapter C. Municipal Solid Waste Collection and Transportation  
§325.31, §325.32  
(amendment)

Subchapter D. Classification of Municipal Solid Waste Sites  
§325.42  
(amendment)

Subchapter E. Permit Procedures and Design Criteria Permits  
§§325.51, 325.52, 325.55, 325.60-325.62  
(amendment)

Application and Data Requirements  
§§325.71-325.75  
(amendment)

Application and Review Process  
§§325.91-325.95  
(amendment)

Subchapter F. Operational Standards for Solid Waste Land Disposal Sites  
General  
§325.111  
(amendment)

§325.114  
(new)

Standards for Protection of Ground and Surface Waters  
§§325.121-325.124  
(amendment)

Other Operational Standards for Types I, II, III, and IV Sites  
§§325.133, 325.138, 325.137, 325.140, 325.150, 325.152-325.154  
(amendment)

Subchapter G. Operational Standards for Solid Waste Processing and Experimental Sites  
General  
§325.171  
(amendment)

Operational Standards for Types V and VI Sites  
§325.183  
(amendment)

Subchapter H. Surveillance and Enforcement  
§325.221, §325.222  
(amendment)

## TITLE 34. PUBLIC FINANCE

### Part I. Comptroller of Public Accounts

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

★ 34 TAC §3.298

The Comptroller of Public Accounts proposes new §3.298, concerning amusement services. This new section explains the sales tax law on amusement services which was added during the 68th Legislature, 2nd Called Session, 1984. The new section describes the sales tax responsibilities of ticket agents and amusement promoters. The tax on amusements became effective October 2, 1984. The section was adopted on an emergency basis on October 29, 1984, and again on February 13, 1985.

Billy Hamilton, revenue estimating 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 as a result of enforcing or administering the rule. This section is promulgated under the Tax Code, Title 2, and no statement of the fiscal implications 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 the provision of notice of changes due to tax law revisions. 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 D. Carolyn Busch, Director, Tax Administration, P.O. Box 13528, Austin, Texas 78711.

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

§3.298. *Amusement Services.*

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

(i) Amusement services—Entertainment, recreation, sport, pastime, diversion, or enjoyment that is a pleasurable occupation of the senses. Amusement services and places offering amusement services include, but are not limited to, the following:

(A) live or recorded performances, whether by individual ticket or by season ticket:

- (i) ballet performances;
- (ii) circuses;
- (iii) ice skating shows;
- (iv) motion pictures;
- (v) musical concerts;

(vi) opera performances;  
(vii) outdoor theatres;  
(viii) theatres (movies and plays);

(B) exhibitions or displays:

(i) animal shows (contests, exhibitions);  
(ii) antique shows;  
(iii) aquatic shows;  
(iv) arts and crafts, and art shows (fairs);  
(v) auto shows;  
(vi) museums (displaying art objects, wax figures, antique autos, etc.); and

(vii) zoos;

(C) spectator sports:

(i) dragstrip operation;  
(ii) horse shows (horse riding exhibitions);  
(iii) motorcycle races;  
(iv) automobile races (full size and miniature cars);  
(v) rodeo;  
(vi) sporting events such as football, baseball, basketball, hockey, and soccer games; and  
(vii) wrestling, boxing, or arm wrestling;

(D) participatory sports or games:

(i) athletic clubs;  
(ii) bowling games;  
(iii) court fees—tennis, racketball, handball, etc.;  
(iv) domino games (including by the hour);

(v) go-cart raceways;  
(vi) golf courses;  
(vii) golf driving ranges;  
(viii) health clubs (spas) (admissions and memberships);

(ix) miniature golf courses;  
(x) chartered boat or party boat fishing excursions;

(xi) pool (billiards) games (by the game or by the hour);

(xii) skate board tracks;  
(xiii) skating rinks (roller skating and ice skating);

(xiv) swimming pools;  
(xv) water slides;  
(xvi) physical fitness centers;

(E) fairs or carnivals:

(i) amusement parks;  
(ii) carnivals;  
(iii) fairs;  
(iv) games of skill, at circus, carnival, etc.;  
(v) shooting galleries (ranges); and

(vi) side shows;

(F) other:

(i) cover charges (live entertainment/night clubs, dance halls);  
(ii) hot tub concessions;  
(iii) parties (New Year's Eve) sponsored by radio stations, hotels, etc. Ticket price includes meal, setups, live entertainment, party favors;

(iv) rides (for pleasure) (in hot-air balloons, helicopters, trains, ships);  
(v) tour trains and buses,

whose primary purpose is to show tourist sights along a route as opposed to regular transportation; and

(vi) tours of tourist attractions such as ships, buildings, and monuments and natural wonders such as caves and caverns.

(2) Nonamusement services—Activities which are primarily social or instructional in nature. Places and services not covered by the tax on amusement services include but are not limited to:

(A) memberships or initiation fees to clubs, which are primarily social in nature or any type of hobby club;

(B) instructions for any sport or musical discipline;

(C) camps for children (day camps or boarding camps);

(D) activities or memberships centered on cooking, dining, or eating;

(E) video cassette clubs;

(F) political fundraisers;

(G) campground admissions.

(3) Occasional sale—The sale of not more than 10 admissions for amusement services during a 12-month period by a person who does not hold himself out as engaging, or does not habitually engage, in the selling of amusement services.

(4) Provider of an amusement service—The person who has legal rights of ownership over or the legal right to provide, present, or offer an amusement, entertainment or recreation that is rendered on a regular basis at a fixed location and for which admissions are sold, such as the owner of the wax figure display at a wax museum. The provider of an amusement service is also the person who has legal rights of ownership to an amusement, entertainment, or recreation that will not be rendered on a regular basis at a fixed location and for which amusement service admissions will be sold, such as the provider of a one-night live performance by a singer. A provider of an amusement service may be, but is not always, the owner of the facility (land and/or building) at which the amusement service is offered or performed. A provider of an amusement service may gain the right of providing an amusement service by virtue of a contract or agreement (lease, rental, concession right) with the performer(s) of the entertainment or with a facility owner when the use of that facility constitutes the amusement service. Terms used within the amusements industry to refer to a provider include "manager," "promoter," "concessionaire," "tenant," or "association (or club) president."

(5) Sales price of an amusement service—The fee charged for admission to an amusement including a convenience fee, handling charge, service charge, or other amount over and above the amount that would be charged for an amusement admis-

sion at the ticket counter of the facility at which the amusement service will be rendered.

(6) Seller of admissions to amusement services—A person who sells more than 10 admissions to amusement services during a 12-month period and includes those persons who hold themselves out as engaging, or who habitually engage, in the selling of admissions to amusement services.

(7) Sale of an amusement service admission—The transfer of title to or possession of a ticket or other admission document for a consideration or the collection of an admission, membership, or enrollment fee, whether by individual performance, subscription series, or membership privilege, or through the use of a coin-operated or credit-card-operated machine. The consideration paid may secure the admission privilege for an individual or a group of individuals. The contract or agreement whereby the right is secured for a provider to offer an amusement, recreation, or entertainment as an amusement service is not the sale of an admission to an amusement service and is not subject to sales tax, such as the paying of a fee to a singer for a performance that will be provided by the payer of the fee as an amusement service through the sales of tickets.

(b) Social clubs or hobby clubs. Separate charges by persons operating social clubs or hobby clubs over and above amounts received for membership or initiation fees which are attributable to recreational activities such as green fees, admissions to swimming pools, racketball courts, or tennis courts will be taxable.

(c) Entry fees. Entry fees will not be taxable as amusements if:

(1) the fee substantially exceeds what would normally be paid for using the facility and a person is paying to compete in a contest, and part of the fee goes toward the cost of conducting the contest and for prizes; or

(2) an individual would not normally use the facility, or pay a fee except for the purpose of participating in a contest.

(d) Travel agencies.

(1) Tickets to amusements sold by travel agencies as part of a travel package are taxable only if:

(A) the price of the ticket is separately stated from the price for the remainder of the package; or

(B) though not separately stated, the surrounding additional costs are inconsequential.

(2) If the sales tax is not required to be collected by the travel agency, sales tax must be paid at the time the travel agency purchases the tickets originally.

(e) Imposition of tax.

(1) Sales tax is due on the sale of an admission to an amusement service if the event occurs within the State of Texas. Sales tax is not due on the sale of an admission

to an amusement service if the event takes place outside Texas.

(2) Use tax is due on an out-of-state sale of an admission to an amusement event that will take place in Texas.

(3) When there is a sale of an amusement service which does not involve the transfer of a ticket or other physical evidence of admission, possession of or title to the admission is to be regarded as taking place at the seller's place of business. An example would be when admission is secured by a reservation made by the seller for the purchaser.

(g) Taxable item sold or transferred with amusement service.

(1) Sales tax is not due on a taxable item purchased to be sold or transferred as an integral part of any amusement service. See §3.285 of this title (relating to Sales for Resale; Resale Certificate). Examples of such items include, but are not limited to, tickets, printed programs that are provided as part of the admission price, bowling balls provided with the purchase of bowling game admissions, and prizes given with games at carnivals and fairs. The seller of such items must secure a valid resale certificate from the purchaser.

(2) Any item such as machinery or equipment purchased to be used in the providing of an amusement service is not an item transferred with an amusement service and is subject to sales tax.

(h) Exemptions.

(1) Sales tax is not due on the sale of an amusement service if the service is provided by:

(A) a nonprofit organization, corporation, or association if the proceeds do not go to the benefit of an individual except as a part of the services of a purely public charity;

(B) a nonprofit corporation organized under the laws of this state for the purpose of encouraging agriculture by the maintenance of public fairs and exhibitions;

(C) an educational, religious, law enforcement, or charitable association or organization as long as no part of the proceeds goes to the benefit of a private individual;

(D) the State of Texas, a municipality, county, school district, special district, or other political subdivision of the State of Texas;

(E) the United States; or

(F) a person in a national historical district.

(2) Sales tax is not due on the sale of an amusement service by a ticket service, ticket agent, ticket outlet, or any other seller of amusement services when the provider of the amusement service is exempt as set forth in paragraph (1) of this subsection.

(3) Sales tax is not due on the sales of admissions to an amusement service when:

(A) there are joint (more than one) providers of an amusement service; and

(B) at least one of the providers is exempt from collecting tax on its sales of amusement services as set forth in paragraph (1) of this subsection; and

(C) the exempt provider stands a risk of substantial loss if the amusement service fails to make a profit and will make a substantial profit if the amusement service is a successful venture. At no time will the gain or loss be considered substantial if the gain or loss is equal to or less than the tax that should have been collected.

(4) Sales tax is due on the sale of an amusement service by nonprofit organizations, corporations, or associations when the provider of the amusement service, as defined in subsection (a)(4) of this section, is a profit-making organization.

(5) Amusement services provided through coin-operated machines that are operated by the consumer are exempt from sales tax. The coin used to operate the machine may be a token as well as a U.S. coin. Examples are coin-operated:

(A) pinball machines;

(B) video games and motion pictures;

(C) pool tables;

(D) televisions;

(E) shuffleboard;

(F) juke boxes; and

(G) batting cages.

(6) Sales tax is not due on the occasional sale of an amusement service.

(7) Sales tax is not due on the purchase of an amusement service by an exempt entity for its own amusement or for the amusement of its members. See §3.322 of this title (relating to Exempt Organizations). The seller must secure a valid exemption certificate.

(8) Sales tax is not due on the purchase of the admission to an activity which may be classified as an amusement, entertainment, or recreation if purchased under a written prescription of a licensed practitioner of the healing arts for the primary purpose of health maintenance or improvement. The written prescription must specify the type of the treatment needed. If a membership privilege is purchased pursuant to a written prescription, a new prescription must be obtained each time the membership is renewed.

(i) Collection of the tax.

(1) Persons who sell admissions to an amusement service for resale may accept a resale certificate from the purchaser of the amusement in lieu of tax. The resale certificate will cover all convenience fees, handling charges, service charges, etc., added to the sales price of the admission by promoters, ticket services, and others.

(2) Each seller of amusement services selling to the final consumer must collect and remit the tax to the comptroller on the total receipts from all taxable sales. A

seller will be responsible for remitting the correct amount of tax based on the total sales price of admissions including any charges added by others.

(3) The comptroller may regard any seller of an admission to an amusement service as the agent of the person from whom he obtains the tickets or other admission document if the comptroller determines that the tax will be collected more efficiently. The seller of an admission to amusement service will be regarded as agent if:

(A) the person providing the tickets or other admission documents obtains written authorization from the comptroller to assume responsibility for the tax collection of his agent;

(B) the person providing the tickets includes in the sales price of the admission any convenience fee, handling charge, etc., added on by his agent; and

(C) the provider of the tickets gives to the seller/agent a written statement that the provider is assuming responsibility for tax collection and reporting for the tax collections of his agent.

(j) Records. Every seller of admissions to amusement services is responsible for keeping accurate records of all sales and purchases. See §3.281 of this title (relating to Records Required; Information Required). Every seller of admissions to amusement services must hold a sales tax permit and must file reports as required by §3.286 of this title (relating to Seller's Responsibilities).

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

Issued in Austin, Texas, on May 1, 1985.

TRD-953980

Bob Bullock  
Comptroller of Public  
Accounts

Earliest possible date of adoption:  
June 7, 1985

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

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## Subchapter Q. Franchise Tax

### ★34 TAC §3.411

The Comptroller of Public Accounts proposes new §3.411, concerning banking corporations. The new section reflects changes to the Franchise Tax Act made by the legislature. The franchise tax exemption for banks was repealed, and banks will be subject to the franchise tax beginning May 1, 1985. Banks are subject to the same franchise tax rules as other corporations unless specified otherwise. A major change for banks that does not apply to other corporations is that div-

dends and interest received by a bank will be allocated to the commercial domicile of the bank. In addition to reports required to be filed by other corporations, banks will be required to file a supplemental report showing the allocation of the franchise tax for the taxing units in which the bank's principal office in Texas is located. The comptroller and taxing units will have certain time limits and responsibilities and the enforcement of the franchise tax for banks will differ from the enforcement for other corporations.

Billy Hamilton, revenue estimating 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 as a result of enforcing or administering the rule. This section is promulgated under the Tax Code, Title 2, and no statement of fiscal implications 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 that local taxing units will receive tax revenue to replace revenue from bank property taxes which were declared unconstitutional. 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 D. Carolyn Busch, Director, Tax Administration, P.O. Box 13528, Austin, Texas 78711.

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

#### §3.411. Banking Corporations.

(a) Banks subject to tax. All banks, including banks organized under the Federal Reserve Act, §25(a) (12 United States Code Parts 611-631; edge corporations), that are chartered, authorized to do business, or doing business in Texas are subject to Texas franchise tax beginning May 1, 1985, unless specifically listed as not subject to the tax under subsection (b) of this section.

(b) Banks not subject to tax. The following banks are not subject to Texas franchise tax:

(1) non-Texas banks doing business in Texas solely in a fiduciary capacity and registered with the Office of the Secretary of State under the Texas Probate Code, §105A;

(2) banks doing business solely on federal enclaves in Texas where no taxing units could impose a property tax on the bank; and

(3) unincorporated private banks doing business in Texas.

(c) Other franchise tax provisions apply. All provisions of this subchapter, concerning the Texas franchise tax, are applicable to banks, except that this section

will control if it conflicts with another section of this subchapter.

(d) Dividends and interest. All dividends and interest received by a bank with its commercial domicile in Texas are Texas gross receipts. If the bank's commercial domicile is not in Texas, no dividends or interest received by the bank will be considered Texas gross receipts. In either case, all dividends and interest are considered gross receipts everywhere.

(e) Non-Texas banks. The tax paid by a non-Texas bank, with more than one office in Texas and principal office in Texas, will be allocated to all taxing units in which the offices in Texas are located, based on the percentage each taxing unit's rate is of all the taxing units' rates. For reporting and allocation purposes, each office will be treated as though it were a principal office.

(f) Supplemental report.

(1) Each time a bank files an initial report or an annual report, it must also file a supplemental report showing:

(A) the name of each taxing unit in which the bank's principal Texas office was located as of January 1 of the report year;

(B) the property tax rate for each of the taxing units for the year ending before the report year;

(C) the percentage each taxing unit's rate is of all of the taxing units' rates; and

(D) for each taxing unit, the percentage in subsection (f)(1)(C) of this section multiplied by the banks' total franchise tax liability.

(2) On or before the due date for the filing of the initial or annual franchise tax report, each bank must file a copy of the franchise tax report and the supplemental report with the comptroller and with each taxing unit required to be listed on the supplemental report.

(g) Comptroller.

(1) Allocation to taxing unit.

(A) The comptroller will transmit to each taxing unit its share of the tax, penalty, and interest as soon as possible after it is collected. The comptroller will deduct 2.0% of the amount collected as a fee for its services and 5.0% of the amount collected to make refunds of overpayments, adjustments to allocations, and redeem dishonored checks.

(B) If the overpayment or adjustment is more than the 5.0% withheld, future allocations to the taxing unit which has been overpaid will be reduced until the overpayment or adjustment has been recovered. The comptroller, in his discretion, may require the taxing unit to immediately return the overpayment to the comptroller.

(2) Comptroller's report. Before October 1 of each year, the comptroller will make a report to each taxing unit within which a bank reported having its principal office. The report will contain:

(A) the name, address, and account number of each banking corporation having its principal office within the taxing unit;

(B) the total amount of franchise tax paid by the bank;

(C) the taxing unit's share of the total amount of franchise tax paid by the bank; and

(D) whether the bank has failed to pay some or all of its franchise tax.

(h) Taxing units.

(1) Supplemental report. A taxing unit has 30 days after receipt of a supplemental report within which to notify the comptroller of an error in the report. The report will be presumed to be received by the taxing unit the day it is received by the comptroller. The taxing unit must notify the comptroller in writing by setting forth each specific ground upon which the taxing unit believes the report to be in error. If timely notification is not given to the comptroller, no taxing unit listed on the supplemental report may object to the apportionment percentages set forth in the report.

(2) Comptroller's report. A taxing unit has through September 30 of the year after the year in which a comptroller's report is due within which to notify the comptroller of the name and address of a bank whose principal office was within the taxing unit and which was not included in the comptroller's report. The comptroller has 60 days after receipt of the notification within which to respond to the taxing unit. The taxing unit has 30 days after receipt of the comptroller's response within which to notify the comptroller that the taxing unit is not satisfied with the comptroller's response. The taxing unit must notify the comptroller in writing by setting forth each specific ground in which the taxing unit believes the response to be in error. If timely notification is not given to the comptroller, any determination set forth in the comptroller's response becomes final 30 days after receipt of the response by the taxing unit.

(i) Enforcement.

(A) All taxes, penalties, and interest due by a bank are secured by a lien on all of the bank's property that is subject to execution and is owned at the time the lien attaches. The lien attaches the day the tax becomes due and payable.

(2) The attorney general may bring suit in the name of the state to recover delinquent taxes, penalties, and interest.

(3) The Banking Department of Texas is required to revoke the charter of any banking corporation certified by the comptroller as being delinquent in the payment of its franchise tax.

(4) Except as provided in paragraph (3) of this subsection, no bank will have its corporate privileges or charter forfeited for not paying its franchise tax.

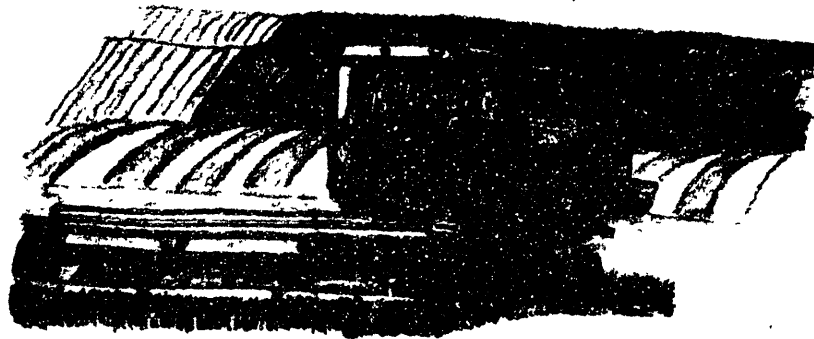
This agency hereby certifies that the proposal has been reviewed by legal counsel

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

Issued in Austin, Texas, on May 1, 1985.

TRD-853861      Bob Bullock  
                    Comptroller of Public  
                    Accounts

Earliest possible date of adoption:  
June 7, 1985  
For further information, please call  
(512) 475-1913.



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# Withdrawn

**Rules** An agency may withdraw proposed action or the remaining effectiveness of emergency action on a rule by filing a notice of withdrawal with the *Texas Register*. The notice is effective immediately upon filing. If a proposal is not adopted or withdrawn within six months after the date of publication in the *Register*, it will automatically be withdrawn by the *Texas Register* office and a notice of the withdrawal will appear in the *Register*.

## TITLE 16. ECONOMIC REGULATION

### Part I. Railroad Commission of Texas

#### Chapter 11. Surface Mining and Reclamation Division

##### Subchapter E. Substantive Rules Iron Ore and Iron Ore Gravel Mining

###### Introduction

★ 16 TAC §§11.301, 11.302

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed new §§11.301 and §11.302 submitted by the Railroad Commission of Texas have been automatically withdrawn, effective April 29, 1985. The new sections as proposed appeared in the October 28, 1984, issue of the *Texas Register* (9 TexReg 5510).

TRD-853716  
Filed: April 29, 1985

★ ★ ★

###### Definitions

★ 16 TAC §§11.311, 11.312

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed new §§11.311 and §11.312 submitted by the Railroad Commission of Texas have been automatically withdrawn, effective April 29, 1985. The new sections as proposed appeared in the October 28, 1984, issue of the *Texas Register* (9 TexReg 5511).

TRD-853715  
Filed: April 29, 1985

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###### Surface Mining Permits

★ 16 TAC §§11.321-11.332

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed new §§11.321-11.332 submitted by the Railroad Commission of Texas have been automatically withdrawn, effective April 29, 1985. The new sections as proposed appeared in the October 28,

1984, issue of the *Texas Register* (9 TexReg 5512).

TRD-853714  
Filed: April 29, 1985

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###### Termination, Suspension, Revision, and Correction of Permits

★ 16 TAC §§11.341-11.345

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed new §§11.341-11.345 submitted by the Railroad Commission of Texas have been automatically withdrawn, effective April 29, 1985. The new sections as proposed appeared in the October 28, 1984, issue of the *Texas Register* (9 TexReg 5516).

TRD-853713  
Filed: April 29, 1985

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###### Exploration Activities

★ 16 TAC §§11.361-11.363

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed new §§11.361-11.363 submitted by the Railroad Commission of Texas have been automatically withdrawn, effective April 29, 1985. The new sections as proposed appeared in the October 28, 1984, issue of the *Texas Register* (9 TexReg 5518).

TRD-853712  
Filed: April 29, 1985

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###### Reclamation

★ 16 TAC §§11.371-11.373

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed new §§11.371-11.373 submitted by the Railroad Commission of Texas have been automatically withdrawn, effective April 29, 1985. The new sections as proposed appeared in the October 28,

1984, issue of the *Texas Register* (9 TexReg 5519).

TRD-853711  
Filed: April 29, 1985

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###### Mine Closing and Release

★ 16 TAC §§11.401, 11.402

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed new §§11.401 and §11.402, submitted by the Railroad Commission of Texas have been automatically withdrawn, effective April 29, 1985. The new sections as proposed appeared in the October 28, 1984, issue of the *Texas Register* (9 TexReg 1984).

TRD-853710  
Filed: April 29, 1985

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###### Performance Bonds

★ 16 TAC §§11.421-11.426

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed new §§11.421-11.426 submitted by the Railroad Commission of Texas have been automatically withdrawn, effective April 29, 1985. The new sections as proposed appeared in the October 28, 1984, issue of the *Texas Register* (9 TexReg 5521).

TRD-853700  
Filed: April 29, 1985

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###### State Regulatory Authority Inspection and Enforcement

★ 16 TAC §§11.441, 11.442

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed new §§11.441 and §11.442 submitted by the Railroad Commission of Texas have been automatically withdrawn, effective April 29, 1985. The new sections as proposed appeared in the Oc-

tober 26, 1984, issue of the *Texas Register* (9 *TaxReg* 5522).

TRD-853785  
Filed: April 29, 1985

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### Enforcement

#### ★16 TAC §11.451, §11.452

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed new §11.451 and §11.452 submitted by the Railroad Commission of Texas have been automatically withdrawn, effective April 29, 1985. The new sections as proposed appeared in the October 26, 1984, issue of the *Texas Register* (9 *TaxReg* 5523).

TRD-853707  
Filed: April 29, 1985

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### Civil Penalties

#### ★16 TAC §§11.461-11.464

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed new §§11.461-11.464 submitted by the Railroad Commission of Texas have been automatically withdrawn, effective April 29, 1985. The new sections as proposed appeared in the October 26, 1984, issue of the *Texas Register* (9 *TaxReg* 5524).

TRD-853708  
Filed: April 29, 1985

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## TITLE 25. HEALTH SERVICES

### Part I. Texas Department of Health.

#### Chapter 37. Maternal and Child Health Services

##### Crippled Children's Services Program

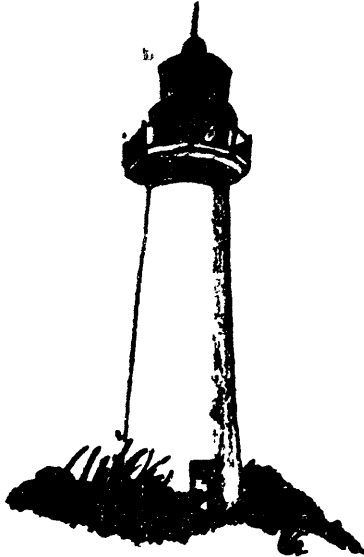
#### ★25 TAC §37.90

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed amendment to §37.90 submitted by the Texas Department of Health has been automatically withdrawn, effective April 29, 1985. The amendment as proposed appeared in the October 26,

1984, issue of the *Texas Register* (9 *TaxReg* 5528).

TRD-853786  
Filed: April 29, 1985

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### Chapter 325. Solid Waste Management

#### Subchapter A. General Information

#### ★25 TAC §325.5

The Texas Department of Health has withdrawn from consideration for permanent adoption a proposed amendment to §431.1, concerning general information. The text of the amended section as proposed appeared in the February 5, 1985, issue of the *Texas Register* (10 *TaxReg* 367).

Issued in Austin, Texas, on April 30, 1985.

TRD-853788 Dan LaFleur  
Liaison Officer  
Texas Department of Health

Filed: April 30, 1985  
For further information, please call (512) 458-7238.

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

#### ★25 TAC §325.42

The Texas Department of Health has withdrawn from consideration for permanent adoption proposed amendments to §345.42, concerning classification of municipal solid waste sites. The text of the amended section as proposed ap-

peared in the February 5, 1985, issue of the *Texas Register* (10 *TaxReg* 367).

Issued in Austin, Texas, on April 30, 1985.

TRD-853787 Dan LaFleur  
Liaison Officer  
Texas Department of Health

Filed: April 30, 1985  
For further information, please call (512) 458-7238.

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#### Subchapter E. Permit Procedures and Design Criteria Permits

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

The Texas Department of Health has withdrawn from consideration for permanent adoption proposed amendments to §§325.51, 325.52, 325.55, and 325.60-325.62, concerning permit procedures and design criteria. The text of the amended sections as proposed appeared in the February 5, 1985, issue of the *Texas Register* (10 *TaxReg* 368).

Issued in Austin, Texas, on April 30, 1985.

TRC-853789 Dan LaFleur  
Liaison Officer  
Texas Department of Health

Filed: April 30, 1985  
For further information, please call (512) 458-7238.

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#### Application and Data Requirements

#### ★25 TAC §§325.71-325.75

The Texas Department of Health has withdrawn from consideration for permanent adoption proposed amendments to §§325.71-325.75, concerning permit procedures and design criteria. The text of the amended sections as proposed appeared in the February 5, 1985, issue of the *Texas Register* (10 *TaxReg* 369).

Issued in Austin, Texas, on April 30, 1985.

TRD-853789 Dan LaFleur  
Liaison Officer  
Texas Department of Health

Filed: April 30, 1985  
For further information, please call (512) 458-7238.

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## Application Review Process

### ★ 25 TAC §§325.91-325.95

The Texas Department of Health has withdrawn from consideration for permanent adoption proposed amendments to §§325.91-325.95, concerning the application review process. The text of the amended sections as proposed appeared in the February 5, 1985, issue of the *Texas Register* (10 TexReg 374).

Issued in Austin, Texas, on April 30, 1985.

TRD-853790 Dan LaFleur  
Liaison Officer  
Texas Department of  
Health

Filed: April 30, 1985  
For further information, please call  
(512) 458-7236.

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

### General

### ★ 25 TAC §325.114

The Texas Department of Health has withdrawn from consideration for permanent adoption proposed new §325.114, concerning operational standards for solid waste land disposal sites. The text of the new section as proposed appeared in the February 5, 1985, issue of the *Texas Register* (10 TexReg 375).

Issued in Austin, Texas, on April 30, 1985.

TRD-853791 Dan LaFleur  
Liaison Officer  
Texas Department of  
Health

Filed: April 30, 1985  
For further information, please call  
(512) 458-7236.

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## Standards for Protection of Ground and Surface Waters

### ★ 25 TAC §§325.121-325.124

The Texas Department of Health has withdrawn from consideration for permanent adoption proposed amendments to §§325.121-325.124, concerning standards for protection of ground and surface waters. The text of the amended sections as proposed appeared in the February 5,

1985, issue of the *Texas Register* (10 TexReg 375).

Issued in Austin, Texas, on April 30, 1985.

TRD-853792 Dan LaFleur  
Liaison Officer  
Texas Department of  
Health

Filed: April 30, 1985  
For further information, please call  
(512) 458-7236.

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

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

The Texas Department of Health has withdrawn from consideration for permanent adoption proposed amendments to §§325.133, 325.136, 325.140, 325.150, 325.152, and 325.154, concerning operational standards for solid waste land disposal sites. The text of the amended sections as proposed appeared in the February 5, 1985, issue of the *Texas Register* (10 TexReg 376).

Issued in Austin, Texas, on April 30, 1985.

TRD-853793 Dan LaFleur  
Liaison Officer  
Texas Department of  
Health

Filed: April 30, 1985  
For further information, please call  
(512) 458-7236.

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

### Operational Standards for Types V and VI Sites

### ★ 25 TAC §325.183

The Texas Department of Health has withdrawn from consideration for permanent adoption proposed amendments to §325.183, concerning operational standards for solid waste processing and experimental sites. The text of the amended section as proposed appeared in the

February 5, 1985, issue of the *Texas Register* (10 TexReg 377).

Issued in Austin, Texas, on April 30, 1985.

TRD-853794 Dan LaFleur  
Liaison Officer  
Texas Department of  
Health

Filed: April 30, 1985  
For further information, please call  
(512) 458-7236.

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

### ★ 25 TAC §§325.442, 325.443, 325.445

The Texas Department of Health has withdrawn from consideration for permanent adoption proposed amendments to §§325.442, 325.443, and 325.445, concerning management of sludges and similar wastes. The text of the amended sections as proposed appeared in the February 5, 1985, issue of the *Texas Register* (10 TexReg 377).

Issued in Austin, Texas, on April 30, 1985.

TRD-853795 Dan LaFleur  
Liaison Officer  
Texas Department of  
Health

Filed: April 30, 1985  
For further information, please call  
(512) 458-7236.

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## Land Application for Beneficial Use

### ★ 25 TAC §325.463

The Texas Department of Health has withdrawn from consideration for permanent adoption proposed amendments to §325.463, concerning management of sludges and similar wastes. The text of the amended section as proposed appeared in the February 5, 1985, issue of the *Texas Register* (10 TexReg 378).

Issued in Austin, Texas, on April 30, 1985.

TRD-853796 Dan LaFleur  
Liaison Officer  
Texas Department of  
Health

Filed: April 30, 1985  
For further information, please call  
(512) 458-7236.

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

★25 TAC §325.533, §325.534

The Texas Department of Health has withdrawn from consideration for permanent adoption proposed amendments to §325.533 and §325.534, concerning grease trap waste, grit trap waste, septage, and water supply treatment plant sludges. The text of the amended sections as proposed appeared in the February 5, 1985, issue of the *Texas Register* (10 TexReg 378).

Issued in Austin, Texas, on April 30, 1985.

TRD-85797

Dan LaFleur  
Liaison Officer  
Texas Department of  
Health

Filed: April 30, 1985  
For further information, please call  
(512) 458-7236.

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**TITLE 31. NATURAL  
RESOURCES AND  
CONSERVATION**

**Part X. Texas Water  
Development Board**

**Chapter 335. Industrial Solid  
Waste**

**Subchapter A. Industrial Solid  
Waste Management in General**

★31 TAC §335.5

The Texas Water Development Board has withdrawn from consideration for permanent adoption proposed amendments to

§335.5, concerning industrial solid waste management in general. The text of the amended section as proposed appeared in the February 15, 1985, issue of the *Texas Register* (10 TexReg 584).

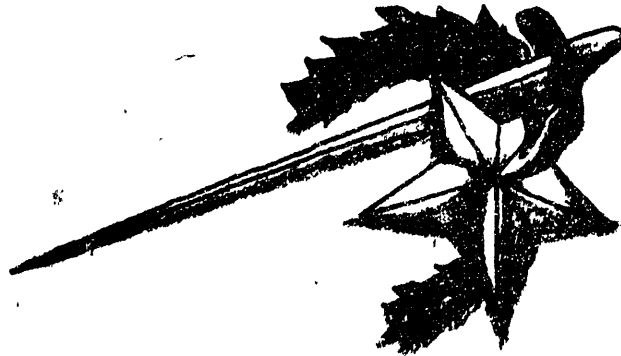
Issued in Austin, Texas, on April 30, 1985.

TRD-853772

Susan Plattman  
General Counsel  
Texas Water  
Development Board

Filed: April 30, 1985  
For further information, please call  
(512) 483-8093.

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# Adopted Rules

An agency may take final action on a rule 30 days after a proposal has been published in the *Register*. The rule becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

If an agency adopts the rule without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the rule with changes to the proposed text, the proposal will be republished with the changes.

## TITLE 10. COMMUNITY DEVELOPMENT

### Part I. Texas Department of Community Affairs

#### Chapter 9. Texas Community Development Program

##### Subchapter A. Allocation of Program Funds

#### ★ 10 TAC §§9.1, 9.5, 9.6

The Texas Department of Community Affairs (TDCA) adopts amendments to §§9.1, 9.5, and 9.6, without changes to the proposed text published in the March 15, 1985, and March 29, 1985, issues of the *Texas Register* (10 TexReg 877 and 1053).

The amendments to §9.5 establish the standards and procedures by which the TDCA will allocate federal fiscal year 1985 community development block grant (CDBG) nonentitlement area funds under the emergency fund of the Texas Community Development Program. The amendments to §9.1 concern general requirements for all Texas Community Development Program applicants, and the amendments to §9.6 govern regional review committees.

The amendments to §9.1 cover the establishment of two new project funds and the requirements for joint applications, citizen participation, substitution of standardized data, waivers, and performance thresholds. The amendments to §9.5 cover the general requirements, the funding cycle, and the selection procedures. The amendments to §9.6(c)(1)(E) and (3) cover the quorum requirements and scoring procedures of the regional review committees.

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(c), the TDCA held a public hearing on the amendments to 10 TAC §§9.2, 9.5, and 9.6 and the adoption of §9.7 and §9.8. None of the comments at the public hearing concerned §§9.1, 9.5, and 9.6. No other comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 4413(201), §4A, which provide the Texas Department of Community Affairs with the authority

to allocate community development block grant nonentitlement area funds to eligible counties and municipalities in accordance with rules and regulations adopted by the Texas Department of Community Affairs.

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

Issued in Austin, Texas, on April 30, 1985.

TRD-853785

Douglas C. Brown  
General Counsel  
Texas Department of  
Community Affairs

Effective date: May 21, 1985  
Proposal publication date: March 15, 1985  
For further information, please call  
(512) 443-4100, ext. 210.

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#### ★ 10 TAC §9.7, §9.8

The Texas Department of Community Affairs (TDCA) adopts new §9.8, with changes to the proposed text published in the March 15, 1985, issue of the *Texas Register* (10 TexReg 878). Section 9.7 is adopted without changes and will not be republished.

The new sections establish the standards and procedures by which federal fiscal year 1985 community development block grant (CDBG) nonentitlement area funds will be allocated under the urgent need and statewide area revitalization funds of the Texas Community Development Program (TCDP). The new sections cover general requirements, funding cycles, and selection procedures and criteria.

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(c), the TDCA held a public hearing on the amendments to §§9.2, 9.5, and 9.8 and the adoption of these two new sections. None of the comments at the public hearing concerned the two new sections. No other comments were received regarding adoption of the new sections. The TDCA has made a change in the proposed text of §9.8(d)(3) to correct an error.

The new sections are adopted under Texas Civil Statutes, Article 4413(201),

§4(A), which provide the TDCA with the authority to allocate CDBG nonentitlement area funds to eligible counties and municipalities in accordance with rules and regulations adopted by the TDCA.

#### §9.8. Statewide Area Revitalization Fund.

(a) General provisions. This fund covers multiple-activity projects which serve a limited geographic area or neighborhood. In order to be eligible to apply for funding, at least 25% of the total Texas Community Development Program (TCDP) funds requested must be dedicated to housing assistance. An applicant may submit an application under this fund if and only if the applicant has not submitted an application under either the community development project fund or the urgent need fund during the same program year. Joint applications will only be considered for funding if none of the participating local governments submitted applications under either the community development project fund or the urgent need fund during the same program year.

(b) Funding cycle. This fund will be allocated on an annual basis to eligible units of general local government on a statewide competitive basis. Applications for funding must be received by the Texas Department of Community Affairs (TDCA) by 5 p.m. on the date specified in the most recent application package for this fund.

#### (c) Selection procedures.

(1) On or before the application deadline, each eligible unit of general local government may submit one application for funding under the statewide area revitalization fund. Copies of the application must be provided to the applicant's regional review committee and the TDCA.

(2) Upon receipt of an application, the TDCA staff will perform an initial review to determine whether the application is complete and whether all proposed activities are eligible for funding, if ranked. The results of this initial review will be provided to the applicant and appropriate regional review committee. In those instances where the TDCA staff determines that the application is either incomplete or that the activities are ineligible for funding, the applicant may correct any deficiencies in the application as long as the corrected application is received by the TDCA by the

deadline specified in subsection (b) of this section.

(3) The members of a technical review committee appointed by the executive director of the TDCA will then score selection factors relating to project design in an open meeting. Review of these factors will be based solely on information contained in the application.

(4) Within five working days after the date of the scoring session by the technical review committee, an applicant may submit a written appeal to the director of the TDCA's Community Development and Housing Division. An appeal may be only based on a specific procedural error alleged to have been committed by the technical review committee. Within 10 working days after the date the appeal was received, the director of the Community Development and Housing Division will notify the applicant that either:

(A) the applicant's appeal is sustained and the appropriate adjustment is made to the applicant's score; or

(B) the appeal is rejected, stating the reason for the rejection.

(5) The TDCA will then add scores relating to community distress, benefits to low- and moderate-income persons, local tax effort, and minority hiring to the project design scores to determine statewide rankings. Scores on the factors in these four categories are derived from standardized data from the Census Bureau, other federal or state sources, or from information provided by the applicant.

(6) Following a final technical review, the TDCA staff will make funding recommendations to the state review committee.

(7) The funding recommendations of the state review committee are then provided to the executive director of the TDCA.

(8) The executive director of the TDCA will then submit final recommendations for the project awards to the governor for final review and announcement of the contract awards.

(9) Upon announcement of contract awards by the governor, the TDCA staff will begin working with recipients to execute the contract agreements. While the award must be based on the information provided in the application, the TDCA may negotiate any element of the contract with the recipient as long as the contract amount is not increased and the level of benefits described in the application is not decreased. The level of benefits may be negotiated only when the project is partially funded.

(d) Selection criteria. The following is an outline of the selection criteria to be used by the TDCA for scoring applications under the statewide area revitalization fund. Twelve hundred fifty points are available.

(1) Community distress (total—200 points). All community distress scores are

based on the population of the applicant. An applicant that has 125% of the average of all applicants of the rate on any community distress factor will receive the maximum number of points available on that factor. An applicant with less than 125% of the average of all applicants in its region on a factor will receive a proportionate share of the maximum points available for that factor;

(A) percentage of persons living in poverty—50;

(B) per capita income—50;

(C) percentage of housing units without some or all plumbing—50;

(D) unemployment rate—50.

(2) Percentage of the TCDP Funds that directly benefit low- and moderate-income persons (total—400 points). This factor score is based only on those residents of the applicant that are determined to be direct beneficiaries of the applicant's proposed activities, as defined by the TDCA in its current application package for this fund.

(3) Percentage of minorities presently employed by the applicant divided by the percentage of minority residents within the local community (total—50 points). In the event less than 2.0% of the applicant's population base is composed of minority residents or the applicant does not have any permanent employees, the applicant will be assigned the average score on this factor for all applicants in its state planning region. The terms used in this paragraph are defined in the current application package.

(4) Local tax effort for purposes of general revenue sharing (total—100 points). This factor is derived by dividing the adjusted revenues collected by the applicant by the total personal income of the applicant. An applicant that has 125% of the average of all applicants of the rate on this factor will receive the maximum number of points available on this factor. An applicant with less than 125% of the average of all applicants in its region will receive a proportionate share of the maximum points available for this factor.

(5) Project design (total—500 points). Each activity within the application will be scored on project design criteria and weighed according to the proportion of TDCP funds required for that activity in comparison to the total TCDP funds requested.

(A) Severity of need (total—300 points).

(i) New services—300. Scoring will be based on the current level of service provided in the revitalization area. An activity will be considered a new service if it is offered in an area that is currently unserved by that type of activity.

(ii) Expansion of existing services—200. An activity will be considered as an expansion of an existing service if there is an increase in capacity of the level

of service to be offered as a result of the proposed activity.

(iii) Replacement or repair of existing services—100. An activity will be considered as a replacement or repair of an existing service if the proposed activity does not increase capacity or the level of service over what was available prior to the proposed activity.

(B) Resolution of the problem (total—200 points).

(i) Local participation—100. An applicant that provides an additional 25% funding for eligible activities in the revitalization area, regardless of source of funding, will receive the maximum points. An applicant providing less than 25% will receive a proportionate share of the maximum points.

(ii) Impact of revitalization effort on households in the revitalization area—100. The range of activities that benefit residents of each household in the revitalization area will be considered. For example, a revitalization area will be considered. For example, a revitalization effort where each household benefits from housing assistance, water/sewer improvements, and street improvements would receive more points than a project where households only received housing assistance and street improvements.

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

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

TRD-853644

Douglas C. Brown  
General Counsel  
Texas Department of  
Community Affairs

Effective date: May 16, 1985

Proposal publication date: March 15, 1985

For further information, please call  
(512) 443-4100, ext. 210.

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## TITLE 16. ECONOMIC REGULATION

### Part II. Public Utility

#### Commission of Texas

#### Chapter 23. Substantive

#### Rules

#### Certification

#### ★ 16 TAC §23.31

The Public Utility Commission of Texas adopts an amendment to §23.31, with changes to the proposed text published in the January 25, 1985, issue of the *Texas Register* (10 TexReg 271).

The amendment establishes that pay telephones are exempt from certification

by the Public Utility Commission of Texas.

The amendment was generally supported. Universal Payphone did suggest the change from coin-operated telephones to pay telephones because many people use credit cards or credit card numbers.

Those making comments in favor of the amendment were Circle K Corporation; Universal Payphone Corporation; GNT Automatic, Inc.; Continental Telephone of Texas; United Telephone System; and Solon Automated Services, Inc. There were no comments against the amendment. The commission adopted the comment of Universal Payphone to change coin-operated telephones to pay telephones.

The amendment is adopted under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and to make decisions with respect to administering the provisions of this Act.

#### §23.31. Certification Criteria.

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

(c) Certificates for new service areas.

Except for certificates granted under subsection (b) of this section, the commission may grant applications and issue certificates only after finding that the certificate is necessary for the service, accommodation, convenience, or safety of the public. For an electric utility generating unit, the commission may grant an application only when it finds that purchased power, conservation, and alternative capacity and associated energy sources available at a lower or equal cost to the ratepayers, together with capacity from qualifying facilities with which contracts have been executed, cannot be reasonably expected to be available in sufficient quantity and for sufficient duration to allow the utility to modify its capacity expansion plan so as to provide for deferral or cancellation of the generating unit for which certification is requested. The commission may issue the certificate as applied for, or refuse to issue it, or issue it for the construction of a portion only of the contemplated system or facility or extension thereof, or for the partial exercise only of the right or privilege. The commission may amend or revoke any certificate issued under this section upon a finding of fact that the public convenience and necessity requires such amendment or revocation. The cost of construction of a new electric generating unit found reasonable in granting a certificate may be taken into consideration in determining the amount of construction work in progress and the plant in service associated with that unit to be included in the rate base of the utility. In addition, the projected design electrical rating, capacity factor, and heat rate associated with the unit shall be

taken into consideration in determining recoverable fuel expenses associated with the operation of the unit.

(1) (No change.)

(2) A certificate is not required for the following:

(A)-(H) (No change.)

(I) use or provision of pay telephones registered under Title 47, Code of Federal Regulations, Part 68.

(3) (No change.)

(d)-(g) (No change.)

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

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

TRD-853734

Rhonda Colbert Ryan  
Secretary of the  
Commission  
Public Utility  
Commission of Texas

Effective date: May 20, 1985

Proposal publication date: January 25, 1985

For further information, please call

(512) 458-0100.

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#### Quality of Service

##### ★ 16 TAC §23.61

The Public Utility Commission of Texas adopts an amendment to §23.61, with changes to the proposed text published in the January 25, 1985, issue of the *Texas Register* (10 TexReg 274).

The amendment clarifies that pay telephones registered under Title 47, Code of Federal Regulations, Title 47, Part 68, are excluded from local exchange service. Local exchange service does not include pay telephones.

The amendment generally was supported. Universal Payphone did suggest the change from coin-operated telephones to pay telephones because many people use credit cards or credit card numbers.

Those comments in favor of the amendment were Circle K Corporation; Universal Payphone Corporation; GNT Automatic, Inc.; Continental Telephone of Texas; United Telephone System; and Solon Automated Services, Inc. There were no comments against the amendment.

The commission adopted the suggestion of Universal Payphone to change coin-operated telephones to pay telephones.

The amendment is adopted under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the ex-

ercise of its powers and jurisdiction, and to make decisions with respect to administering the provisions of this Act.

#### §23.61. Telephone Utilities.

(a) Definitions. The following words and terms, when used in these rules, shall have the following meaning, unless the context clearly indicates otherwise:

(1)-(18) (No change.)

(19) Local exchange service—Telecommunications service provided within service areas in accordance with the local exchange tariffs. It includes the use of exchange facilities required to establish connections between customer access lines within the exchange and between customer access lines and the long distance facilities serving the exchange. Local exchange service does not include use or provision of pay telephones registered under Title 47, Code of Federal Regulations, Part 68.

(20)-(37) (No change.)

(b)-(m) (No change.)

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

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

TRD-853735

Rhonda Colbert Ryan  
Secretary of the  
Commission  
Public Utility  
Commission of Texas

Effective date: May 20, 1985

Proposal publication date: January 25, 1985

For further information, please call

(512) 458-0100.

★ ★ ★

##### ★ 16 TAC §23.66

The Public Utility Commission of Texas adopts amendments to §23.66, with changes to the proposed text published in the February 19, 1985 issue of the *Texas Register* (10 TexReg 615).

The amendments fine tune the existing section by establishing more specific guidelines for the timely and efficient integration of alternative energy generation into utility capacity expansion. The amendments also allow for a rule-making procedure to establish guidelines for wheeling between electric utilities and qualifying facilities.

The section as adopted provides for a procedure to implement wheeling rules. Guidelines are established for the timely and efficient integration of alternative energy generation into utility capacity expansion.

The electric utilities primary concerns were with the establishment of a rule that requires them to contract for firm energy and capacity from qualifying facilities at

any time prior to completion of construction of any generating unit or other planned capacity addition. The remaining parties expressed concerns with the elimination of solid fuel from the priority system and the noninclusion of wastes in the priority system. There was concern expressed that a time limit should be placed on the negotiation and signing of a contract for energy and/or capacity between an electric utility and a qualifying facility. Many comments were also offered concerning interconnection

Those making comments for the amendments were Power Systems Engineering, Inc.; El Paso Electric Company; Mitchell Energy and Development Corp.; Office of Public Utility Counsel; General Electric; Union Carbide; Texas Cooperative Group; Association of Texas Intrastate Natural Gas Pipelines; Texas Utilities Electric Company; Northern Natural Resources Company; Gulf States Utilities; Dow Chemical Company, Southwestern Electric Power Company; Texas Industrial Energy Consumers; Houston Lighting and Power Company; Texas-New Mexico Power Company; Valley View Energy Corp.; Central Power and Light Company; Applied Energy Services; Brazos Electric Power Cooperative; and the Texas Renewable Energy Industries Association.

No comments were made against the amendments.

Comments by all parties were carefully reviewed by members of the commission's Cogeneration Study Group, and many suggestions were incorporated into the rule. In general, those submitting comments agreed with the commission's efforts to provide additional structure and guidance hitherto not described in sufficient detail. The commission declined to adopt proposals for stating a point in time in which contracts for capacity and/or energy will not be considered by an electric utility. A project can always be considered avoidable as long as a qualifying facility is willing to sign a contract based on the avoided costs. The commission declined to adopt proposals which would include solid fuel or all wastes in the priority system. The reasons for not expanding the priority system include that the rules already provide for an electric utility to take technology or type of fuel into consideration when deciding which qualifying facilities from which to buy capacity and/or energy and that the intent of the rule is to prioritize those fuel sources that are renewable and/or have direct societal benefits, such as the elimination of garbage dumps.

The commission declined to adopt a proposal to set a specific amount of time in which to negotiate a contract because the present rules provide fair guidelines for both the electric utilities and the cogenerators in their negotiations.

The amendments are adopted under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and in administering the provisions of this Act.

**§23.66. Arrangements between Qualifying Facilities and Electric Utilities.**

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

(d) Electric utility obligations.

(1) Obligation to purchase from qualifying facilities.

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

(C) Each electric utility shall purchase energy and capacity from a qualifying facility with a design capacity of 100 Kw or more within 90 days of being notified by the qualifying facility that such energy and capacity are or will be available, provided that the electric utility has sufficient interconnection facilities available. If an agreement to purchase energy and capacity is not reached within 90 days after the qualifying facility provides such notification, the agreement, if and when achieved, shall bear a retroactive effective date for the purchase of energy (and capacity) delivered to the electric utility correspondent with the 90th day following such notice. If the electric utility determines that adequate interconnection facilities are not available, the electric utility shall inform the qualifying facility within 30 days after being notified for distribution interconnection, or within 60 days for transmission interconnection, giving the qualifying facility a description of the additional facilities required as well as cost and schedule estimates for construction of such facilities. If an agreement to purchase energy and capacity is not reached upon completion of construction of the interconnection facilities or 90 days after notification by the qualifying facility that such energy and capacity are or will be available, the agreement, if and when achieved, shall bear a retroactive effective date for the purchase of energy and capacity delivered to the electric utility correspondent with the time of interconnection or the 90th day, whichever is later. Nothing in this subsection shall be construed in such a manner so as to preclude a qualifying facility from notifying and contracting for energy and/or capacity with a utility prior to 90 days before deliver of such energy and/or capacity.

(D) (No change.)

(E) Subject to subparagraph (D) of this paragraph, a utility shall be required to contract for firm energy and capacity from qualifying facilities, if such is offered, at a price less than or equal to the current avoided cost of a capacity addition at any time prior to completion of construction of any generating unit or other planned capacity addition. The price may be adjusted for differences in quality of firmness between the power offered by the qualifying facility

and the power to be supplied by the generating unit or planned capacity addition. Capacity obtained from qualifying facilities through a legally enforceable obligation shall be included in its generation expansion planning by a utility, as well as capacity from other purchased power contracts, commission-certified utility generating plants, and other capacity sources. Utilities shall not be required to contract for capacity from a qualifying facility in excess of the capacity requirements for any delivery point(s) not served by the integrated transmission and/or distribution facilities of the utility to which the qualifying facility is interconnected or to which the qualifying facility has independently arranged for wheeling of facility output.

(F) A utility shall purchase capacity from qualifying facilities on the basis of avoided cost adjusted for the quality of firmness of such capacity. If more capacity is offered by the qualifying facilities to any one utility than is required by the commission-approved forecast and generation expansion plan for that utility, the utility is required to purchase capacity and energy from qualifying facilities according to the following order of priorities:

(i) qualifying facilities offering power produced from municipal solid waste, as defined in Texas Civil Statutes, Article 4477-7, §2(6), or renewable fuel sources;

(ii) all others;

(iii) within each category listed in clauses (i) and (ii) of this subparagraph, nothing in these rules shall prohibit an electric utility from accepting through negotiation the most favorable capacity proposal available based on a balanced consideration of expected price, terms and conditions of purchase, and quality of firmness. The utility may consider, in addition, diversification of contracts with qualifying facilities which provide firm capacity with regard to ownership, type of industry, technology, and fuel type. Nothing in this priority system should be construed so as to permit capacity offered from qualifying facilities with a higher priority to displace or reduce the capacity currently being supplied, or to be provided, by qualifying facilities with lower priorities, with which contracts have been executed.

(G) In order to provide for an orderly consideration of the potential for purchased power from qualifying facilities to displace or defer a planned generation addition and/or provide for the orderly consideration of multiple and competing offers to supply future capacity, a utility is allowed to set up timely and reasonable time periods, or "windows," for the solicitation and evaluation of capacity offers. Each utility shall maintain records of all offers received from qualifying facilities for a period of five years from receipt thereof.

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

(4) **Transmission to other electric utilities.** If a qualifying facility requests, an electric utility that would otherwise be obligated to purchase energy and/or capacity from such qualifying facility shall transmit the energy and/or capacity on a firm or nonfirm basis at the option of the qualifying facility for the term of the power purchase contract to any other electric utility, provided that such transmittal is not in violation of federal law or other jurisdictional authority. No electric utility is required to enter into a transmission arrangement with any other electric utility if, solely by reason of such transmission arrangement, the electric utility would become subject to regulation as a public utility under the Federal Power Act, Part II. If facilities are not available or adequate to transmit a qualifying facility's energy and/or capacity to a purchasing utility, the intermediate utility shall, at the request of the qualifying facility, expeditiously construct such additional facilities as may be required by the qualifying facility to wheel the energy and/or capacity. The cost of such construction shall be borne by the qualifying facility to the extent that construction was required to transmit its energy and/or capacity. The methods for determining and billing such construction costs shall be on a non-discriminatory basis. Any electric utility to which such energy or capacity is transmitted shall purchase such energy and/or capacity under this paragraph as if the qualifying facility were supplying energy and/or capacity directly to such electric utility. The rate for purchase by the electric utility to which such energy is transmitted shall be adjusted up or down to reflect the costs or savings resulting from variations in line losses from those that would have existed in the absence of purchases from a qualifying facility. The rate paid by the purchasing utility shall not include any charges for transmission; however, the transmitting utility shall be paid a reasonable transmission charge, including consideration of line losses, by the qualifying facility. Charges for firm or nonfirm wheeling within the meaning of this section shall apply only to transmission from the qualifying facility to the purchasing utility. Such charges or a methodology for calculating such charges shall be determined by the commission in a generic docketed or rules proceeding after notice and opportunity for hearing. In the interim, until the generic wheeling docket or rules proceeding is decided, such charges shall not exceed the charges calculated according to the methods of §23.67 of this title (relating to Wheeling Service for the Transmission of Firm Power). Energy losses or credits resulting from the transmission of the qualifying facility power shall accrue to the qualifying facility based upon the estimated average annual loading of the transmission lines which will carry the qualifying facility energy and/or capacity to the purchasing utility. All utilities filing applica-

tions for the approval of wheeling tariffs, with the Federal Energy Regulatory Commission, or any other federal agency having jurisdiction of wheeling tariffs, shall give notice to the PUC of such filing by providing the PUC with a duplicate copy of any and all documents filed with the FERC or a competent federal agency.

(5) (No change.)  
 (e)-(f) (No change.)  
 (g) Tariffs setting out the methodologies for the purchases of nonfirm power from a qualifying facility. Tariffs setting out the methodologies for purchases of nonfirm power from a qualifying facility shall be filed with the commission based on one of the following two approaches:

(1)-(2) (No change.)  
 (h)-(j) (No change.)  
 (k) Interconnection costs.  
 (1) Interconnection plan. Each utility shall establish and make available for inspection guidelines for assuring safe and reliable operation of interconnected qualifying facilities. It may also require the electrical characteristics and data and local interconnection design and protection requirements for the qualifying facility's proposed generation facilities to facilitate the development of the utility's interconnection plan. Upon receipt of such information from the qualifying facility, the utility shall provide the qualifying facility with a cost proposal identifying the interconnection costs and a list of issues to be addressed in the interconnection negotiations at the time the utility provides its interconnection plan in accordance with subsection (d)(1)(C) of this section.

(2) (No change.)  
 (l)-(m) (No change.)

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

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

TRD-853638 Rhonda Colbert Ryan  
 Secretary of the  
 Commission  
 Public Utility  
 Commission of Texas

Effective date: May 16, 1985  
 Proposal publication date: February 19, 1985  
 For further information, please call  
 (512) 458-0100.

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### Part III. Texas Alcoholic Beverage Commission Chapter 33. Licensing Bonds

★ 16 TAC §33.22

The Texas Alcoholic Beverage Commission adopts new §33.22, without changes to the proposed text published in the February 22, 1985, issue of the *Texas Register* (10 TexReg 648).

The new section provides a measure of protection for public revenues. The new section requires a new category of taxpayer, wholesale beer distributors, to post security for payment of the state excise tax on beer unless qualified for an exemption.

No comments were received regarding adoption of the new section.

The new section is adopted under the Texas Alcoholic Beverage Code, §5.31, which authorizes the commission to promulgate rules and exercise all powers incidental, necessary, or convenient to the administration of the Code, and §204.3 (d), which directs that bonds to insure the payment of the beer excise tax be set in an amount that will protect the state against the anticipated tax liability of the principal for any six-week period.

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

Issued in Austin, Texas, on May 1, 1985.

TRD-853828 W. S. McBeath  
 Administrator  
 Texas Alcoholic  
 Beverage Commission

Effective date: May 27, 1985  
 Proposal publication date: February 22, 1985  
 For further information, please call  
 (512) 458-2500.

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### Part IV. Texas Department of Labor and Standards Chapter 61. Labor/Licensing and Enforcement Division

Subchapter A. Boxing Professional Boxing Rules

★ 16 TAC §61.5

The Texas Department of Labor and Standards adopts amendments to §61.5, without changes to the proposed text published in the December 14, 1984, issue of *Texas Register* (9 TexReg 6291).

The amendments are an effort to make §61.5(e)(5)(F) more equitable to the winner of a boxing contest in terms of the num-

ber of days the participants of a hard fought contest will be suspended.

Under the old rules, the winner and loser must observe the same mandatory rest period. This situation is not equitable to the winner of a boxing contest. Under the new rules, the contestants will be suspended a fewer number of days depending on the number of rounds fought.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 8501-1, which provide the commissioner of the department with the authority to promulgate any and all reasonable rules and regulations which may be necessary for the purpose of enforcing the provisions of this Act.

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

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

TRD-853883 Robert R. Busse  
Assistant Commissioner  
Texas Department of  
Labor and Standards

Effective date: May 18, 1985  
Proposal publication date: December 14, 1984  
For further information, please call  
(512) 475-0155.

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## TITLE 19. EDUCATION Part I. Coordinating Board, Texas College and University System

### Chapter 5. Program Development Subchapter H. Approval of Off- Campus and Out-of-District Instruction for Public Colleges and Universities

#### ★ 19 TAC §5.158

The Coordinating Board, Texas College and University System adopts new §5.158, without changes to the proposed text published in the February 12, 1985, issue of the *Texas Register* (10 TexReg 529).

The new section makes it possible for military personnel and their dependents to complete all of the requirements for a degree program on the military base.

Under the previous rules, the coordinating board required at least one-third of the course work to be taken on an institution's campus. The new section serves the unique needs of military personnel by allowing all course work to be completed on the military base.

No comments were received regarding adoption of the new section.

The new section is adopted under the Texas Education Code, §51.051(j), which authorizes the Coordinating Board, Texas College and University System to regulate off-campus and out-of-district instruction for public colleges and universities.

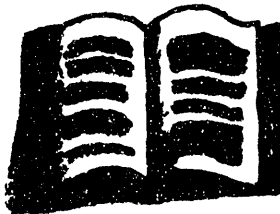
This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on April 23, 1985.

TRD-853820 James McWhorter  
Assistant Commissioner  
for Administration  
Coordinating Board,  
Texas College and  
University System

Effective date: May 15, 1985  
Proposal publication date: February 12, 1985  
For further information, please call  
(512) 475-2033.

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## Chapter 21. Student Services Subchapter B. Determining Residence Status

#### ★ 19 TAC §21.29

The Coordinating Board, Texas College and University System adopts amendments to §21.29, without changes to the proposed text published in the February 12, 1985, issue of the *Texas Register* (10 TexReg 530).

The amendments comply with Attorney General Opinion JM-241, which extends the privilege of paying resident tuition rates to certain aliens living in the country. Aliens who are permitted by Congress to adopt the United States as their domicile while they are in this country will have the same privilege of qualifying for resident status for tuition purposes as citizens of the United States.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Education Code, §54.057, which authorizes the coordinating board to establish rules for the determination of residence status.

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

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

Issued in Austin, Texas, on April 23, 1985.

TRD-853821 James McWhorter  
Assistant Commissioner  
for Administration  
Coordinating Board,  
Texas College and  
University System

Effective date: May 15, 1985  
Proposal publication date: February 12, 1985  
For further information, please call  
(512) 475-2033.

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## TITLE 22. EXAMINING BOARDS

### Part XI. Board of Nurse Examiners

#### Chapter 213. Practice and Procedure

##### ★ 22 TAC §213.4

The Board of Nurse Examiners adopts an amendment to §213.4, without changes to the proposed text published in the February 15, 1985, issue of the *Texas Register* (10 TexReg 557).

The Board of Nurse Examiners is adopting the amendment due to the change in the Nurse Practice Act which now requires a registered nurse to renew every two years rather than yearly. Nurses are asked to keep the board's office informed of their current address at all times to assure that a renewal card will be received.

Since the Board of Nurse Examiners is charged with protecting the public from unsafe practitioners, being able to use the most recent address as shown in the records of the board's office will enable the board to contact the nurse, thereby ensuring a more thorough investigation and notification to the nurse in the event of a disciplinary hearing should the investigation warrant it.

No comments were received regarding adoption of the amendment.

This amendment is adopted under Texas Civil Statutes, Article 4514, §1, which provide the Board of Nurse Examiners with the authority to make and enforce all rules and regulations necessary for the performance of its duties and conducting of proceedings before it, to establish standards of professional conduct for all persons licensed under the provisions of this law in keeping with its purpose and objectives, to regulate the practice of professional nursing, not inconsistent with this Act. Such rules and regulations shall not be inconsistent with the provisions of this law.

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

Issued in Austin, Texas, on April 26, 1985.

TRD-853698

Margaret L. Rowland  
Executive Secretary  
Board of Nurse  
Examiners

Effective date: May 20, 1985

Proposal publication date: February 15, 1985

For further information, please call  
(512) 835-4880.

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

Issued in Austin, Texas, on April 26, 1985.

TRD-853721

Margaret L. Rowland  
Executive Secretary  
Board of Nurse  
Examiners

Effective date: May 20, 1985

Proposal publication date: February 19, 1985

For further information, please call  
(512) 835-4880.

its duties and conducting of proceedings before it, to establish standards of professional conduct for all persons licensed under the provisions of this law in keeping with its purpose and objectives, to regulate the practice of professional nursing and to determine whether or not an act constitutes the practice of professional nursing, not inconsistent with this Act. Such rules and regulations shall not be inconsistent with the provisions of this law. It shall be the duty of the Board of Nurse Examiners to prescribe and publish the minimum requirements and standards for a course of study in programs which prepare professional nurse practitioners.

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## Chapter 215. Nurse Education

### ★22 TAC §215.2

The Board of Nurse Examiners adopts the repeal of §215.2, without changes to the proposed text published in the February 19, 1985, issue of the *Texas Register* (10 TexReg 624).

This section is repealed to adopt a new section that will provide more specific information regarding the establishment of new nursing programs. The new section will be more detailed as to the requirements an institution must meet for approval for a new nursing program.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 4514, §1, and Article 4518, §1, which provide the Board of Nurse Examiners with the authority to make and enforce all rules and regulations necessary for the performance of its duties and conducting of proceedings before it, to establish standards of professional conduct for all persons licensed under the provisions of this law in keeping with its purpose and objectives, to regulate the practice of professional nursing and to determine whether or not an act constitutes the practice of professional nursing, not inconsistent with this Act. Such rules and regulations shall not be inconsistent with the provisions of this law. It shall be the duty of the Board of Nurse Examiners to prescribe and publish the minimum requirements and standards for a course of study in programs which prepare professional nurse practitioners.

### ★22 TAC §215.2

The Board of Nurse Examiners adopts new §215.2, with changes to the proposed text published in the February 19, 1985, issue of the *Texas Register* (10 TexReg 624).

The new section provides more specific information regarding the establishment of a new nursing program. The new section is more explicit as to the requirements an institution must meet for approval of a new nursing program. Possible action of the board at various phases of the proposal process is explained.

Two written comments were received regarding adoption of the proposed new section. Both reviewers suggested the deletion of the statement "that existing nursing programs would not be adversely effected" under subsection (a)(5)(A). One reviewer also recommended a reordering of subsection (a)(5) and (6). This reviewer also recommended an editorial change in subsection (a)(5)(B), (C), and (D) to include "in writing."

Those making comments against the new section were D. Sinclair, Baptist Memorial Hospital System School of Nursing, San Antonio; and J. Seamans, Baptist Memorial Hospital System School of Nursing, San Antonio.

The agency feels that the section as stated will assist in the development of new programs and that if other institutions in the same area would be jeopardized of either students and/or clinical facilities, the board should take those existing programs into consideration. The editorial changes as recommended were agreed to and made.

The new section is adopted under Texas Civil Statutes, Article 4514, §1, and Article 4518, §1, which provide the Board of Nurse Examiners with the authority to make and enforce all rules and regulations necessary for the performance of

### §215.2. New Programs.

(a) Phase I—development of a new program.

(1) An institution wishing to establish a nursing program shall advise the board of its intent in writing.

(2) The institution shall submit a proposal to the board at least three weeks prior to the board meeting at which the request for the new program is to be considered.

(3) Eleven copies of the proposal are required. One copy is to be sent to each board member, and two copies are to be sent to the office of the board.

(4) The proposal shall include the following information:

(A) mission of the educational institution;

(B) accreditation status of the educational institution;

(C) type of nursing program;

(D) documentation of the need for the nursing program in Texas with rationale for why the program should be established;

(E) potential effect on other nursing programs in the area;

(F) organizational structure of the educational institution showing the relationship of the proposed nursing program within the organization;

(G) tentative timetable;

(H) tentative budget plans, including evidence of financial resources adequate for planning, implementing, and continuing the nursing program;

(I) source of a potential qualified director and faculty;

(J) source of anticipated student population;

(K) description of support staff for the proposed program;

(L) description of physical facilities; and

(M) description of available clinical resources.

(5) The proposal will be reviewed at a regularly scheduled board meeting. The board may deny further consideration of the proposal or may authorize a site visit and a public hearing.



(6) Following the site visit and public hearing, the board may approve, defer action, or deny the request.

(A) Approval of the proposal to establish a nursing program will be given when the educational institution has submitted evidence that the nursing program will be based upon sound educational principles, that valid rationale has been documented for the establishment of the nursing program, that existing nursing programs would not be adversely effected, and that the educational institution is prepared to meet the board's requirements as stated in §§215.1-215.21 of this title (relating to Definitions; New Programs; Accreditation; Closing a Program; Change of Control; Philosophy and Objectives; Administration and Organization; Faculty Qualifications—Diploma and Associate Degree Programs; Faculty Qualifications—Baccalaureate Degree Programs; Change of Director; Faculty Policies; Faculty Organization; Faculty Development and Evaluation; Curriculum; Curriculum Changes and Expansion of Nursing Program; Students; Educational Resources and Facilities; Clinical Resources; Records and Reports; Pass Rate of Graduates on the National Council Licensure Examination for Registered Nurses; and Total Program Evaluation).

(B) If approved, the institution will be notified in writing to proceed with the development of the nursing program as described in Phase II and III.

(C) If deferred, the institution will be notified in writing of the reason(s) for deferral.

(D) If denied, the institution will be notified in writing of the reason(s) for denial.

(b) Phase II—planning stage.

(1) Following approval, a minimum of one year of planning is needed for the development of the program.

(2) The following timetable is required:

(A) at least nine months prior to anticipated admission of students, appoint a qualified director and employ a secretarial staff;

(B) at least six months prior to anticipated admission of students, appoint qualified faculty, adequate in number to develop the curriculum for the first year of operation; and

(C) at least two regularly scheduled board meetings prior to the anticipated admission of students, submit application for initial accreditation according to §§215.1-215.21 of this title (relating to Definitions; New Programs; Accreditation; Closing a Program; Change of Control; Philosophy and Objectives; Administration and Organization; Faculty Qualifications—Diploma and Associate Degree Programs; Faculty Qualifications—Baccalaureate Degree Programs; Change of Director; Faculty Policies; Faculty Organization; Faculty Development and Evaluation; Curriculum; Curriculum

Changes and Expansion of Nursing Program; Students; Educational Resources and Facilities; Clinical Resources; Records and Reports; Pass Rate of Graduates on the National Council Licensure Examination for Registered Nurses; and Total Program Evaluation).

(c) Phase III—application for initial accreditation.

(1) Initial accreditation must be granted prior to admission of students.

(2) Eleven copies of the application are required. One copy is to be sent to each board member, and two copies are to be sent to the office of the board.

(3) The board shall review the application and supporting evidence at a regularly scheduled meeting. If the program is based upon sound educational principles and is in compliance with §§215.1-215.21 of this title (relating to Definitions; New Programs; Accreditation; Closing a Program; Change of Control; Philosophy and Objectives; Administration and Organization; Faculty Qualifications—Diploma and Associate Degree Programs; Faculty Qualifications—Baccalaureate Degree Programs; Change of Director; Faculty Policies; Faculty Organization; Faculty Development and Evaluation; Curriculum; Curriculum Changes and Expansion of Nursing Program; Students; Educational Resources and Facilities; Clinical Resources; Records and Reports; Pass Rate of Graduates on the National Council Licensure Examination for Registered Nurses; and Total Program Evaluation), then initial accreditation shall be granted.

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

Issued in Austin, Texas, on April 26, 1985.

TRD-853889

Margaret L. Rowland  
Executive Secretary  
Board of Nurse  
Examiners

Effective date: May 20, 1985

Proposal publication date: February 19, 1985

For further information, please call

(512) 836-4880.

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## Part XXIII. Texas Real Estate Commission

### Chapter 537. Professional Agreements and Standard Contract Forms

#### Use of Contract Forms

##### ★ 22 TAC §537.11

The Texas Real Estate Commission (TREC) adopts an amendment to §537.11, without changes to the proposed text published

in the March 5, 1985, issue of the *Texas Register* (10 TexReg 776).

The amendment permits Texas real estate licensees to use replacement contract forms on a voluntary basis prior to the effective date of rules requiring use of forms prepared by the TREC.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 6573a, §16(e), which authorize the TREC to adopt rules and regulations requiring real estate brokers and salesmen to use contract forms which have been prepared by the Texas Real Estate Broker-Lawyer Committee and promulgated by the Texas Real Estate Commission.

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

Issued in Austin, Texas, on April 23, 1985.

TRD-853635

Mark A. Moseley  
Legal Counsel  
Texas Real Estate  
Commission

Effective date: May 18, 1985

Proposal publication date: March 5, 1985

For further information, please call

(512) 465-3980.

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## TITLE 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 325. Solid Waste Management

The following adopted rules submitted by the Texas Department of Health will be serial...ed in the May 10, 1985, issue of the *Texas Register*. The effective date of adoption for the documents is May 21, 1985.

Subchapter F. Operational Standards for Solid Waste Land Disposal Sites  
Operational Standards for Types I, II, III, and IV Sites  
§325.136  
(amendment)

Subchapter L. Hazardous Waste Management  
General  
§§325.271-325.273, 325.275, 325.276  
(amendment)

Generators  
§§325.292, 325.295, 325.298  
(amendment)

§325.298  
(repeal and new)

Transporters  
§325.311, §325.312  
(amendment)

Facility Owners and Operators  
§325.332  
(amendment)

Special Rule Facilities  
§325.371  
(new)

Subchapter N. Management of Sludges and Similar Wastes  
General  
§325.412  
(amendment)

Land Application for Beneficial Use  
§325.462  
(amendment)

Subchapter O. Guidelines for Regional and Local Solid Waste Management Plan  
§§325.551-325.567  
(new)

Subchapter X. Forms and Documents  
§325.901, §325.906  
(repeal)

§§325.901, 325.908, 325.911  
(new)

§325.910  
(new)

## TITLE 28. INSURANCE

### Part I. State Board of Insurance

*(Editor's note: Because the State Board of Insurance's rules have not yet been pub-*

*lished 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

★059.01.15.253

The State Board of Insurance adopts new Rule 059.01.15.253, without changes to the proposed text published in the March 19, 1985, issue of the *Texas Register* (10 TexReg 916).

Rule 059.01.15.253, adopts forms and instructions for the preparation and filing of tax returns for insurers and other entities required to file tax returns with the State Board of Insurance for the 1984 calendar year. This rule previously was adopted on an emergency basis on December 20, 1984, and appeared in the January 1, 1985, issue of *Texas Register* (10 TexReg 12). The forms and instructions include requirements for information concerning gross premium, maintenance, and other taxes and certain incidental fees, and provide a form to be used in reporting and determining the amount owed.

No comments were received regarding adoption of the new rule.

The new rule is adopted under the Insurance Code, Articles 1.04, 1.10(9), 4.07, 4.10, 4.11, 5.12, 5.24, 5.49, 5.68, 9.46, and 23.08; the Texas Health Maintenance Organization Act, §22 and §33; and Texas Civil Statutes, Articles 4769, 6252-13a, §4, and 8306, §28. Article 1.10(9) requires the board to furnish to companies required to report to the board statement blanks for the statements required. Article 4.07 specifies the charges for certain fees. The Insurance Code, Article 4.10 and Article 4.11; Texas Civil Statutes, Article 4769 and Article 8306, §28; and the Texas Health Maintenance Organization Act, §33, require the payment of taxes on gross premiums by entities regulated by the board. The Insurance Code, Articles 5.12, 5.24, 5.49, 5.68, 9.46, and 23.08 require the payment of maintenance taxes by certain entities regulated by the board. The Insurance Code, Article 4.10 and Article 4.11; Texas Civil Statutes, Article 4769; and the Texas Health Maintenance Organization Act, §22, give the board rule-making authority. The Insurance Code, Article 1.04, places original jurisdiction for the adoption of rules in the board. Texas Civil Statutes, Article 6252-13a, §4, authorizes the board to adopt rules of practice setting forth the nature and requirements of all procedures available.

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

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

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

TRD-853686

James W. Norman  
Chief Clerk  
State Board of  
Insurance

Effective date: May 20, 1985  
Proposal publication date: March 19, 1985  
For further information, please call  
(512) 475-2950.

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★059.01.15.263

The State Board of Insurance adopts new Rule 059.01.15.263, with changes to the proposed text published in the March 19, 1985, issue of the *Texas Register* (10 TexReg 917).

New rule 059.01.15.263 adopts annual statement blanks, instructions, and other reporting forms, to be used by insurers and certain other entities regulated by the State Board of Insurance in reporting their operations in the 1984 calendar year. Detailed information is required by these forms from such insurers and entities to show their activities during 1984. The information required relates to the financial condition and business operations of such insurers. This rule previously was adopted on an emergency basis on December 20, 1984, and appeared in the January 1, 1985, issue of the *Texas Register* (10 TexReg 13). There are two changes from the rule as proposed. Paragraph (13) is changed to show that the form adopted by reference was revised in 1984 instead of 1982. Paragraph (27) is changed to add "1984" to the title of the instrument adopted by reference.

No comments were received regarding adoption of the new rule.

The new rule is adopted under the Insurance Code, Articles 1.04, 1.10, §9, 1.11, 1.24, 3.07, 6.11, 6.12, 8.07, 8.08, 8.24, 9.22, 9.47, 10.30, 11.06, 11.19, 14.15, 14.39, 15.15, 15.16, 16.18, 16.24, 17.22, 17.25, 18.12, 19.08, 20.02, 21.21, 21.43, 22.06, 22.18, and 23.26; the Texas Health Maintenance Organization Act, §10 and §22; and Texas Civil Statutes, Article 6252-13a, §4. The Insurance Code, Article 1.10, §9, requires the board to furnish the necessary blank forms for companies to complete the necessary statements. Article 1.11 authorizes the board to change the form of annual statements. Article 1.24 authorizes the board to address inquiries to insurance companies and requires companies to answer promptly.

Article 1.04 places original rule-making jurisdiction in the board. Texas Civil Statutes, Article 6252-13a, §4, authorize the board to adopt rules of practice setting forth the nature and requirements of available procedures. Article 21.21 requires that all statements made by persons in the business of insurance be truthful and not misleading. Article 21.43 requires foreign insurers to comply with the provisions of the Insurance Code generally. The remaining statutes relate to the filing of annual reports and other information by certain specific entities regulated by the board, applying particular statutory law respecting reports to those entities, and specifying particular rule-making authority relating to those specific entities.

.263. *Annual Statement Blanks, Instructions, and Other Forms, 1984 Operations.* The annual statement blanks, instructions, and other forms for reporting operations of the 1984 calendar year and specified in this rule are adopted by reference. They are published by the State Board of Insurance and may be obtained from the Corporate Custodian and Tax Division of the State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786. The insurer or other entity specified in each form or instruction shall properly report to the State Board of Insurance using such blanks or forms and following such instructions as appropriate to it. The adopted blanks or forms and instructions are as follows:

- (1) a 1984 Texas annual statement blank (association edition) to be used by life and accident and health insurance companies (Form 1);
- (2) a book of instructions available through the NAIC titled "Annual Statement Instructions, Life, Accident, and Health";
- (3) a 1984 Texas annual statement blank (association edition) for life and accident and health insurance company separate accounts, excluding variable life insurance (Form 1-S);
- (4) a form titled "Instructions for Completing Separate Accounts Annual Statement Blank" revised 1984;
- (5) a 1984 Texas annual statement blank (association edition) to be used by fire and casualty companies (Form 2);
- (6) a book of instructions available through the NAIC titled "Annual Statement Instructions, Property and Casualty";
- (7) 1984 Texas annual statement blank (association edition) to be used by fraternal orders (Form 4);
- (8) a form titled "1984 Instructions to Fraternal Orders for Completing Annual Statements";
- (9) a 1984 Texas annual statement blank (association edition) to be used by title insurance companies (Form 9);
- (10) a form titled "1984 Instructions for Completing Title Insurance Annual Statement Blank";

(11) a 1984 annual statement blank (association edition) for health maintenance organizations;

(12) a form titled "General Information, Definitions, and Instructions for Filing Health Maintenance Organization Financial Report of Affairs and Conditions";

(13) a form titled "Supplement 'A' to Schedule T, Exhibit of Medical Malpractice Premiums Written Allocated by States and Territories," and revised in 1984;

(14) a form titled "Fraternal Benefit Societies—Supplement to Valuation Report," and revised in 1978;

(15) a form titled "Products Liability Insurance Supplement—1984";

(16) a form titled "Schedule SIS, Stockholder Information Supplement," and revised in 1984;

(17) a form titled "Insurance Expense Exhibit—1984";

(18) an instruction letter (TexSpec 46) and attachment to life statements for statistical data;

(19) a form designated as "Texas Page 14" and further identified as the standard (NAIC) page 14 of Form 2;

(20) a form designated as "Texas Page 41" and further identified as the standard (NAIC) page 41 of Form 9;

(21) a form titled "Medical Malpractice Business in the State of Texas Schedule 'P' for the Year Ended December 31, 1984";

(22) a form identified as the 1984 Texas annual statement blank to be used by statewide mutual assessment associations, local mutual aid associations, burial associations, and exempt associations;

(23) a form titled "Instructions for the 1984 Mutual Assessment Annual Statement";

(24) a 1984 Texas annual statement blank to be used by farm mutual insurance companies;

(25) a form titled "Instructions for the 1984 Farm Mutual Annual Statement";

(26) a 1984 annual statement blank to be used by prepaid legal services corporations;

(27) a form titled "1984 Instructions to Prepaid Legal Services Corporations for Completing Annual Statement Blank";

(28) a form identified as supplement pages 19, 20, 21, 22, 23, 24, and 25 to the annual statement for health maintenance organizations;

(29) a form identified as the officers and directors page to be used and completed by each insurer or other principals licensed by the State Board of Insurance and revised in 1978;

(30) a form identified as "Biographical Affidavit" as authorized in the Insurance Code, Article 1.14, §3, as amended, and in Board Order 00582, dated October 24, 1957;

(31) forms identified as "Analysis of Surplus" for use as supplements to NAIC

Form 1, Form 2, Form 4, and Form 9;

(32) a form titled "Texas Overhead Assessment Form (For Texas Domestic Companies Only)";

(33) a form titled "Release of Contributions" to be mailed to certain insurers and other entities; and

(34) a form titled "Affidavit" being a resident agent's affidavit to be mailed to certain insurers and other entities.

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

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

TRD-853687

James W. Norman  
Chief Clerk  
State Board of  
Insurance

Effective date: May 20, 1985

Proposal publication date: March 19, 1985

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

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## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part X. Texas Water Development Board Chapter 331. Edwards Aquifer Subchapter B. Edwards Aquifer in Williamson County

★ 31 TAC §§331.101-331.110

The Texas Water Development Board adopts new §331.109, with changes to the proposed text published in the February 15, 1985, issue of the *Texas Register* (10 TexReg 557). Sections 331.101-331.108 and 331.110 are adopted without changes and will not be republished.

The Edwards Aquifer located in Williamson County serves as a source of drinking water for many residents of Williamson County, including those people residing in the cities of Georgetown and Round Rock, and many people relying on private wells located on their own property. The geologic nature of the Edwards Aquifer is such that activities conducted in and near areas of significant recharge to the aquifer pose a threat to the quality of the groundwater. The new rules provide for regulation of those activities thought to have potential impacts on the water quality of the Edwards Aquifer.

The majority of oral and written comments supported adoption of rules. The League of Women Voters, represented by Karen Haschke at the January 7, 1985, public hearing, supported adoption of

rules at least as stringent as originally proposed. Molly Bean, of the Sierra Club, urged adoption of the rules as proposed. However, many commenters felt that the rules, as originally proposed, needed modification.

A frequent criticism of the rules centered around the inclusion of the Comanche Peak formation in the area defined as the recharge zone. Written comments filed by Brown, Maroney, Rose, Barber, and Dye (Brown Maroney); Underground Resource Management, Inc.; William Hays; and the City of Cedar Park, and oral comments presented at the public hearing urged that the Comanche Peak be excluded from the recharge zone because recharge to the aquifer does not occur through the outcrop of that formation. After review of the evidence presented, the department determined that further study should be undertaken prior to including the Comanche Peak formation in the area regulated under these rules. Accordingly, the proposed official maps of the regulated recharge zone were modified to delete the Comanche Peak formation from regulation at this time. After republication of the new proposed map (without the Comanche Peak), the Lone Star Chapter of the Sierra Club and Texans for Clean Water filed written comments criticizing the revised map, stating that the Comanche Peak should be included in the recharge zone. The final version of the rules, as recommended by the department staff and adopted by the Texas Water Development Board, does not include the Comanche Peak formation in the area to be regulated under the rules. However, the department will continue to evaluate the necessity for including the Comanche Peak formation within the regulated area.

Another aspect of the proposed official map of the recharge zone which received attention was the inclusion in the recharge zone of certain portions of the San Gabriel River and Berry's Creek, which flow over the Georgetown Formation. The Georgetown Formation is included in the mapped recharge zone. The department intends to conduct studies of the Comanche Peak Formation and the portion of the San Gabriel River which flows over the Georgetown Formation, and expresses its commitment to do so with the addition of §331.109(c) as a non-substantive change.

Section 331.103 deals with water pollution abatement for regulated developments. Several commenters, including the City of Cedar Park, Brown Maroney, and Dennis Crowley (Carlson and Dippol), pointed out that as originally proposed in December 1984, §331.103(b)(3)(E) required information that could require persons preparing water pollution abatement plans to enter onto property not owned by them and to which they had no legal access. The department agrees that such a requirement could prove problematical, and has determined that the requirement

could be deleted without increasing the risk of adverse impact on water quality. The rules as repropoed in February 1985 did not contain that requirement.

The City of Round Rock pointed out that many of the concerns addressed by §331.103 and water pollution abatement plans are already regulated within the city limits under a city's authority to approve plats for proposed developments. In order to avoid duplication of regulatory effort and possible inconsistent results, the definition of regulated development is modified to exclude developments occurring within the city limits of incorporated cities and towns. As a result, only those developments occurring outside the jurisdiction of a city or town are required to file water pollution abatement plans with the department.

Other aspects of §331.103, on which the department received critical comments is the requirement that notice of a water pollution abatement plan be placed in the county deed records (§331.103(e)(1)), and the requirement that quarterly reports be filed with the department (§331.103(g)). Other commenters suggested that the rules should impose a limitation on the amount of time the department would have to review and approve water pollution abatement plans. The department feels that deed recordation serves an important notice function and that the quarterly reports will allow the department to monitor development on the recharge zone more effectively. No time limitation for review of pollution abatement plans has been included in the rules because it is the department's policy to review these plans as quickly as possible, and undue delay should not occur in the ordinary course of events.

Section 331.104, as originally proposed, received substantial criticism. The criticism focused on two areas. First, commenters including Thomas Buckle representing West Georgetown Development Company; Charles Steger representing the City of Cedar Park, the City of Leander and Williamson County, the City of Cedar Park; the City of Round Rock, and Brown Maroney, felt that the requirement that sewer lines located within the five-year flood plain be encased in six inches of concrete would be financially burdensome and would not produce the result intended by the rules, that is, protection of the sewer lines from scouring and erosion. Second, commenters, including the City of Round Rock, the City of Cedar Park, Brown Maroney, Charles Steger, and Renee Hansen of the City of Georgetown, criticized the requirement that sewer lines be tested periodically as being financially burdensome and requiring more testing than necessary to protect water quality. Others, such as the City of Round Rock, thought that §331.104(a) was sufficient, and that §331.104(b) should be deleted in its entirety.

The department agreed that the rules, as originally proposed, should be modified to more clearly address the goals of the rules. Rather than require that sewer lines located within the five-year flood plain be routinely encased in concrete, the revised rules provide for more stringent design and installation standards for gravity sewer lines. Also, when such lines are placed in areas where erosion and scouring of the backfill could occur, the trench must be capped with concrete or the line encased in concrete. These revisions were reflected in the rules published in February, 1985, and no comments were received.

As originally proposed in December, 1984, the rules required that new sewer lines be tested prior to use and every five years thereafter. Existing lines were required to be tested within five years of the effective date of the rules and every five years thereafter. The rules specified that TV camera testing was acceptable and that other methods could be used with prior approval of the executive director. In response to the considerations raised through public comment, the rules as published in February 1985 and adopted by the board provide that new lines be tested after construction and evaluated every five years thereafter. Existing lines must be inspected to detect structural damage and evaluated every five years thereafter. These revisions will allow flexibility in compliance with the rules and will help prevent unnecessary expenditures of money for sewer line testing where less exhaustive and less costly methods of evaluation will be sufficient to indicate whether significant problems exist.

Section 331.105 requires that all wastewater discharges within 10 miles upstream of the recharge zone attain effluent set 2N which specifies 10 mg/l biochemical oxygen demand, 15 mg/l total suspended solids, and 3 mg/l ammonia nitrogen on a 30-day average. The City of Round Rock urged that more stringent requirements be imposed within one mile of the recharge zone. Brown Maroney commented that technical justification for this requirement does not exist, or if it does, that justification has not been made available to the public. The basis of the effluent set 2N requirement is the waste load evaluation performed by the department for the Brushy Creek Watershed. The results of that evaluation indicate that effluent to be discharged should be treated to effluent set 2N and the imposition of this effluent set is in accordance with those findings. The department does not have any data suggesting that more stringent levels of treatment are required for all discharges upstream of the recharge zone to protect the quality of groundwater. However, all permit applications are considered on a case-by-case basis.

Section 331.106 provides for regulation of private sewage facilities on the recharge

zone. Most comments on this section dealt with two areas. First, the minimum lot size of one acre was thought by some to be unnecessary to protect water quality. Brown Maroney urged that the question of lot size should be handled on a case-by-case basis and that §331.106(d)(2) would be effective for this purpose. Second, many commenters, including Charles Steger, Brown Maroney, the City of Cedar Park, and the City of Round Rock, felt that the requirement of six percolation tests was unnecessary and burdensome. Jack Purcell, commenting on behalf of the Williamson County Health Department, which will be the licensing authority for private sewage facilities on the recharge zone, noted that the rules, as proposed, contemplated different administrative procedures than those presently in place in Williamson County's existing private sewage facility regulatory program.

The department has determined that lots having a size of at least one acre are advisable where private sewage facilities are used based on considerations of buffer zones required for private wells, a potential need for more space should a disposal area fail, and assurances that the lot size will be sufficiently large to accommodate a disposal area without adverse impact on the groundwater.

The department agrees that six percolation tests may not be necessary in all cases to determine the suitability of a particular location for private sewage facilities. The rules were modified and repropoed in February 1985 to provide that the licensing authority will have the discretion to require as many tests as are necessary on a case-by-case basis, relying on the guidelines contained in the Texas Department of Health publication, *Construction Standards for Private Sewage Facilities*.

In response to the comments by the Williamson County Health Department that the rules, as originally proposed, could present an administrative burden to the county, the rules were revised to provide that the Williamson County Commissioners Court may regulate private sewage facilities on the recharge zone according to rules adopted by the commissioners court and approved by the Texas Water Development Board under the Texas Water Code, §26.032, to the extent that such rules are as stringent as, and not inconsistent with, these rules.

The City of Cedar Park, Brown Maroney, Thomas Buckle, and the City of Leander, among others, expressed the view that the fiscal impact discussed in the preamble to the December 1984 publication of the rules was considerably underestimated. The department notes that the fiscal impact information required to be contained in the preamble under the Administrative Procedure and Texas Register Act, is intended to be an estimate, and

will not necessarily precisely predict the actual financial experience of any particular person affected by the rules. The department believes the fiscal impact analysis is legally sufficient and provides an acceptable projection of the financial impact of compliance with the rules.

A concern expressed by many commenters, including Hooper, Robinson and Moeller, Avery Ranch Partnership; the City of Cedar Park; City of Leander; Ed Wendler (representing Parklane Development Company), and Renee Hansen on behalf of the City of Georgetown, was to what extent existing facilities and activities would be grandfathered under the rules. This concern was raised in connection with a number of aspects of the rules, such as developments in progress, permitted but not yet built facilities, facilities for which permits have been applied but not issued, existing discharges not meeting the effluent set 2N limitations, existing collection systems, collection systems which have been designed and funded but not yet constructed, and lot sizes of less than one acre on which private sewage facilities are proposed to be used.

It is the intent of the rules that existing facilities, facilities for which permits have been issued, but which have not yet been built, and facilities for which permits have been issued and which are presently under construction may continue in operation or commence operation in accordance with the permit issued by the Texas Water Commission. This would include those permits which provide for phased effluent limitations, e.g., those permits already issued by the commission which provide for expansion of treatment capacity and/or increase in flow. Existing or proposed collection systems would be handled similarly. Of course, all permits are subject to the department's authority to amend, suspend, revoke, or fail to renew permits as provided in the department's rules. Applications for new permits and for amendments to existing permits requesting an increase in the volume of wastewater to be discharged which have not received final approval of the Texas Water Commission upon the effective date of these rules will not be authorized unless an exception is approved by the department.

Section 331.106 (i) provides that private sewage facilities may be utilized on lots less than one acre in size provided that the lot in question was platted and recorded in the office of the county clerk prior to the effective date of these rules. This provision was modified subsequent to the December 1984 proposal of the rules due to administrative problems associated with having a platting and recording deadline which predated the effective date of the rules.

Similarly, §331.105(c) was modified subsequent to the original proposal of

the rules to clarify that the requirement that discharges within 10 miles upstream of the recharge zone attain, at a minimum, effluent set 2N, applies to new or increased discharges, not existing discharges. Of course, this provision does not supersede the department's authority to evaluate existing and proposed discharges on a case-by-case basis for the purpose of effluent limitations.

Regulated developments for which a plat has been recorded in the office of the county clerk would not be required to file a pollution abatement plan pursuant to §331.103. This stage of development was selected because it is an early, identifiable stage common to all regulated developments.

The following persons appeared at the public hearing and expressed concern with the speed with which the rules were proposed to be adopted: Williamson County Judge Tim Maresh; Morton King, Richard Finnell, the Cedar Park Chamber of Commerce, Steve Shutt, and the City of Cedar Park. In response to those concerns, the department undertook additional review of the proposed rules and modified the original proposed schedule for the adoption of the rules.

Martha Russell filed written comments contending that the notice of rule making which was given was insufficient. The department notes, in response to Ms. Russell's concern, that notice in accordance with the Administrative Procedure and Texas Register Act was provided.

Hilda S. McCraw offered oral comments generally supporting the rules. Ellen Stephens, representing the City of Cedar Park, expressed general concern about the rules. Ted Herriger of William F. Guyton and Associates, Inc., representing the City of Round Rock, offered comments relating to the need for clarification of certain parts of the rules. Rex Hawes submitted written comments in general opposition to the rules.

These new sections are adopted under the Texas Water Code, §§5.131, 5.132, and 26.011, which provide the Texas Water Development Board with the authority to regulate and promulgate the rules, for the protection of water quality in the state.

#### **§331.109. Exceptions.**

(a) General. This subchapter will be strictly enforced; nevertheless, situations will arise on occasion that are materially different from those normally encountered or anticipated in this area of regulation. These situations may justify a departure from this subchapter in order to avoid hardships or the use of regulatory resources which would not provide protection for the Edwards Aquifer.

(b) Procedures.

(1) A person desiring an exception to the provisions of this subchapter shall file

a written request with the executive director stating:

(A) the nature of the exception requested;

(B) the justification for granting the exception; and

(C) any information that the executive director or his representative reasonably requests.

(2) All requests shall be submitted in triplicate.

(3) Decisions regarding exceptions to §331.106 of this title (relating to Private Sewage Facilities) may be made by the supervisor of the District 14 office. All decisions regarding exceptions made by the supervisor of the District 14 office are appealable to the executive director by following the procedures of this subsection. If the commissioners court for the county in which the private sewage facility is or is proposed to be located is regulating private sewage facilities pursuant to rules approved by the Texas Water Development Board under Texas Water Code, §26.032 and §331.106(a) of this title (relating to Private Sewage Facilities), then decisions regarding exceptions to those rules shall be made by the commissioners court.

(c) It is recognized that the Edwards Aquifer and the recharge zone in Williamson County have not been completely studied. The executive director intends to undertake further studies of the Comanche Peak Formation and portions of the San Gabriel River and Berry's Creek, which flow over the Georgetown Formation. The executive director, in cooperation with affected local governments, will study that portion of the San Gabriel River located over the Georgetown Formation and determine whether its continued inclusion within the recharge zone is justified.

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

Issued in Austin, Texas, on April 30, 1985.

TRD-853773 Susan Plattman  
General Counsel  
Texas Department of  
Water Resources

Effective date: May 21, 1985  
Proposal publication date: February 15, 1985  
For further information, please call  
(512) 463-8093.

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## Chapter 341. Consolidated Permits Permit Characteristics and Conditions

★31 TAC §341.316

The Texas Department of Water Resources adopts an amendment to

§341.316, without changes to the proposed text published in the February 8, 1985, issue of the *Texas Register* (10 TexReg 456).

The amendment clarifies that wastewater permits which do not authorize a discharge directly to waters of the state, commonly referred to as no-discharge permits, may be issued for a term up to 10 years, as determined by the Texas Water Commission.

The department received one comment regarding adoption of the proposed amendment. Texas Utilities Generating Company agreed that the proposed 10-year term for no-discharge permits is appropriate, but requested that the term "into a surface drainage" as used in amended §341.316(1)(c) be defined to avoid any ambiguity. The department believes that the term is sufficiently precise and does not require further definition. Texas Utilities Generating Company also proposed increasing the allowable term for wastewater permits authorizing discharges directly into surface drainages to 10 years. These amendments did not address direct discharges and, therefore, the department cannot consider this comment in the content of the present proposal.

The amendment is adopted under the Texas Water Code, §§26.011, 5.131, and 5.132, which provides the Texas Water Development Board with the authority to make any rules necessary to regulate the quality of water in the state.

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

Issued in Austin, Texas, on April 30, 1985.

TRD-853774 Susan Plattman  
General Counsel  
Texas Department of  
Water Resources

Effective date: May 21, 1985  
Proposal publication date: February 8, 1985  
For further information, please call  
(512) 463-8093.

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## Chapter 353. Underground Injection Control General Provisions

★31 TAC §§353.2, 353.15, 353.20

The Texas Department of Water Resources (TDWR) adopts amendments to §§353.2, 353.15, and 353.20, without changes to the proposed text published in the February 8, 1985, issue of the *Texas Register* (10 TexReg 457).

In the amendment to §353.2, the term "artificial liner" has been defined for use

with proposed new §353.47. Liners currently are required by some permits. This definition is needed because the term "artificial liner," although widely used, is occasionally used in reference to liners other than those actually made of man-made materials.

The amendment to §353.15 corrects references in the section to reflect amended section numbers and titles for requirements for wells authorized by rule. This amendment also changes the section to require large volume sewage disposal (Class V) wells to obtain a permit, and amends the section regarding procedures to require any Class V well to have a permit.

This adoption allows 90 days to an owner or operator of such a well to submit an application for permit. Upon receipt of a letter from the executive director requesting an application, and following submission of that application, the owner or operator of the Class V well may submit a request to the commission that the permit not be required. This amendment enhances the enforceability of this aspect of the program because the rights and duties of the owner or operator of a Class V well are clearly stated, so that refusal to comply can be readily determined and further action initiated. This amendment is consistent with current practice.

The amendment to §353.20 resolves conflict between the Texas Water Code, §26.031 and §26.032, and §27.002(13).

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Water Code, §§26.011, 27.019, 5.131, and 5.132, which provide the Texas Water Development Board with the general authority to regulate injection wells and private sewage facilities to protect surface and groundwater quality and to promulgate rules.

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

Issued in Austin, Texas, on April 30, 1985.

TRD-853775 Susan Plattman  
General Counsel  
Texas Department of  
Water Resources

Effective date: May 21, 1985  
Proposal publication date: February 8, 1985  
For further information, please call  
(512) 463-8093.

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## Mechanical Integrity Standards

★ 31 TAC §§353.43, 353.46-353.48

The Texas Department of Water Resources adopts amendments to §353.43 and §353.46, with changes to the proposed text published in the February 15, 1985, issue of the *Texas Register* (10 TexReg 585). For point of clarification, an error in §353.43(b)(1) is corrected to read "Monitoring of annulus pressure, or (not 'and') pressure test with liquid or gas." Section 353.47 and §353.48 are adopted without changes and will not be republished.

The amendments to §353.43 allow by rule additional alternate tests for mechanical integrity which are acceptable to the department. These methods have previously been authorized by the executive director on a case-by-case basis and found to be reliable. The methods have been approved for use in Texas by the U.S. Environmental Protection Agency (EPA).

The department withdrew the proposed amendment to §353.46; therefore, the section reads as originally written.

The department adopts new §353.47, and existing §353.47 is now renumbered as §353.48. New §353.47 requires minimum lining requirements for holding ponds or emergency storage ponds associated with surface facilities of underground injection wells. Lining of ponds is currently a standard permit requirement. Former §353.47 (current §353.48) is changed by deleting reference to the board. This change reflects current practice of the department.

The department received one comment regarding proposed §353.46(g), requiring calculation of the location of the waste fluid front within the disposal zone and the predicted location of the waste fluid front after 100 years. United States Steel Corporation, Texas Uranium Operations, Clay West Plant, commented that this information was not useful since the fluid front cannot accurately be determined and the unlikelihood the aquifer would be used within the post-100-year period where baseline water quality exceeds 100,00 mg/l total dissolved solids. The department agrees that an interception of the waste front which would result in migration of waste from the injection zone is extremely remote and has, therefore, omitted the requirement from the final section. Information relating to location of waste fluid fronts for all Class I injection wells is maintained within the offices of the department and is available to the general public.

Comments were received regarding §§353.43, 353.47, and 353.48 from Westinghouse Electric Corporation, which expressed its opinion regarding mechanical integrity of wells used in *in situ* uranium mining, that cement records along with

a monitor well system provide adequate assurance of leak detection and confinement. The Texas Department of Water Resources (TDWR) respectfully disagrees with this opinion because cement records are not conclusive evidence of adequate bonding in some circumstances and the absence of a detected excursion in the vicinity of a well is not conclusive verification of its mechanical integrity. Westinghouse additionally requested that *in situ* uranium wells being requalified as injection wells not be required to undergo pressure testing because of the possibility of damaging the casing during the test. The TDWR feels that all existing wells that may be converted to injection wells must undergo pressure testing for leaks at some point prior to injection since that method is more reliable than analyzing cement records and monitor well data. Finally, Westinghouse requested that injection wells be exempt from integrity testing in areas actively undergoing restoration since the fluids injected are to clean up the groundwater and would not pose a hazard if there were leaks. Although Westinghouse's assertion may be valid as to certain methods of restoration, other techniques require the use of chemicals which could cause contamination of groundwater. As a result of the foregoing, the agency adopts the amendments as proposed.

The amendments are adopted under the Texas Water Code, §§27.019, 5.131, and 5.132, which provides the Texas Water Development Board with the authority to regulate underground injections and to promulgate rules.

### §353.43. Mechanical Integrity Standards.

- (a) (No change.)
- (b) Except as provided by subsection (c) of this section, the following tests or combination of tests shall be used to evaluate the mechanical integrity of an injection well:
  - (1) monitoring of annulus pressure, or pressure test with liquid or gas, or radioactive tracer survey, or (for Class III uranium solution mining wells only) single point resistivity survey in conjunction with a pressure test to detect any leaks in casing, tubing, or packer; and
  - (2) temperature log, or noise log, or radioactive tracer survey, or cement bond log, or (for Class III uranium solution mining wells only) cement records where other tests are not suitable, or (for Class III brine solution mining wells only) a pressure test of the well and cavity to detect any fluid movement through vertical channels adjacent to the injection wellbore.
- (c)-(d) (No change.)

### §353.46. Plugging and Abandonment Standards.

- (a)-(f) (No change.)
- (g) Within 30 days after completion of plugging, the permittee shall file with the

executive director a plugging report on forms provided by the department.

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

Issued in Austin, Texas, on April 30, 1985.

TRD-853776

Susan Plettman  
General Counsel  
Texas Department of  
Water Resources

Effective date: May 21, 1985

Proposal publication date: February 15, 1985  
For further information, please call  
(512) 463-8093.

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## Standards for Class I Wells

★ 31 TAC §353.63

The Texas Department of Water Resources adopts an amendment to §353.63, without changes to the proposed text published in the February 8, 1985, issue of the *Texas Register* (10 TexReg 457).

This amendment mandates blowout prevention during workovers in the form of pressure control equipment. Department experience shows that the use of this equipment is advisable and an accepted practice in the industry.

The department received two comments regarding adoption of the proposed amendment. United States Steel Corporation, Texas Uranium Operation, Clay West Plant, commented that a mandatory requirement for pressure control equipment should not be imposed since the tubing or formation pressure may not be sufficient to push the formation or waste fluid to the surface. Diamond Shamrock commented that use of pressure control equipment for wells which have a static fluid level well below the surface and do not penetrate high-pressure geologic formation is a superfluous requirement. The department disagrees with these comments and believes the use of pressure control equipment should be mandatory, given the unpredictability of when well blowout is likely to occur and the adverse consequences associated with movement of waste fluids to the surface.

The amendment is adopted under the Texas Water Code, §§27.019, 5.131, and 5.132, which provides the Texas Water Development Board with the authority to regulate underground injection and to promulgate rules.

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

Issued in Austin, Texas, on April 30, 1985.

TRD-863777

Susan Plettman  
General Counsel  
Texas Department of  
Water Resources

Effective date: May 21, 1985

Proposal publication date: February 8, 1985

For further information, please call  
(512) 463-8093.

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## Standards for Class III Wells

### ★ 31 TAC §§353.82, 353.84, 353.85

The Texas Department of Water Resources (TDWR) adopts amendments to §§353.82, 353.84, and 353.85, without changes to the proposed text published in the February 8, 1985, issue, of the *Texas Register* (10 TexReg 457).

The amendment to §353.82 adopts current practices for monitoring of Class III mining operations. Class III mining wells have different construction and monitoring requirements than Class I disposal wells due to the needs of production. For example, maintaining a tubing-long string annulus to continuously monitor for leaks is not possible in Class III wells. Therefore, it is necessary to monitor the performance of these wells other than at the same borehole. The TDWR requires installation of monitor wells surrounding the injection area or zone to indicate the presence of contaminants which could indicate well malfunction. Monitor wells are needed because mechanical integrity testing is required infrequently and great damage could be incurred without a more reliable means of discovering problems for correction. The existing language was intended to apply to and was written for the coverage of *in situ* uranium mining operations. The section also applies to brine, sulphur, and other mines, though it does not so neatly fit the practice and requirements of those industries. This amendment clarifies the application of this requirement to Class III wells other than uranium mines. In these Class III wells, the pollutant to be safeguarded is the product, the steaming sulphur, or brine. Where these wells occur in locally anomalous geological structures such as salt domes, the parameter most indicative of the integrity of the well is the production fluid. The TDWR currently requires monitoring for these fluids in some permits.

The amendment to §353.84 clarifies that the monitoring frequency specified by rule is a minimum and the Texas Water Commission may require more frequent monitoring frequencies by permit.

The amendment to §353.85 reduces the reporting requirements for routine moni-

toring data from monthly reports to minimum quarterly reports. The Texas Water Commission can require more frequent reporting frequencies by permit. This amendment also adds area-wide monitoring data to the routine reporting requirements. The executive director has found that well monitoring data is as meaningfully reviewed quarterly as monthly, and that monthly reports are not as useful as data from longer reporting periods, which will show trends in water quality more readily than data from shorter periods. The executive director has also found that area-wide data is useful in assessing the significance of routine reports. This data was required to be collected and maintained on site by existing rules (§353.84(e)) and will now be reported quarterly.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Water Code, §§27.019, 5.131, and 5.132, which provides the Texas Water Development Board with the authority to regulate underground injection and to promulgate rules.

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

Issued in Austin, Texas, on April 30, 1985.

TRD-853778

Susan Plettman  
General Counsel  
Texas Department of  
Water Resources

Effective date: May 21, 1985

Proposal publication date: February 8, 1985

For further information, please call  
(512) 463-8093.

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## Standards for Class III Well Production Area Development

### ★ 31 TAC §§353.104, 353.106, 353.107

The Texas Department of Water Resources (TDWR) adopts new §353.107, with changes to the proposed text published in the February 8, 1985, issue of the *Texas Register* (10 TexReg 458). Amendments to §353.104 and §353.106 are adopted without changes and will not be republished.

For point of clarification, some words were inadvertently omitted in the February 8, 1985, publication of new §353.107. The fourth sentence in §353.107(e), regarding restoration table values achieved, reads as follows:

After filing the report, sampling for all parameters listed in the restoration table from all wells used to determine the restoration table and from other selected wells in the designated area shall be conducted.

The amendments include updating TDWR report form numbers to reflect current forms, and exempting all Class III operations other than uranium solution mining from the summarization requirement. The amendments to §353.104 also expressly determine the derivation of control parameter upper limits and restoration table values, consistent with current practice. New §353.107 specifies the procedures for restoration, and for determining that restoration has been accomplished. This new section also requires notification upon completion of mining. The operator will be required, from that date, to submit semiannual restoration progress reports until restoration has been achieved, and according to the restoration timetable included in the permit. Once restoration has been achieved, the permittee is required to sample for three consecutive months and verify restoration and report the results. Upon acknowledgement, in writing, that final restoration has been achieved, the permittee may cease all activities at the site. The new section also provides an alternate procedure for amending the restoration table where there is cause to believe that restoration cannot reasonably be achieved. This procedure involves permit amendment, with specified findings.

No comments were received regarding adoption of the amendments and new section.

The amendments and new section are adopted under the Texas Water Code, §§27.019, 5.131, and 5.132, which provides the Texas Water Development Board with the authority to regulate underground injection and to promulgate rules.

### §353.107. Restoration.

(a) Restoration table. Upon issuance and renewal, Class III permits and production area authorizations shall contain a restoration table listing restoration goals as provided by §353.104 of this title (relating to Establishment of Baseline and Restoration Values).

(b) Mining completion. When the mining of a permit or production area is completed, the permittee shall notify the appropriate Texas Department of Water Resources district office and the executive director and shall proceed to reestablish groundwater quality in the affected permit or mine area aquifers to levels consistent with the values listed in the restoration table for that permit or mine area.

(c) Timetable. Aquifer restoration, where appropriate for each permit or mine area, shall be accomplished in accordance with the timetable specified in the currently approved mine plan, unless otherwise authorized by the commission. Authorization for expansion of mining into new production areas may be contingent upon achieving restoration progress in previously mined production areas within the schedule set forth in the mine plan.



(d) Reports. Beginning six months after the date of initiation of restoration of a permit or production area, as defined in the mine plan, the operator shall provide to the executive director semiannual restoration progress reports until restoration is accomplished for the permit or mine area.

(e) Restoration table values achieved. Once restoration has returned total dissolved solids (TDS) and other specified parameters to concentrations to levels equal to or better than the values listed in the restoration table, as determined by the results of three consecutive sample sets taken at a minimum of 30-day intervals, the permittee may cease restoration operations. The permittee shall sample and complete an analysis of all permit or production area wells used to determine the restoration table for all parameters listed in the restoration table. The permittee shall file with the executive director a written report of the results of the analysis and a summary of restoration efforts. After filing the report, sampling for all parameters listed in the restoration table from all wells used to determine the restoration table and from other selected wells in the designated area shall be conducted at one-month intervals for a minimum of three sample sets and reported to the executive director. The permittee shall notify the executive director at least one week in advance of sample dates and provide the opportunity for splitting samples to the executive director. The executive director shall determine within 120 days of receiving the report following the receipt of all department sample analyses whether or not restoration has been achieved. Upon acknowledgement in writing by the executive director confirming achievement of final restoration, the permittee may cease all monitoring and restoration activities in the affected area.

(f) Restoration table values not achieved. After an appropriate effort has been made to achieve restoration to levels equal to or better than the values listed in the restoration table for the permit or mine area, the permittee may request that the restoration table be amended.

(1) In determining whether the restoration table should be amended, the commission may consider the following:

(A) uses for which the groundwater was suitable at baseline water quality levels;

(B) actual existing use of groundwater in the area prior to and during mining;

(C) potential future use of groundwater of baseline quality, and of proposed restoration quality;

(D) the effort made by the permittee to restore the groundwater to baseline;

(E) technology available to restore groundwater for particular parameters;

(F) the ability of existing technology to restore groundwater to baseline

quality in the area under consideration;

(G) the cost of further restoration efforts;

(H) the consumption of groundwater resources during further restoration; and

(I) the harmful effects of levels of particular parameters.

(2) The commission may amend the restoration table if it finds that:

(A) reasonable restoration efforts have been undertaken giving consideration to the factors listed in paragraph (1) of this subsection;

(B) the values for the parameters describing water quality have stabilized for a period of 180 days;

(C) the formation water present in the aquifer would be suitable for any use to which it was reasonably suited prior to mining; and

(D) further restoration efforts would consume energy, water, or other natural resources of the state without providing a corresponding benefit to the state.

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

Issued in Austin, Texas, on April 30, 1985.

TRD-853779

Susan Plattman  
General Counsel  
Texas Department of  
Water Resources

Effective date: May 21, 1985

Proposal publication date: February 8, 1985

For further information, please call  
(512) 463-8093.

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### ★ 31 TAC §353.107

The Texas Water Development Board adopts the repeal of §353.107, without changes to the proposal published in the February 8, 1985, issue of the *Texas Register* (10 TexReg 460). This section is replaced by new §353.107, which is adopted simultaneously.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Texas Water Code, §§27.019, 5.131, and 5.132, which provides the Texas Water Development Board with the authority to regulate underground injection and to promulgate rules.

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

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

Issued in Austin, Texas, on April 30, 1985.

TRD-853790

Susan Plattman  
General Counsel  
Texas Department of  
Water Resources

Effective date: May 21, 1985

Proposal publication date: February 8, 1985

For further information, please call  
(512) 463-8093.

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### Standards for Class V Wells

#### ★ 31 TAC §§353.131-353.133

The Texas Department of Water Resources (TDWR) adopts new §§353.131-353.133, without changes to the proposed text published in the February 8, 1985, issue of the *Texas Register* (10 TexReg 460).

These sections identify minimum acceptable construction and closure standards for Class V wells statewide. Except in extraordinary cases, compliance with these standards will result in authorization by rule for these wells.

No comments were received regarding adoption of the new sections.

The new sections are adopted under the Texas Water Code, §§27.019, 5.131, and 5.132, which provides the Texas Water Development Board with the authority to regulate underground injection and to promulgate rules.

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

Issued in Austin, Texas, on April 30, 1985.

TRD-853781

Susan Plattman  
General Counsel  
Texas Department of  
Water Resources

Effective date: May 21, 1985

Proposal publication date: February 8, 1985

For further information, please call  
(512) 463-8093.

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### Part XI. Texas Department of Water Resources

#### Chapter 371. Private Sewage Facilities

##### Subchapter J. Lake Palestine

#### ★ 31 TAC §371.192

The Texas Water Development Board of the Texas Department of Water Resources

sources adopts amendments to §371.192, without changes to the proposed text published in the November 13, 1984, issue of the *Texas Register* (9 TexReg 5813).

The amendments increase the private sewage facilities license fee from \$15 to \$30 and increase the charge for performing a soil percolation test from \$35 to \$70. These fees are intended to bring the fees in line with the actual costs being incurred by the licensing program.

No comments were received regarding the adoption of the amendments.

The amendments are adopted pursuant to the Texas Water Code, §28.031(h), and §5.131 and §5.132, which provides the Texas Water Development Board with the authority to prescribe and require the payment of reasonable fees for performing the licensing function and administering the licensing system for the private sewage facilities regulatory program in a given area and with the power to enact rules to effectuate the policy of the Texas Department of Water Resources.

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

Issued in Austin, Texas, on April 23, 1985.

TRD-853622 Susan Plettman  
General Counsel  
Texas Department of  
Water Resources

Effective date: May 16, 1985  
Proposal publication date: November 13, 1984  
For further information, please call  
(512) 483-6093.

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## TITLE 34. PUBLIC FINANCE

### Part I. Comptroller of Public Accounts

#### Chapter 3. Tax Administration

##### Subchapter O. State Sales and Use Tax

★ 34 TAC §3.307

The Comptroller of Public Accounts adopts the repeal of §3.307, without changes to the proposal published in the March 22, 1985, issue of the *Texas Register* (10 TexReg 978).

The section has been completely revised and has been proposed as a new section. Therefore, it is necessary for the current section to be repealed.

No comments were received regarding adoption of the repeal.

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

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

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

TRD-853698 Bob Bullock  
Comptroller of Public  
Accounts

Effective date: May 20, 1985  
Proposal publication date: March 22, 1985  
For further information, please call  
(512) 475-1913.

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★ 34 TAC §3.307

The Comptroller of Public Accounts adopts new §3.307, without changes to the proposed text published in the March 22, 1985, issue of the *Texas Register* (10 TexReg 979).

The new section more clearly states the comptroller's position on sales tax as it applies to in-state, out-of-state, and wire-service deliveries of floral arrangement. Effective October 2, 1984, delivery charges became taxable. This is addressed in the new section. Also addressed are city and Metropolitan Transit Authority rules for florists.

No comments were received regarding adoption of the new section.

The new section is adopted under the Texas Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the sales tax.

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

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

TRD-853897 Bob Bullock  
Comptroller of Public  
Accounts

Effective date: May 20, 1985  
Proposal publication date: March 22, 1985  
For further information, please call  
(512) 475-1913.

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## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Resources

#### Chapter 27. ICF-MR

##### Subchapter DD. Administrative Policies and Procedures

★ 40 TAC §27.2905

The Texas Department of Human Resources adopts the repeal of §27.2905, without changes to the proposal published in the March 8, 1985, issue of the *Texas Register* (10 TexReg 823).

Section 27.2905 is repealed because the policies about residents' personal funds and property are contained in new §§27.4801-27.4803. The department proposed these new sections in the October 30, 1984, issue of the *Texas Register* (9 TexReg 5578) and is in the process of adopting them.

No comments were received regarding the adoption of the repeal.

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

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

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

TRD-853690 Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Resources

Effective date: May 20, 1985  
Proposal publication date: March 8, 1985  
For further information, please call  
(512) 450-3766.

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### Subchapter WW. Residents' Personal Funds and Property

★ 40 TAC §27.4801-27.4803

The Texas Department of Human Resources adopts new §§27.4801-27.4803, with changes to the proposed text published in the October 30, 1984, issue of the *Texas Register* (9 TexReg 5578).

These sections clarify the rights of residents and the responsibilities of each intermediate care facility-mental retardation (ICF-MR). Residents, their families/legal guardians, providers, and state agencies will use these rules to guide daily activities in managing residents' personal funds and property.

Sections 27.4801-27.4803 describe the treatment, use, and disbursement of residents' personal funds and property. Section 27.4801 also clarifies the personal need items which must be furnished by an ICF-MR to its residents.

The department received both written comments and verbal comments at a public hearing on November 29, 1984, in Austin. Comments were received from individuals, the Texas Association of Retarded Citizens, and the Texas Association of Private ICF-MR Providers. The Texas Association of Retarded Citizens supported the rules as proposed. The Texas Association of Private ICF-MR Providers endorsed the development of these rules, but the association expressed concerns and recommendations about specific portions of the rules.

The following is a summary of the comments received and the department's response to each comment.

Several commenters stated that the rules as written conflicted with the concepts of "normalization" and "active treatment" because the rules state that an ICF-MR is responsible for meeting the needs of its residents.

The department endorses these concepts but must comply with federal regulations which specify that an ICF-MR is responsible for meeting its residents' needs. The rules encourage and permit residents to manage their personal funds, participate in decision making, and receive training (to the fullest extent possible) so that the residents may possess and use money in normal ways. Residents' selection of personal need items, special equipment, and other purchases are addressed in these sections.

Several commenters expressed concern that the rules did not identify items that should be purchased through the residents' personal funds.

The department agrees with this concern and has added a new subsection (h) to §27.4801.

Several commenters expressed concern about a resident's need for a personalized furnished item after the resident has been permanently discharged or transferred.

The department recognizes this potential problem and has modified §27.4802 to allow a resident to purchase the nonpersonalized portion of a furnished item, if the resident desires to purchase it.

Several commenters expressed concern about the amount of paperwork these sections will require.

These sections adhere to the federal ICF-MR regulations and their interpretive guidelines which address documentation requirements.

Several commenters expressed concern about the brief time period allowed to

return personal funds to a resident upon the resident's request, transfer, or discharge.

The department agrees with this concern and has modified §27.4803 to state that monies must be returned within 30 days.

Several commenters expressed concern about the scope of these rules since they do not address appropriate reimbursement to an ICF-MR facility to protect its financial interest.

The department believes that these concerns are beyond the purpose of these sections. These concerns relate to the reimbursement methodology, in general, especially regarding a facility's costs in furnishing personal need items.

One commenter took exception to the department's Medicaid eligibility worker being notified if a resident cannot manage his personal funds and does not have a representative payee or responsible party.

The department disagrees with this concern since these rules simply state existing procedures. Notification of the Medicaid eligibility worker does not remove from the ICF-MR the responsibility or the authority for management of a resident's personal funds.

One commenter recommended that the term "large sums" be defined since counseling a resident about the use of "large sums" of money is required.

The department disagrees with this recommendation since the needs of individual residents vary greatly and there are marked differences about the amount of money that would be a large sum to each individual resident.

One commenter expressed concern that the proposed rules were more appropriate to the needs of persons living in nursing facilities than to persons with mental retardation. The commenter recommended that the rules be modified to address the needs of residents having the various ICF-MR levels of care.

The department must comply with federal regulations, some of which are applicable to both a nursing facility and an ICF-MR. The department also endorses the concept that residents' needs vary and should be addressed individually rather than making assumptions about an individual resident's abilities based upon the assignment of a level of care that is developed for groups of residents.

One commenter recommended that the rules address the ICF-MR's responsibility to furnish personal need items when a resident is destructive or wasteful.

The department recognizes this problem but recommends that these problems be addressed through the resident's individual program plan. Under these circumstances, staff may control access to and use of personal need items.

Finally, the department has made minor changes to the text of the rules to clarify the intended policy.

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

#### §27.4801. Personal Funds.

(a) The ICF-MR must have written policies and procedures that protect the financial interests of each resident.

(b) If large sums accrue to a resident, the ICF-MR must ensure that the policies and procedures provide for appropriate protection of these funds and for counseling the resident about their use.

(c) Each resident must be allowed to possess and use money in normal ways or be learning to do so.

(d) The ICF-MR must maintain a current, written financial record for each resident. The ICF-MR must make the financial record available to the resident, the guardian, the representative payee, or the legally responsible person. The ICF-MR must ensure that the financial record includes written receipts for all:

(1) personal possessions and funds received by or deposited with the ICF-MR; and

(2) disbursements made to or on behalf of the resident according to §27.4803(c)(4) of this title (relating to Protection of Funds).

(e) The ICF-MR is responsible for meeting the needs of its residents. The ICF-MR vendor payment is considered to be payment in full to the ICF-MR for providing the care and services needed by the residents.

(f) The ICF-MR must furnish to residents basic personal need items which are essential in maintaining personal health, hygiene, and cleanliness.

(1) Personal need items which must be furnished by the ICF-MR include, but are not limited to:

- (A) toothbrush;
- (B) toothpaste;
- (C) shampoo;
- (D) shaving cream;
- (E) razors;
- (F) facial tissues;
- (G) razor blades;
- (H) sanitary napkins;
- (I) comb or hair brush;
- (J) soap; and
- (K) body lotion.

(2) If a resident prefers to use a specific type or brand of a personal need item(s) rather than the item(s) furnished by the ICF-MR, he may use his personal funds to purchase the item(s). Irrespective of the method of purchasing, the personal need item purchased by the resident is for his sole use. The ICF-MR must ensure that the item is in an individual container or package which is labeled with the resident's name. The ICF-MR is not held responsible for labeling personal need items brought into the facility and not reported to the management.

(g) The ICF-MR must have written policies and procedures for the purchase of

items and services through the use of the residents' personal funds. The ICF-MR must ensure that the policies and procedures address, at a minimum, the following:

(1) the appropriate participation of the resident, the guardian, or the responsible party in the selection of items and services purchased;

(2) a system for ensuring that all purchases are either necessary to meet the resident's individual need or to respond to a direct request by the resident, the guardian, or the responsible party;

(3) a method of procurement that ensures that items and services are purchased at reasonable cost to the resident and that the costs are comparable to other items and services generally available in the community;

(4) assurances that items and services are not purchased through a resident's personal funds if comparable items and services are accessible to the resident through other Medicaid, Medicare, or public assistance programs.

(h) Items which may be purchased by the resident or procured through the resident's personal funds held by the ICF-MR include, but are not limited to:

- (1) soft drinks;
- (2) personal clothing;
- (3) allowance for spending money;
- (4) transportation for home visits;

and

- (5) personal television or stereo.

#### **§27.4802. Personal Funds for Specialized Equipment.**

(a) A resident's personal funds can be used for personalized special equipment if the following conditions are met:

(1) the resident's physician prescribes, in writing, that a specifically designed or specifically modified piece of equipment is necessary as therapeutically beneficial. The design or modification has to involve irreversible changes which render the equipment useless to other residents;

(2) the resident has exclusive use of the equipment;

(3) the equipment is the personal property of the resident and is so identified on the equipment;

(4) The equipment is not available without cost from other outside sources.

(b) Only the cost of personalizing a furnished item may be charged to the resident's personal funds. If a resident wishes to purchase a furnished item that has been personalized, only the book value (original cost less "straight-line" depreciation) of the nonpersonalized portion of the furnished item may be charged to the resident.

#### **§27.4803. Protection of Funds.**

(a) The ICF-MR must provide to each resident, guardian, and/or legally responsible party a written statement at the time of admission that:

(1) lists all services and charges of the ICF-MR and that distinguishes between services included in the ICF-MR's basic rate and excluded services which, if used, are charged to the resident;

(2) states that the resident is under no obligation to deposit funds with the ICF-MR;

(3) describes the resident's right to select how his personal funds are handled. The following alternatives must be included:

(A) the right of the residents to receive, retain, and manage personal funds or to have this done by a legal guardian;

(B) the resident's or the guardian's right to apply to the Social Security Administration to have a representative payee designated for federal benefits to which the resident may be entitled;

(C) the resident's or the guardian's right to designate, in writing, another person to manage personal funds except when a representative payee has been appointed to manage federal benefits for the resident;

(D) the ICF-MR's obligation, upon written authorization from the resident, the guardian, or the legally responsible person, to hold, safeguard, and account for the resident's personal funds;

(4) states that the cost to the ICF-MR for handling a resident's personal funds is included in the ICF-MR's basic rate;

(5) states that the ICF-MR must have written permission from the resident or the resident's legal guardian to handle his personal funds;

(6) states that if the resident becomes incapable of managing his personal funds and does not have a representative payee or responsible person, the ICF-MR is required to notify the Department of Human Resources (DHR) regional Medicaid eligibility worker

(b) The ICF-MR must continually provide updated lists of services and/or charges as changes occur in services or charges during the resident's stay

(c) The ICF-MR must maintain current, written individual records of all financial transactions involving the resident's personal funds which the ICF-MR is holding, safeguarding, and accounting. The ICF-MR must keep these records according to the American Institute of Certified Public Accountants' Generally Accepted Accounting Principles. The ICF-MR must include at least the following in the records:

(1) resident's name;

(2) identification of the resident's guardian, representative payee, or responsible party, if any;

(3) admission date;

(4) transactions. The facility may choose options listed in subparagraph (A) or (B) of this paragraph:

(A) The date and amount of each deposit and withdrawal, the name of the person who accepts the withdrawn funds, and the balance after each transaction. Each withdrawal must be signed by the resident. If the resident cannot sign, the transaction must be signed by at least one witness. A witness is defined as any person other than the person(s) who is responsible for accounting for the trust funds or who supervises the person(s) responsible for accounting for the trust funds.

(B) Signed receipts indicating the purpose for which any withdrawal funds are spent, the date of expenditure, and the amount spent. The receipt must be signed by the person responsible for the funds and the resident. If the resident cannot sign his name, a witness must sign the receipt. Exceptions to the re-

quirement of receipts are items purchased from vending machines and items costing \$1.00 or less.

(5) resident's earned interest, if any.

(d) Unless DHR has given prior written approval, DHR does not accept alternate types of documentation, including affidavits, to verify expenditures from the resident's personal funds or to prove compliance with any requirements specified in these sections about the resident's personal funds

(e) The ICF-MR must provide a written statement, at least quarterly, to each resident, guardian, representative payee, or responsible person. The ICF-MR must ensure that the statement reflects any resident's funds which the ICF-MR has deposited in an account as well as any resident's funds held by the ICF-MR in a petty cash account. The ICF-MR must ensure that the statement includes at least the following:

(1) balance at the beginning of the statement period;

(2) total deposits and withdrawals;

(3) interest earned, if any;

(4) identification number and location of any account in which the resident's personal funds have been deposited; and

(5) ending balance

(f) The ICF-MR must keep any funds received from a resident for holding, safeguarding, and accounting separate from the ICF-MR's funds. An ICF-MR may commingle the trust funds of Medicaid recipient-residents and private-pay residents. If the funds are commingled, the ICF-MR must provide, upon request, the following information. This information must be provided to DHR, the Texas Department of Health, the Texas attorney general's Medicaid Fraud Control Unit, and the U.S. Department of Health and Human Services.

(1) Copies of release forms signed and dated by each private-pay resident or responsible party whose funds are commingled. The ICF-MR must include in the release forms permission for the ICF-MR to maintain trust fund records of private-pay residents in the same manner as the trust fund records of Medicaid recipient-residents.

(A) The release forms must be secured from the private-pay residents upon admission or 30 days from the effective date of the adoption of this policy.

(B) The ICF-MR must include in the release form a provision allowing inspection of the private-pay resident's trust fund records by the agencies referenced in this subsection.

(2) Legible copies of the trust fund records of private-pay residents whose funds are commingled. The ICF-MR must keep these records in the same manner as the financial records of Medicaid recipient-residents as specified in this section.

(g) The following policies apply to types of accounts and distribution of interest.

(1) The ICF-MR may keep a resident's money in a noninterest-bearing account or petty cash fund.

(2) The ICF-MR may deposit any resident's funds in an interest-bearing account.

(3) These accounts may be individual to the resident or be pooled with funds of

other residents in the facility. If a pooled account is used, each resident must be individually identified. The ICF-MR must ensure that the account clearly indicates that the ICF-MR does not have any ownership interest in the funds. The account must be insured under federal or state law.

(4) The interest earned on any pooled interest-bearing account must be distributed in one of the following ways, at the election of the ICF-MR:

(A) prorated to each resident on an actual interest-earned basis; or

(B) prorated to each resident on the basis of the average monthly balance for the quarter of proration.

(h) The following policies apply to banking charges.

(1) Charges for checks, deposit slips, and services for pooled checking accounts are the responsibility of the ICF-MR and may not be charged to the resident, the guardian, the family, or the responsible person. These costs, however, may be reported as allowable costs by the ICF-MR on its cost report.

(2) Bank service charges and charges for checks and deposit slips may be deducted from individual checking accounts since this type of account preserves the dignity and independence of the resident and is for his personal use.

(3) The ICF-MR may not charge the resident, the guardian, the family, or the responsible person for the administrative handling of either type of account. These costs may be reported as allowable costs by the ICF-MR on its cost report.

(4) If the ICF-MR places any part of the resident's money in saving accounts, certificates of deposit, or any other plan whereby interest or other benefits are accrued, the ICF-MR must distribute the interest or benefit to each participating resident on an equitable basis in either pooled checking accounts or individual checking accounts.

(i) The following policies apply to access to funds.

(1) Funds held in the facility. Upon a resident's request or if a resident is transferred or discharged, the ICF-MR must, within 30 days, return to the resident, the legal guardian, or the legally responsible person the full balance of the resident's personal funds that the ICF-MR has received for holding, safeguarding, and accounting.

(2) Funds held outside the facility. Upon a resident's request or if a resident is transferred or discharged, the ICF-MR must, within 30 days, return to the resident, the legal guardian, or the legally responsible person the full balance of the resident's funds that the ICF-MR has deposited in an account.

(j) If the current ownership of an ICF-MR changes, the previous owner must transfer the bank balances or trust funds, with a list of the residents and their balances, to the new owner. The previous owner must get a receipt from the new owner for the transfer of these funds. The previous owner must keep this receipt for audit purposes.

(k) After the death of a resident, the ICF-MR must make a bona fide effort to locate the responsible person or the heir to the estate. Within 45 days after the resident's death, the ICF-MR must use the following procedures to clear the resident's account

(1) The facility must set up a trust fund for the deceased resident or deposit the money to already existing accounts.

(2) After DHR verifies that the money owed the deceased resident is on hand and held in trust, DHR considers the account cleared if the ICF-MR supplies to DHR a notarized affidavit outlining the ICF-MR's intentions. The ICF-MR must ensure that the affidavit contains:

(A) the resident's name;

(B) the amount of money being

held;

(C) the ICF-MR's efforts to locate the responsible person or the heirs;

(D) a statement acknowledging that this money is not the property of the ICF-MR and is the property of the deceased resident's estate; and

(E) a statement that the ICF-MR will hold the money in trust until the legal heirs or the responsible persons are located or the money escheats to the state. Money held in trust in the ICF-MR is subject to future audit and is reviewed each time the ICF-MR is audited.

(3) If the ICF-MR chooses not to hold this money in trust, the ICF-MR may send it to the Texas Department of Human Resources, Fiscal Division, 411-E, P.O. Box 2960, Austin, Texas 78769, at any time before the money escheats to the state. The money must be identified as escheat money. The ICF-MR must include the notarized affidavit described in subparagraphs (A)-(E) of paragraph (2) with the money for identification.

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

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

TRD-853091

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Resources

Effective date: May 20, 1985  
Proposal publication date: October 30, 1984  
For further information, please call  
(512) 450-3706.

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## State Board of Insurance Exempt Filings

### State Board of Insurance Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L

*(Editor's note: As required by the Insurance Code, Article 5.96 and Article 5.97, the Register publishes notices of actions taken by the State Board of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure and Texas Register Act, and the final actions printed in this section have not been previously published as proposals.*

*These actions become effective 15 days after the date of publication or on a later specified date.*

*The text of the material being adopted will not be published, but may be examined in the offices of the State Board of Insurance, 1110 San Jacinto Street, Austin.)*

The State Board of Insurance adopts amendments to the *Texas Automobile Manual*.

The board amends the manual to add a new Rule 19A, to be titled "Supplementary Death Benefit" and two new endorsements designated 573 and TX-10-97.

The purpose of the new rule and endorsements is to provide a death benefit under medical payments coverage and personal injury protection coverage and to increase the limit of liability for automobile death indemnity coverage to insureds who are killed in auto accidents even though protected by a seat belt or an ap-

proved passive restraint device. The new coverage extensions are to be afforded at no additional premium.

These amendments are effective July 1, 1985.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

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

TRD-853829

James W. Norman  
Chief Clerk  
State Board of  
Insurance

Effective date: July 1, 1985  
For further information, please call  
(512) 475-2050.

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# Open Meetings

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

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

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

## Texas Air Control Board

Committees of the Texas Air Control Board and the full board will meet at 6330 U.S. Highway 290 East, Austin. Days, times, committees, and agendas follow.

**Thursday, May 9, 1985, 7:30 p.m.** The Monitoring and Research Committee will consider proposed research objectives for fiscal year 1986 and proposed additional fiscal year 1985 interagency contracts.

**Friday, May 10, 1985, 9 a.m.** The Ad Hoc Permit Fee Review Committee will hear a report on permit and enforcement fee options.

**Friday, May 10, 1985, 9:45 a.m.** The Mobile Source Emissions Committee will hear a report on the status of the Harris County Vehicle Parameter Inspection Program.

**Friday, May 10, 1985, 10 a.m.** The board will approve the April 12, 1985, minutes; hear reports; consider and act on proposed agency contracts; hear a report by the Ad Hoc Permit Fee Review Committee; consider alternate emission reduction; hear a report by the hearing examiner; hear staff reports on research objectives and an overview of the point source data base and its use; and consider new business.

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

**Filed:** April 29, 1985, 9:43 a.m.  
TRD-853700-853703

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## Automated Information Systems Advisory Council

**Monday, May 13, 1985, 9 a.m.** The Board of the Automated Information Systems Advisory Council will meet in the commissioners conference room, 510 South Congress Avenue, Austin. Items on the agenda include the approval of previous meeting

minutes, procurement proposals, discussion of House Bill 2375 and Senate Bill 1318, concerning the Automated Information Systems and Telecommunications Council. The board also will meet in executive session to consider personnel policies.

**Contact:** Charlotte D. Craig, 510 South Congress Avenue, Austin, Texas 78704, (512) 475-2362 or STS 822-2362.

**Filed:** April 26, 1985, 1:54 p.m.  
TRD-853675

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## Battleship Texas Advisory Board

**Saturday, May 18, 1985, 1 p.m.** The Battleship Texas Advisory Board will meet at the Battleship Texas, 3527 Battleground Road, La Porte. Items on the agenda include approval of the minutes; an update on the architectural report; discussion of a preliminary master plan; a report from Texas Dynamics, Inc.; and discussion of subjects of interest to the board. The board also may meet in executive session pursuant to Texas Civil Statutes, Article 6252-17, §2F, if necessary.

**Contact:** W. D. Williams, 3033 Chimney Rock, Suite 610, Houston, Texas 77056, (713) 783-7200.

**Filed:** April 30, 1985, 10:40 a.m.  
TRD-853782

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## State Commission for the Blind

**Friday, May 10, 1985, 10 a.m.** The State Commission for the Blind will meet at the Americana Hotel, 200 Main Street, Fort Worth. Items on the agenda include approval of the February 25, 1985, minutes; a midyear report of the executive director

and discussion; discussion and action on the allocation of resources for the remainder of fiscal year 1985, capital purchases, endowment fund usage, proposed resolutions of appreciation, and applications for loans from the endowment loan fund; discussion of meeting dates for the coming year; and discussion of the fiscal year 1986-1987 budget. The commission will meet in executive session pursuant to Texas Civil Statutes, Article 6252-17, §2(e) and (g), to discuss personnel and pending legal matters.

**Contact:** Jean Wakefield, 314 West 11th Street, Suite 400, Austin, Texas 78711, (512) 475-6810.

**Filed:** April 29, 1985, 2:14 p.m.  
TRD-853720

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## State Board of Canvassers

**Thursday, May 2, 1985, 3:15 p.m.** The State Board of Canvassers met in emergency session in Room 127, State Capitol, Austin. According to the agenda, the board conducted the official canvass of the special election for state senator in District Six held on April 27, 1985. The emergency status was necessary because of scheduling difficulties.

**Contact:** Melinda Nickless, 908 Sam Houston Building, 201 East 14th Street, Austin, Texas 78711, (512) 475-3091.

**Filed:** April 29, 1985, 9:38 a.m.  
TRD-853704

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## Texas State Board of Chiropractic Examiners

**Thursday, May 2, 1985, 9 a.m.** The Texas State Board of Chiropractic Examiners met

in emergency session at the Statler Hilton, 1914 Commerce, Dallas. According to the agenda, the board discussed the priorities facing the board associated with securing a new executive secretary for its office, legislative action still pending, and emergency funding for the board. The emergency status was necessary because of the resignation of the board office executive secretary.

**Contact:** Dr. Jerry Whitehead, 2400 South Main Street, Perryton, Texas 79070, (806) 435-6533.

**Filed:** May 1, 1985, 9:21 a.m.  
TRD-853881

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### Texas Department of Corrections

**Tuesday, April 30, 1985, 2 p.m.** The Board of the Texas Department of Corrections met in emergency session in the attorney general's conference room, Supreme Court Building, 14th and Colorado Street, 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 items requiring board resolution developed within the seven-day posting period.

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

**Filed:** April 30, 1985, 10:44 a.m.  
TRD-853783

**Monday, May 13, 1985, 9 a.m.** Subcommittees of the Board of the Texas Department of Corrections will meet in the Administration Building, 815 11th Street, Huntsville. Rooms, subcommittees, and agendas follow.

In Room 104, the Finance Subcommittee will consider Finance Division items including agriculture, business, construction, industries, and other items.

In Room 106, the Health Services Subcommittee will consider Medical Division items including monthly clinic statistics, emergency medical costs, a professional contract proposal, deaths, pending autopsies, and other items.

In Room 100, the Operations Subcommittee will consider Operations Division items including an activity summary for inmate affairs concerning the chaplaincy, agency reports, and release programs; inmate activity reports concerning disciplinary items, inmate strength, and received-released; escapes; the Furlough Program; the food services report; and other items.

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

**Filed:** May 1, 1985, 9:35 a.m.  
TRD-853863-853865

**Monday, May 13, 1985, 10 a.m.** The Board of the Texas Department of Corrections will meet in Room 103, Administration Building, 815 11th Street, Huntsville. Items on the agenda summary include operations, inmate affairs, medical, finance, agriculture, business, construction, industries, director's items, and the Windham School System. The board also will meet in executive session.

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

**Filed:** May 1, 1985, 9:36 a.m.  
TRD-853866

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### Texas State Board of Examiners of Professional Counselors

**Saturday, May 11, 1985, 9 a.m.** The Texas State Board of Examiners of Professional Counselors will meet in Room A, Service Building, Texas Department of Health, 1100 West 49th Street, Austin. According to the agenda summary, the board will approve the March 9, 1985, minutes; hear the executive secretary's report; consider licensure applications and procedures including reviews of disapproved files (applicant with disapproved files may appear for review of their applications), a request for rehearing on the application of Celia Koehn, results of the April 20, 1985, licensure examination, rule changes regarding the fee structure for licensed counselors, and public education materials; set dates and locations for licensure examinations; hear reports from the Examination, Continuing Education, Complaint, and Specialty Committees; consider other matters relating to the licensure and regulation of professional counselors which do not require board action; and set the next meeting date and location.

**Contact:** Daniel L. Boone, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7511.

**Filed:** April 29, 1985, 9:10 a.m.  
TRD-853692

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### Texas State Board of Examiners of Dietitians

**Friday, May 3, 1985, 10 a.m.** The Texas State Board of Examiners of Dietitians made an emergency revision to the agenda

of a meeting held in Room T-803, Texas Department of Health, 1110 West 49th Street, Austin. According to the revised agenda summary, the board considered public comments and final adoption of amendments to 22 TAC §§711.1-711.9, 711.12, and 711.13. The emergency status was necessary because the amendments are designed to implement statutory mandates in the Licensed Dietitians Act, the Administrative Procedure and Texas Register Act, and related laws, and the effective dates for these mandates have passed.

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

**Filed:** May 1, 1985, 4:22 p.m.  
TRD-853886

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### Texas Education Agency

**Tuesday, May 7, 1985, 8:30 a.m.** The Advisory Committee for the Texas Examination of Current Administrators and Teachers of the Texas Education Agency (TEA) will meet in the Pioneer 10 Room, Austin South-Plaza Hotel, 3401 IH 35 South, Austin. Items on the agenda include meeting procedures, a project overview, consideration of potential reading and writing skills, and the next steps regarding the examination of current administrators and teachers.

**Contact:** Marvin Veselka, 201 East 11th Street, Austin, Texas 78701, (512) 834-4089.

**Filed:** April 29, 1985, 4:16 p.m.  
TRD-853754

**Wednesday, May 8, 1985, 9 a.m.** The Task Force for the Development of the Long-Range Master Plan for Vocational Education and the Interagency Planning Committee for the State Plan for Vocational Education of the TEA will meet jointly in Room 101-E, 1200 East Anderson Lane, Austin. Items on the agenda include discussion of the presentation of the definition, mission statement, goals, and objectives before the Committee for Finance and Programs of the State Board of Education on April 11, 1985; and discussion of the content of the master plan for vocational education.

**Contact:** R. D. Bristow, 201 East 11th Street, Austin, Texas 78701.

**Filed:** April 29, 1985, 4:16 p.m.  
TRD-853755

Committees of the State Board of Education of the TEA and the full board will meet at the TEA North Building, 1200 East Anderson Lane, Austin. Days, times, rooms, committees, and agendas follow.

**Thursday, May 9, 1985, 10 a.m.** In the boardroom, the Committee for Finance and Programs will consider a presentation on

the permanent school fund (PSF) by Interfirst; review PSF securities transactions and the PSF investment portfolio; consider the recommended PSF investment program for May and estimated PSF funds available for the May program; hear a report of the investment officer regarding the PSF; and consider a proposed amendment to 19 TAC §78.103, concerning vocational education: student eligibility—specific requirements; the proposed repeal of 19 TAC §125.61, concerning the guide for determining indirect cost rates for federal grants and contracts; the proposed repeal of 19 TAC §77.47, concerning the Advisory Committee for Fine Arts in Education; the proposed repeal of 19 TAC §78.41, concerning the Advisory Committee for Marketing and Distributive Education; the proposed repeal of 19 TAC §93.102, concerning the Career Education Advisory Committee; the proposed repeal of 19 TAC §145.2, concerning the Advisory Committee on the Importance of Public Education to Society; the proposed repeal of 19 TAC §93.62, concerning the Advisory Committee for Energy and Environmental Education; the proposed repeal of 19 TAC §97.41, concerning the State Commission on School Accreditation; the proposed repeal of 19 TAC §81.26, concerning the State Advisory Committee for Instructional Television Services; a proposed amendment to 19 TAC Chapter 78, Subchapter D, concerning secondary school vocational education; a proposed amendment to 19 TAC Chapter 157, concerning hearings and appeals; recommendations for appointments to the Proprietary School Advisory Commission: program budgets for fiscal year 1985-1986; a request to expend funds to operate the pilot programs for school superintendents and principals on general management techniques; options for allocating adult education program funds; a proposed evaluation of topics addressing concerns in technical-vocational education; a request for funds from the special state category for recertification tests; an overview of the state plan for labor market information; review of the budget for the "Communities in Schools" project; the proposed budget for adult education for fiscal year 1985-1986; the financial and compliance audit of the TEA for the year ended August 31, 1983; the proprietary schools and veterans education status report; a proposed concept for a coordinated data base for accountability; and comparison of the State Board of Education's requests for legislative appropriations for fiscal year 1986 and fiscal year 1987 with House Bill 20 and Senate Bill 112. In the event that time does not permit completion of the agenda, the committee will recess and reconvene at 8 a.m. on Friday, May 10, 1985, at the same location.

**Thursday, May 9, 1985, 10 a.m.** In Room 101-E, the Committee for Students will consider a proposed amendment to 19 TAC

Chapter 75, Subchapter H, concerning promotion and alternatives to social promotion; proposed new 19 TAC §77.362, concerning bilingual education allotment; the proposed repeal of 19 TAC §77.362, concerning bilingual education: allotments for operational expenses; a proposed amendment to 19 TAC §77.396, concerning good neighbor scholarships: student transfers; a proposed amendment to 19 TAC Chapter 77, Subchapter R, concerning bilingual education and other special language programs; proposed new 19 TAC §129.62, concerning court-related students; the proposed repeal of 19 TAC §61.101, concerning liaison officer for court-related pupils; the proposed repeal of 19 TAC §89.163, concerning state compensatory education assistance; the proposed repeal of 19 TAC §105.432, concerning state compensatory education assistance; proposed new 19 TAC §89.191, concerning state compensatory education allotment; a proposed amendment to 19 TAC §75.162, concerning options for offering courses; proposed new 19 TAC §75.174, concerning remedial instruction; a proposed amendment to 19 TAC Chapter 133, Subchapter B, concerning discipline management; proposed new 19 TAC Chapter 169, concerning relationship with the University Interscholastic League (UIL); a request for approval of proposed amendments to the UIL 1984-1985 constitution and contest rules; a resolution concerning drug abuse; a petition for adoption of a rule in 19 TAC Chapter 89, Subchapter G, concerning special education; a review of the Texas Assessment of Basic Skills data; and establishing satisfactory performance for the Texas Educational Assessment of Minimum Skills for 1985-1990. In the event that time does not permit completion of the agenda, the committee will recess and reconvene at 8 a.m. on May 10, 1985, at the same location.

**Friday, May 10, 1985, 8 a.m.** In Room 101-E, the Committee for Personnel will consider proposed new 19 TAC §141.300, concerning noncertified instructor's permit; proposed new 19 TAC Chapter 141, Subchapter U, concerning alternative teacher certification; proposed new 19 TAC §149.81, concerning advanced academic training; a proposed amendment to 19 TAC §137.69, concerning annual performance report of institutions approved for teacher education; a petition for adoption of 19 TAC §149.71, concerning the teacher career ladder; proposed new 19 TAC Chapter 149, Subchapter D, concerning the teacher career ladder; approval for a contractor for the development of the Phase II certification tests; a recommendation for appointment to the 1985 State Textbook Committee; an appointment of the Advisory Committee on Statewide Standards on the Duties of a School Board Member; a proposed amendment to 19 TAC Chapter 141, Subchapter S, concerning the Testing Program; a procedure for evaluating and monitoring ad-

vanced academic training programs; and a report of the results of the preprofessional skills test from the March 2, 1985, administration.

**Friday, May 10, 1985, 10:30 a.m.** In Room 101-E, the Committee for Long-Range Planning will hear a status report on the accreditation of school districts, finalize a draft of goals and objectives for the State Board of Education's long-range plan, and develop plans for public input to the Committee on Goals and Objectives.

**Saturday, May 11, 1985, 8:30 a.m.** In the boardroom, the board will consider the Texas Teacher of the Year for 1985; estimated funds from the permanent school fund available for the May program; a proposed amendment to 19 TAC §78.103, concerning vocational education: student eligibility—specific requirements; the proposed repeal of 19 TAC §125.61, concerning the guide for determining indirect cost rates for federal grants and contracts; the proposed repeal of 19 TAC §77.47, concerning the Advisory Committee for Fine Arts in Education; the proposed repeal of 19 TAC §78.41, concerning the Advisory Committee for Marketing and Distributive Education; the proposed repeal of 19 TAC §93.102, concerning the Career Education Advisory Committee; the proposed repeal of 19 TAC §145.2, concerning the Advisory Committee on the Importance of Public Education to Society; the proposed repeal of 19 TAC §93.62, concerning the Advisory Committee for Energy and Environmental Education; the proposed repeal of 19 TAC §97.41, concerning the State Commission on School Accreditation; the proposed repeal of 19 TAC §81.26, concerning the State Advisory Committee for Instructional Services; a proposed amendment to 19 TAC Chapter 78, Subchapter D, concerning secondary school vocational education; a proposed amendment to 19 TAC Chapter 157, concerning hearings and appeals; recommendations for appointments to the Proprietary School Advisory Commission, program budgets for fiscal year 1985-1986, a request to expend funds to operate the pilot program for school superintendents and principals on general management techniques; a request for funds from the special state category for recertification test; options for allocating adult education program funds; a proposed evaluation of topics addressing concerns in technical-vocational education, a proposed amendment to 19 TAC Chapter 75, concerning curriculum; a proposed amendment to 19 TAC Chapter 75, Subchapter H, concerning promotion and alternatives to social promotion; proposed new 19 TAC §77.362, concerning bilingual education allotment; the proposed repeal of 19 TAC §77.362, concerning bilingual education: allotments for operational expenses; a proposed amendment to 19 TAC §77.396, concerning good neighbor scholarships: student transfers; a proposed amendment to 19



**TAC Chapter 77, Subchapter R, concerning bilingual education and other special language programs; proposed new 19 TAC §129.62, concerning court-related students; the proposed repeal of 19 TAC §61.101, concerning liaison officer for court-related pupils; the proposed repeal of 19 TAC §89.163, concerning state compensatory education assistance; the proposed repeal of 19 TAC §105.432, concerning state compensatory education assistance; proposed new 19 TAC §89.191, concerning state compensatory education allotment; a proposed amendment to 19 TAC §75.162, concerning options for offering courses; proposed new 19 TAC §75.174, concerning remedial instruction; a proposed amendment to 19 TAC Chapter 133, Subchapter B, concerning discipline management; proposed new 19 TAC Chapter 169, concerning relationship with the University Interscholastic League (UIL); a request for approval of proposed amendments to the UIL 1984-1985 constitution and contest rules; a resolution concerning drug abuse; a petition for adoption of a rule in 19 TAC Chapter 89, Subchapter G, concerning special education; proposed new 19 TAC §141.300, concerning noncertified instructor's permit; proposed new 19 TAC Chapter 141, Subchapter U, concerning alternative teacher certification; proposed new 19 TAC §149.81, concerning advanced academic training; a proposed amendment to 19 TAC §137.69, concerning the annual performance report of institutions approved for teacher education; a petition for adoption of 19 TAC §149.71, concerning the teacher career ladder; proposed new 19 TAC Chapter 149, Subchapter D, concerning the teacher career ladder; approval for a contractor for the development of the Phase II certification tests; a recommendation for appointment to the 1985 State Textbook Committee; reports of the commissioner of education, the chairman of the board, the Finance and Programs Committee, the Committee for Personnel, the Committee for Students, and the Committee for Long-Range Planning concerning items discussed in committee meetings on Thursday and Friday, May 9 and 10, 1985; agency personnel actions; a request by the staff to hold other positions of honor, trust, or profit; the TEA report of 1984-1985 funds distributed for local programs as of March 31, 1985; TEA recapitulation of operating expenses for fiscal year 1984-1985 as of March 31, 1985; and a status report on the accreditation of school districts.**

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

**Filed:** April 30, 1985, 4:09 p.m.  
TRD-853837-853841

**Monday, May 13, 1985, 10:30 a.m.** The Advisory Committee on Statewide Standards on the Duties of a School Board Member 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 review the duties of school board members, discuss a statewide survey of school board members, and discuss training of school board members.

**Contact:** Tom Anderson, 201 East 11th Street, Austin, Texas 78701, (512) 475-4324.

**Filed:** May 1, 1985, 9:51 a.m.  
TRD-853856

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### Texas Employment Commission

**Wednesday, May 1, 1985, 8:30 a.m.** The Texas Employment Commission (TEC) met in emergency session in Room 644, TEC Building, 15th Street and Congress Avenue, Austin. According to the agenda, the commission considered the unemployment compensation trust fund, the Job Training Partnership Act and funding for the job service, and a public comment period. The emergency status was necessary to coordinate commission consideration and action with the legislative calendar.

**Contact:** C. Ed Davis, TEC Building, Room 660, 15th Street and Congress Avenue, Austin, Texas, (512) 397-4400.

**Filed:** April 25, 1985, 4:33 p.m.  
TRD-853645

**Tuesday, May 7, 1985, 8:30 a.m.** The Texas Employment Commission (TEC) will meet in Room 644, TEC Building, 15th Street and Congress Avenue, Austin. Items on the agenda include prior meeting notes, internal procedures of the Office of Commission Appeals, consideration and action on higher level appeals in unemployment compensation cases on commission Docket 19, and setting the date of the next meeting.

**Contact:** Courtenay Browning, TEC Building, Room 608, 15th Street and Congress Avenue, Austin, Texas, (512) 397-4415.

**Filed:** April 29, 1985, 2:38 p.m.  
TRD-853732

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### Office of the Firemen's Pension Commissioner

**Wednesday, May 15, 1985, 1 p.m.** The Administration Division of the Office of the Firemen's Pension Commissioner will meet in Suite 1, Quality Inn South, 2200 IH 35 South, Austin. According to the agenda, the Board of Trustees for the Senate Bill 411 pension system will meet to discuss the pen-

sion plan as prescribed by Texas Civil Statutes, Article 6243c.3.

**Contact:** Hal H. Hood, Sam Houston Building, Room 503F, 201 East 14th Street, Austin, Texas 78701, (512) 475-5879.

**Filed:** April 29, 1985, 11 a.m.  
TRD-853717

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### Texas Grain Sorghum Producers Board

**Tuesday, May 14, 1985, 10 a.m.** The Texas Grain Sorghum Producers Board of the Texas Department of Agriculture will meet in the seminar room, Quality Inn, IH 40 East, Amarillo. Items on the agenda include minutes, a financial statement, a statewide checkoff referendum, and other business.

**Contact:** Elbert Harp, P.O. Box R, Abernathy, Texas 79311-1618, (806) 298-2543.

**Filed:** May 1, 1985, 9:22 a.m.  
TRD-853858

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### Texas Department of Health

**Tuesday, May 14, 1985, 9:30 a.m.** The Children's Speech, Hearing, and Language Screening Advisory Committee of the Texas Department of Health will meet in Room T-407, 1100 West 49th Street, Austin. Items on the agenda summary include statistical review of hearing screening, the Children's Hearing Aid Loan Program, and speech/language; results of a hearing and speech/language survey in local and regional health departments; issues regarding hearing screening of preschool children, including approaches and methodologies; forms and materials for screening programs; the rate of response to requests and follow-up service regarding the Children's Hearing Aid Loan Program; and suggested rule changes for Texas Civil Statutes, Article 4419g, regarding reporting forms, their due dates, and administrative procedures.

**Contact:** Douglas K. Ozias, Ph.D., 1100 West 49th Street, Austin, Texas 78756, (512) 458-7420.

**Filed:** May 2, 1985, 9:08 a.m.  
TRD-853887

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### Texas Health and Human Services Coordinating Council

**Thursday, May 2, 1985, 1:30 p.m.** The Studies Subcommittee of the Texas Health and Human Services Coordinating Council met in a rescheduled emergency session in Room 119, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Items on the agenda included approval of the February 22, 1985, minutes; a progress report from the interagency working group on child abuse in state institutions; an adolescent parent initiative progress report; the council study of the homeless progress report; issues for the next biennium; an update on the report to the Legislative Budget Board concerning contract care for children; a federal update and policy recommendations, if needed; and new business. The emergency status was necessary to have a quorum. The meeting originally was scheduled for May 2, 1985, at 2 p.m.

Contact: Lynn H. Leverty, P.O. Box 12428, Austin, Texas, (512) 475-1306.

Filed: April 29, 1985, 12:45 p.m.  
TRD-853719

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### Texas Statewide Health Coordinating Council

**Friday, May 17, 1985, 10 a.m.** The Texas Statewide Health Coordinating Council will meet in Room T-507, Texas Department of Health, 1100 West 49th Street, Austin. Items on the agenda summary include a review of the comprehensive state plan for mental retardation, the Texas Department of Mental Health and Mental Retardation, and the Houston Tuberculosis Control Program (a continuing grant application); a report on the current status of legislation; a review of a committee mission and coordination with the council and other entities; implementation strategies, including a discussion of ways to exert influence; and consideration of the next meeting date.

Contact: Mike Ezzell, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7261.

Filed: May 1, 1985, 1:45 p.m.  
TRD-853873

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### Texas Health Facilities Commission

**Thursday, May 9, 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 Existing Health Care Facilities

Dr. John Fraser, Largo, Florida

AN85-0402-232

AN85-0402-234

AN85-0402-235

Jordan and Gillis, Inc., Quitman

AN85-0402-233

NPG-V, Inc., doing business as PIA Psychiatric Hospitals, Inc., Leesburg, Virginia

AH85-0401-230

#### Notices of Intent to Acquire Major Medical Equipment

South Texas Imaging Services, Inc., on behalf of Alamo Diagnostic Imaging Center, Ltd., a to-be-formed Texas limited partnership, San Antonio

AO85-0403-236

AO85-0403-237

#### Declaratory Rulings

Medical Arts Clinic, Lubbock

AO85-0409-240

Healthplex, Inc., Dallas

AO85-0401-215

#### Amendments of Certificate of Need Orders

Comfort Gardens Home, Comfort

AN80-530-082A(040985)

Graham General Hospital, Graham

AH85-0124-058A(040985)

Park Central Nursing Home, Port Arthur

AN82-0917-043A(040285)

Golden Palms Retirement and Health Center, Harlingen

AN82-0622-080A(032885)

Midland Memorial Behavioral Health Center, Midland

AH81-1231-050A(032585)

#### Certificates of Need

Mansfield Community Hospital, Mansfield

AH84-123-1861

John Peter Smith Hospital, Fort Worth

AH85-0319-177

MIL Imaging, Inc., Northbrook, Illinois

AO85-0220-127

Parkland Memorial Hospital, Dallas

AH84-1219-799

Kleberg Memorial Hospital, Kingsville

AH85-0220-126

Memorial Hospital, Dumas

AN85-0213-109

Clay County Memorial Hospital, Henrietta

AH85-0118-047

Four Seasons Nursing Center of San Antonio-Windcrest, San Antonio

AN84-1130-765

Four Seasons Nursing Center of San Antonio-Northwest, San Antonio

AN84-1130-763

Gulf Pines Psychiatric Hospital, Houston

AH83-1219-455

The Institute for Women and Their Families, Houston

AH84-0503-280

Northcreek, a Psychiatric Hospital, Houston

AH84-0517-301

Edinburg General Hospital, Edinburg

AH84-0928-615

Rusk Memorial Hospital, Rusk

AH85-0201-089

Motion for Rehearing/Reconsideration Memorial Hospital Southwest, Houston  
AH84-0404-209

A business meeting will follow the consideration of applications.

Contact: John R. Neel, P.O. Box 50049, Austin, Texas 78763.

Filed: May 1, 1985, 9:32 a.m.  
TRD-853854

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### Texas Historical Commission

**Saturday, May 18, 1985, 9:30 a.m.** The State Board of Review of the Texas Historical Commission will meet at the Austin History Center, 810 Guadalupe Street, Austin. Items on the agenda include announcements, approval of the previous meeting minutes, and a review of National Register nominations.

Contact: Marlene Casarez, P.O. Box 12276, Austin, Texas 78711, (512) 475-3094.

Filed: April 30, 1985, 9:35 a.m.  
TRD-853770

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### Texas Commission on Human Rights

**Friday, May 3, 1985, 11 a.m.** The Texas Commission on Human Rights met in Room 105, E. O. Thompson Building, 910 Colorado Street, Austin. According to the agenda summary, the commission considered legislative matters, the 1986-1987 biennium budget, a worksharing agreement with the U.S. Department of Education, a request for emergency funds, an EEOC charge resolution contract, a new complaint processing structure, proposed rule changes, a working arrangement with the Wichita Falls Human Relations Commission, administrative reports, personnel matters, and unfinished business.

Contact: William M. Hale, 7215 Cameron Road, Austin, Texas 78752, (512) 459-0944.

Filed: April 25, 1985, 4:42 p.m.  
TRD-853646

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## State Board of Insurance

**Tuesday, April 30, 1985, 10 a.m.** The State Board of Insurance submitted an emergency revised agenda for a meeting held in Room 414, 1110 San Jacinto Street, Austin. According to the revised agenda, the board considered whether the sunset language added to the Insurance Code, Article 21.07-3, §9(b), applies to managing general agents licensed pursuant to the Article. §5, and to consider whether an attorney general's opinion should be requested. The emergency status was necessary because five grandfathered managing general agents' licenses were in default and their status needed to be acted on promptly.

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

**Filed:** April 29, 1985, 3:32 p.m.  
TRD-853750

**Tuesday, May 7, 1985, 9 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the section will conduct a public hearing in Docket 8062—application for amendment to the articles of incorporation of Aztec Life Insurance Company of Texas, Castle Hills.

**Contact:** J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

**Filed:** April 29, 1985, 1:28 p.m.  
TRD-853722

**Tuesday, May 7, 1985, 10 a.m.** The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. Items on the agenda summary include a motion for rehearing in the appeal of John E. Walker, *et ux* from action of the Texas Catastrophe Property Insurance Association (TCPA); motions for dismissal in the appeals of James L. Hill, James E. Yarbrough, and Kenneth Blondeau from action of the TCPA; a proposal for decision in the appeal of C. S. Inabnet III, doing business as American Furniture Company, from action of the TCPA; board orders on several different matters; the fire marshal's report concerning personnel; the commissioner's report concerning personnel; and litigation.

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

**Filed:** April 29, 1985, 3:32 p.m.  
TRD-853751

**Tuesday, May 7, 1985, 1:30 p.m.** The Commissioner'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 in Docket 7982—whether disciplinary action should be taken against Empire General Life Insurance Company, Birmingham, Alabama, which holds a certificate of authority.

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

**Filed:** April 29, 1985, 1:28 p.m.  
TRD-853723

**Tuesday, May 7, 1985, 3 p.m.** The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the section will conduct a public hearing in Docket 7983—whether disciplinary action should be taken against Protective Life Insurance Company, Birmingham, Alabama, which holds a certificate of authority.

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

**Filed:** April 29, 1985, 1:28 p.m.  
TRD-853724

**Wednesday, May 8, 1985, 9 a.m.** The Commissioner'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 in Docket 8039—whether disciplinary action should be taken against Family Circle Rural Association, Waco, which holds a certificate of authority.

**Contact:** J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

**Filed:** April 29, 1985, 1:28 p.m.  
TRD-853725

**Wednesday, May 8, 1985, 1:30 p.m.** The Commissioner'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 in Docket 8025—application of Frank Milam Farley, Jr., Garland, for a Group I legal reserve life insurance agent's license.

**Contact:** Staci Copelin, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-1076.

**Filed:** April 29, 1985, 1:28 p.m.  
TRD-853726

**Thursday, May 9, 1985, 9 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the section will conduct a public hearing in Docket 8071—application of Louis Franklin Scott, Wichita Falls, for a prepaid legal services solicitation license.

**Contact:** J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

**Filed:** May 1, 1985, 11:35 a.m.  
TRD-853869

**Thursday, May 9, 1985, 1:30 p.m.** The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the section will conduct a public hearing in Docket 7995—whether disciplinary action should be taken against Integon Life Insurance Corporation, Winston-Salem, North Carolina, which holds a certificate of authority.

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

**Filed:** April 29, 1985, 1:28 p.m.  
TRD-853727

**Thursday, May 9, 1985, 2 p.m.** The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. According to the agenda, the board will consider a Texas Medical Liability Insurance Underwriting Association application for medical professional liability rate increases and possible changes to rating rules, including classifications and territories applicable to physicians, surgeons, dentists, and all other noninstitutional health care providers, and hospitals and all other institutional health care providers. The proposal includes a 50% increase in rates. The proposed changes are under authority of the Insurance Code, Article 21.49-3, §4(b).

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

**Filed:** April 26, 1985, 8:57 a.m.  
TRD-853647

**Thursday, May 9, 1985, 3 p.m.** The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the section will conduct a public hearing in Docket 7996—whether disciplinary action should be taken against Rushmore Insurance Services, Houston, which holds a surplus lines agent's license.

**Contact:** Staci Copelin, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-1076.

**Filed:** April 29, 1985, 1:28 p.m.  
TRD-853728

**Friday, May 10, 1985, 9 a.m.** The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. Items on the agenda summary include a meeting with Research and Information Services to discuss and decide on technical advice related to bills presently pending before the legislature which affect the board; discussion of inquiries from members of the legislature and others relating to pending or proposed legislation; discussion of the status of bills recommended by the board under the Insurance Code, Article 1.25; discussion of and action on fiscal notes and other requests from the Legislative Budget Board; and any other matters relating to issues before the legislature concerning the board or the regulation of insurance.

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

Filed: April 29, 1985, 3:33 p.m.  
TRD-853752

**Monday, May 13, 1985, 1:30 p.m.** The Commissioner'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 in Docket 8054—whether disciplinary action should be taken against Columbian National Title Insurance Company, Topeka, Kansas, which holds a certificate of authority.

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

Filed: April 29, 1985, 1:29 p.m.  
TRD-853729

**Monday, May 13, 1985, 3 p.m.** The Commissioner'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 in Docket 8055—whether disciplinary action should be taken against Cotten-Bratten Burial Association, Weatherford, which holds a certificate of authority.

Contact: Staci Copelin, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-1076.

Filed: April 29, 1985, 1:29 p.m.  
TRD-853730

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### Texas Advisory Commission on Intergovernmental Relations

**Friday, May 10, 1985.** Committees of the Texas Advisory Commission on Intergovernmental Relations and the full commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Times, rooms, committees, and agendas follow.

**8:30 a.m.** In Room 119, the Special Committee on Operations and Funding will review the status of fiscal year 1985 finances, potential new grants and contracts, and the status of the fiscal year 1985-1987 budget request.

**9:30 a.m.** In Room 118, the State-Local Issues Committee will review a report on the impact on state and local governments of proposed immigration legislation, a progress report on the investment of idle funds, and the topic for the next information report.

**9:30 a.m.** In Room 119, the New Federalism Committee will consider reports on population estimates, the Data Management Program, and the high-level radioactive waste

disposal study; review a new study on low-level radioactive waste; and hear progress reports on other projects.

**10:30 a.m.** In Room 118, the full commission will consider the executive director's report; committee reports, including the Operations and Funding Committee, the New Federalism Committee, and the State-Local Issues Committee; a review of the fiscal year 1986-1987 budget status; reports on population estimates and the impact of proposed immigration legislation; and new business

Contact: Jay G. Stanford, P.O. Box 13206, Austin, Texas 78711, (512) 475-3728.

Filed: April 30, 1985, 4:44 p.m.  
TRD-853842-853845

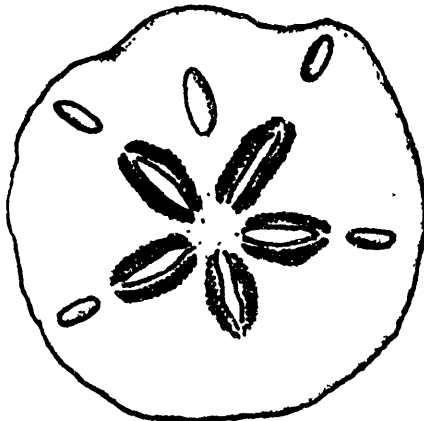
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### Job Training Partnership Act Legislative Oversight Committee

**Friday, May 3, 1985, 4 p.m.** The Job Training Partnership Act (JTPA) Legislative Oversight Committee met in a rescheduled emergency session at the Texas Department of Community Affairs Building, 2015 IH 35 South, Austin. According to the agenda, the committee considered new business, an update of JTPA-related activities in other JTPA-related activities and committees, and other business and comments. The emergency status was necessary because of a typographical error in the date of the meeting. The meeting originally was scheduled for May 4, 1985.

Contact: Paula Campbell, P.O. Box 2910, Austin, Texas 78769, (512) 475-5973.

Filed: April 30, 1985, 12:45 p.m.  
TRD-853827



### Board of Nurse Examiners

**Wednesday-Friday, May 15-17, 1985, 8 a.m. daily.** The Board of Nurse Examiners

will meet at the Sunrise Motor Hotel, 7622 IH 35 North, Austin. Items on the agenda summary include disciplinary action, reinstatement of license requests, consent orders, other action taken by the hearing officer, an education report including survey visit reports and annual reports to various schools of professional nursing, a request from Midwestern State University for a new program, and a review of objectives. The board also will meet in executive session to review test draft items.

Contact: Margaret Rowland, R.N., 1300 East Anderson Lane, Building C-225, Austin, Texas 78752, (512) 835-4880.

Filed: May 1, 1985, 1:47 p.m.  
TRD-853874

**Wednesday-Friday, May 15-17, 1985, 8 a.m. daily.** The Board of Nurse Examiners made an addition to the agenda of a meeting to be held at the Sunrise Motor Hotel, 7622 IH 35 North, Austin. The addition concerns the report of the executive secretary regarding the August and November meeting dates.

Contact: Margaret Rowland, R.N., 1300 East Anderson Lane, Suite C-225, Austin, Texas 78752, (512) 835-4880.

Filed: May 2, 1985, 9:09 a.m.  
TRD-853888

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### Board of Pardons and Paroles

**Monday-Friday, May 6-10, 1985, 1:30 p.m. daily Monday-Thursday and 11 a.m. Friday.** A three-member panel of the Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the panel will receive, review, and consider information and reports concerning prisoners/inmates, and administrative releasees subject to the board's jurisdiction, and initiate and carry through with appropriate action.

Contact: Mike Roach, 8610 Shoal Creek Boulevard, Austin, Texas 78711, (512) 459-2713.

Filed: April 26, 1985, 10:42 a.m.  
TRD-853657

**Tuesday, May 7, 1985, 1:30 p.m.** The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will consider executive clemency recommendations and related actions (other than out of country conditional pardons), including full pardons/restoration of civil rights of citizenship; emergency medical reprieves; commutations of sentence; and other reprieves, remissions, and executive clemency actions.

**Contact:** Gladys Sommers, 8610 Shoal Creek Boulevard, Austin, Texas 78757, (512) 459-2704.

**Filed:** April 26, 1985, 10:42 a.m.  
TRD-853658

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### Texas Parks and Wildlife Department

**Thursday, May 2, 1985, 9 a.m.** The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department made an emergency addition to the agenda of a meeting held in Building B, 4200 Smith School Road, Austin. The addition concerned land acquisition in Brewster County. The emergency status was necessary to take advantage of an offer which was available for a limited period of time.

**Contact:** Charles D. Travis, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4802.

**Filed:** April 30, 1985, 2:21 p.m.  
TRD-853830

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### State Pension Review Board

**Wednesday, May 8, 1985, 8:30 a.m.** The Legislative Advisory Committee of the State Pension Review Board will meet in Room G-35-B, Senator Traeger's office, State Capitol, Austin. According to the agenda, the committee will discuss upcoming legislation.

**Contact:** Benette Meadows, 18th and Brazos Streets, Austin, Texas 78701, (512) 475-8332.

**Filed:** April 29, 1985, 10:44 a.m.  
TRD-853718

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### Texas State Board of Plumbing Examiners

**Monday, May 13, 1985, 9:30 a.m.** The Texas State Board of Plumbing Examiners will meet at 929 East 41st Street, Austin. Items on the agenda include the previous meeting minutes, a review of the financial report, a computer status report, a discussion of hardship cases, a review of examination data, a discussion of appliance dealers exemption, a report on Oklahoma Plumbing Inspectors Short School, an update on the roster, developments on the manufac-

tured housing industry, planning of the board meeting in Longview, and a motion on the Franzen resolution.

**Contact:** Lynn Brown, P.O. Box 4200, Austin, Texas 78765, (512) 458-2145.

**Filed:** May 1, 1985, 9:22 a.m.  
TRD-853859

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### State Preservation Board

**Tuesday, May 14, 1985, 9 a.m.** The State Preservation Board will meet in Room 214, Senate Reception Room, State Capitol, Austin. According to the agenda, the board will consider adoption of rules relating to the awarding of a contract for the first phase of examination of the Goddess of Liberty and the day-to-day operation of the board, and consider Capitol Committee formation to support the restoration of the Capitol.

**Contact:** Sytha Atwell, P.O. Box 13286, Austin, Texas 78711, (512) 475-4218.

**Filed:** May 2, 1985, 9:08 a.m.  
TRD-853891

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### Texas Department of Public Safety

**Friday, May 10, 1985, 1 p.m.** The Public Safety Commission of the Texas Department of Public Safety will meet at 5805 North Lamar Boulevard, Austin. According to the agenda, the commission will approve the minutes and consider budget matters, personnel matters, and other unfinished business.

**Contact:** James B. Adams, 5805 North Lamar, Austin, Texas, (512) 465-2000, ext. 3700.

**Filed:** May 1, 1985, 3:52 p.m.  
TRD-853882

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### Public Utility Commission of Texas

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

**Friday, May 3, 1985, 9 a.m.** A prehearing conference in Docket 6144—petition of Southwestern Bell Telephone for authority to change rates.

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

**Filed:** April 26, 1985, 8:57 a.m.  
TRD-853648

**Monday, May 6, 1985, 1:30 p.m.** A prehearing conference in Docket 6207—application of the Sabine Investment Company of Texas, doing business as Twin Lakes Utility, to transfer portions of its certificates of convenience and necessity to provide water and sewer services within Sabine County to Beechwood Water Supply Corporation.

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

**Filed:** April 26, 1985, 8:58 a.m.  
TRD-853649

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

**Tuesday, May 7, 1985, 9 a.m.** The commissioners will consider Dockets 6024, 6072, 5897, 5963, 6152, 5769, 5572, 6135, and 6003. The commissioners also will meet in executive session to consider pending litigation and personnel matters.

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

**Filed:** April 29, 1985, 2:59 p.m.  
TRD-853736

**Wednesday, May 8, 1985, 9 a.m.** A prehearing conference in Docket 6200—petition of SWB for authority to change rates.

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

**Filed:** April 29, 1985, 2:57 p.m.  
TRD-853737

**Wednesday, May 15, 1985, 9 a.m.** A prehearing conference in Docket 6200—petition of SWB for authority to change rates.

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

**Filed:** April 29, 1985, 2:57 p.m.  
TRD-853738

**Monday, May 20, 1985, 10 a.m.** A prehearing conference in Docket 6240—application of Wes-Tex Telephone Cooperative, Inc., to change rates.

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

**Filed:** April 30, 1985, 2:51 p.m.  
TRD-853835

**Monday, May 20, 1985, 1:30 p.m.** A rescheduled prehearing conference in Docket

6089—complaint of the Kaufman County Liaison Committee against West Cedar Creek Municipal Utility District. The conference originally was scheduled for May 1, 1985.

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

Filed: May 1, 1985, 3:12 p.m.  
TRD-853883

Wednesday, May 22, 1985, 9 a.m. A pre-hearing conference in Docket 6200—petition of SWB for authority to change rates.

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

Filed: April 29, 1985, 2:56 p.m.  
TRD-853739

Wednesday, May 29, 1985, 9 a.m. A pre-hearing conference in Docket 6200—petition of SWB for authority to change rates.

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

Filed: April 29, 1985, 2:58 p.m.  
TRD-853740

Tuesday, June 4, 1985, 10 a.m. A pre-hearing conference in Docket 6220—application of Gulf States Utilities for an experimental rider to existing rate schedule LIS (large industrial service) for interruptible service.

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

Filed: April 26, 1985, 2:49 p.m.  
TRD-853681

Wednesday, June 5, 1985, 9 a.m. A pre-hearing conference in Docket 6200—petition of SWB for authority to change rates.

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

Filed: April 29, 1985, 2:58 p.m.  
TRD-853741

Monday, June 10, 1985, 10 a.m. A hearing on the merits in Docket 6095—application of AT&T Communications of the Southwest, Inc., for a rate increase.

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

Filed: April 29, 1985, 1:57 p.m.  
TRD-853731

Wednesday, June 12, 1985, 9 a.m. A pre-hearing conference in Docket 6200—petition of SWB for authority to change rates.

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

Filed: April 29, 1985, 2:58 p.m.  
TRD-853742

Wednesday, June 12, 1985, 10 a.m. A re-scheduled hearing on the merits in Docket 5119—application of the City of Mercedes for a certificate of convenience and necessity within Hidalgo County and application of the City of Weslaco to amend its certificate of convenience and necessity within Hidalgo County. The hearing originally was scheduled for May 1, 1985, at 10 a.m., as published at 10 TexReg 755.

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

Filed: May 1, 1985, 3:13 p.m.  
TRD-853884

Wednesday, June 19, 1985, 9 a.m. A pre-hearing conference in Docket 6200—petition of SWB for authority to change rates.

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

Filed: April 29, 1985, 2:59 p.m.  
TRD-853743

Monday, June 24, 1985, 10 a.m. A hearing on the merits in Docket 6191—applications of Central Telephone Company—Midstate and Central Telephone Company of Texas to establish private pay telephone service rates and regulations.

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

Filed: April 30, 1985, 2:51 p.m.  
TRD-853836

Wednesday, June 26, 1985, 9 a.m. A pre-hearing conference in Docket 6200—petition of SWB for authority to change rates.

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

Filed: April 29, 1985, 2:57 p.m.  
TRD-853744

Friday, June 28, 1985, 10 a.m. A hearing on the merits in Docket 6180—application of Southwestern Bell Telephone Company to change its equal access transition plan tariff.

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

Filed: April 25, 1985, 3:10 p.m.  
TRD-853639

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### Railroad Commission of Texas

Monday, April 29, 1985, 9 a.m. The Oil and Gas Division of the Railroad Commission

of Texas submitted emergency revised agendas for a meeting held in Room 309, 1124 IH 35 South, Austin. According to the revised agendas, the commission considered whether or not to use state funds to clean up an unidentified oil spill that had gotten into the Pecos River, 15 miles south of McCamey in Pecos County. The emergency status was necessary because the oil slick was 300 feet by 40 feet and was causing pollution which could harm the public's health, safety, and welfare. The commission also considered whether or not to use state funds to plug the Hornaby Bay Petroleum Corporation, Falcon Gas Unit 2, Well 1 (097990), Falcon (Wilcox Lobo 9000) Field, Zapata County. The well was approximately 10,000 feet in depth and the estimated cost to plug was \$22,000. The emergency status was necessary because the well was blowing gas into the atmosphere and could harm the public's health, safety, and welfare.

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

Filed: April 26, 1985, 11:28 a.m.  
TRD-853659, 853660

Monday, May 6, 1985, 9 a.m. The Railroad Commission of Texas met in Room 309, 1124 IH 35 South, Austin. The commission considered and acted on division agendas as follows.

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

Contact: Roger Dillon, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1211.

Filed: April 26, 1985, 11:30 a.m.  
TRD-853661

The Automatic Data Processing Division director's report on division administration, budget, procedures, equipment acquisitions, and personnel matters.

Contact: Bob Kmetz, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1204.

Filed: April 26, 1985, 11:30 a.m.  
TRD-853662

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

Contact: Ken Fossler, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1103.

Filed: April 26, 1985, 11:29 a.m.  
TRD-853663

Various matters falling within the Gas Utilities Division's regulatory jurisdiction.

Contact: Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, (512) 475-0461.

Filed: April 26, 1985, 11:30 a.m.  
TRD-853664

The Office of Information Services director's report on division administration, budget, procedures, and personnel matters.

**Contact:** Brian W. Schaible, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1231.

**Filed:** April 26, 1985, 11:29 a.m.  
TRD-853665

The LP-Gas Division director's report on division administration, budget, procedures, and personnel matters, and various matters within the division's jurisdiction, including adoption changes in 16 TAC §§9.3, 9.29, 9.31, and 9.32 of the LP-Gas Division safety rules, concerning categories of licensees, registration of LP-gas transports, service of LP-gas appliances, odorization of gas, and the report of odorization. The division also will propose for publication 16 TAC §§9.6-9.10, concerning examination and certification of employees.

**Contact:** Thomas D. Petru, P.O. Drawer 12967, Austin, Texas 78711-2967, (512) 475-1301.

**Filed:** April 26, 1985, 11:31 a.m.  
TRD-853666

Various matters falling within the Oil and Gas Division's regulatory jurisdiction.

**Contact:** Liz Nauert, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1307.

**Filed:** April 26, 1985, 11:28 a.m.  
TRD-853667

Additions to the previous agenda:

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

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

**Filed:** April 26, 1985, 11:29 a.m.  
TRD-853668

Consideration of the Oil and Gas Division's Docket 10-77,314—application of Phillips Petroleum Company to amend special field rules applicable to the Panhandle (Osborne); Panhandle, Carson County; Panhandle, Collingsworth County; Panhandle, Gray County; Panhandle, Hutchinson County; Panhandle, Moore County; Panhandle, Potter County; Panhandle, Wheeler County; Panhandle, East; Panhandle, West, and Panhandle, East (Albany Dolomite, Lower) Fields.

**Contact:** Patrick F. Thompson, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1286.

**Filed:** April 26, 1985, 4:55 p.m.  
TRD-853684

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

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

**Filed:** April 26, 1985, 11:30 a.m.  
TRD-853669

The Office of Research and Statistical Analysis director's report on division administration, budget, procedures, and personnel matters.

**Contact:** Gail Gemberling, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1391.

**Filed:** April 26, 1985, 11:29 a.m.  
TRD-853670

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

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

**Filed:** April 26, 1985, 11:29 a.m.  
TRD-853671

The Surface Mining and Reclamation Division director's report on division administration, budget, procedures, and personnel matters and consideration of Docket 16-B for approval of the permit revision application submitted by the Lower Colorado River Authority for its Powell Bend Mine, the issuance of a revision to Permit 16 for the Lower Colorado River Authority's Powell Bend Mine in Docket 16-B and approval of the existing performance bond as adequate to cover the revision without adjustment.

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

**Filed:** April 26, 1985, 11:31 a.m.  
TRD-853672

Emergency addition to the previous agenda:

Consideration of the acceptance of an incremental bond for the incidental boundary revision and authorization to conduct mining operations in the area of the incidental boundary revision of the Sabine Mining Company under Permit 13. The emergency status was necessary because these items were properly posted for the April 29, 1985, meeting and were passed.

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

**Filed:** May 1, 1985, 3:37 p.m.  
TRD-853885

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

**Contact:** Michael A. James, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1330.

**Filed:** April 26, 1985, 11:30 a.m.  
TRD-853673

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## State Rural Medical Education Board

**Friday, April 26, 1985, 10 a.m.** The Executive Committee of the State Rural Medical Education Board met in emergency session via conference call originating from Room 310, 211 East Seventh Street, Austin. According to the agenda, the board considered a supplemental application referred to the committee for additional information at the April 20, 1985, meeting. The emergency status was necessary because of the extreme need of the applicant involved.

**Contact:** Duane Keeran, 211 East Seventh Street, Austin, Texas 78701, (512) 475-0801.

**Filed:** April 25, 1985, 3:34 p.m.  
TRD-853642

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## School Land Board

**Tuesday, May 7, 1985, 10 a.m.** The School Land Board will meet in Room 831, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Items on the agenda include approval of the previous meeting minutes; a presentation of a certificate of appreciation to HNG Oil Company for the highest bid received at the oil, gas, and minerals lease sale of April 2, 1985; pooling applications; pooling agreement amendments; excess acreage applications; good faith claimant applications; acquisition of right-of-way over state-owned lands by the Texas Department of Highways and Public Transportation; and coastal public lands—easement applications.

**Contact:** Linda K. Fisher, 1700 North Congress Avenue, Room 835, Austin, Texas 78711, (512) 475-4307.

**Filed:** April 29, 1985, 4:14 p.m.  
TRD-853756

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## Texas A&M University System

**Saturday, May 4, 1985, 3:30 p.m.** The Board of Regents of the Texas A&M University System met in the MSC Annex, Texas A&M University, College Station. According to the agenda, the board heard a status report on budget prospects and on the progress of management studies by the administration for making maximum use of resources.

**Contact:** Vickie E. Burt, Board of Regents, Texas A&M University System, College Station, Texas 77843, (409) 845-9603.

**Filed:** May 1, 1985, 1:38 p.m.  
TRD-853870

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## Texas Southern University

**Friday, May 3, 1985.** Committees of Texas Southern University met in Room 117, Hannah Hall, 3100 Cleburne Avenue, Houston. Times, committees, and agendas follow.

**8:30 a.m.** The Development Committee received reports from the administration on university fund raising; a report on fund raising efforts to match endowment gifts; and a status report on alumni activities.

**9 a.m.** The Building and Grounds Committee considered approval of payments for construction contracts; approval/ratification of building contracts; construction change orders; improvements to land; the sale of improvements; reports on central plant expansion and renovation, ongoing construction projects, and a special report on new construction; and received bids on construction projects.

**10:15 a.m.** The Finance Committee considered the monthly fiscal reports on university operations; approved short-term university investments; reviewed university annual budgets; and reviewed information on the fiscal impact of enrollment projections on university operations.

**11 a.m.** The Personnel and Academic Affairs Committee received enrollment information and considered requests for leave, the reorganization of certain academic departments, personnel changes, recommendations for tenure, and enrollment projects for the 1985-1986 school year.

**11:30 a.m.** The Students Affairs Committee received reports from the administration on student organizations, activities, and the status of student dormitories.

**Contact:** Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

**Filed:** April 26, 1985, 10:24 a.m.  
TRD-853651-853655

**1:30 p.m.** The Board of Regents of Texas Southern University met in Room 203, Sterling Student Life Center, 3100 Cleburne, Houston. According to the agenda, the board received and considered reports from the following standing committees: Finance, Building and Grounds, Personnel and Academic Affairs, Development and Student Affairs, and the President. The board also met in executive session.

**Contact:** Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

**Filed:** April 26, 1985, 10:24 a.m.  
TRD-853656

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## Texas State Technical Institute

**Monday, April 29, 1985, 1 p.m.** The Board of Regents Executive Committee of the Texas State Technical Institute (TSTI) met in emergency session in the Executive Office, TSTI, Waco. According to the agenda, the committee authorized an increase in budget allocations for upgrading the data processing system. The emergency status was necessary because authorization needed to be secured before 5 p.m. on April 29, 1985.

**Contact:** Theodore A. Talbot, Waco, Texas 76705, (817) 799-3611.

**Filed:** April 29, 1985, 8:24 a.m.  
TRD-853685

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## Veterans Land Board

**Tuesday, May 7, 1985, 2 p.m.** The Veterans Land Board (VLB) of the General Land Office will meet in Room 831, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the office will recognize Karl M. May; hear a board resolution expressing appreciation to Jack Rains; approve the January 29, 1985, minutes; authorize the issuance of State of Texas VLB bonds, Series 1985, and the giving of notice of sale and taking such action as shall be consistent with the sale of additional bonds as the board determines is warranted; consider home improvement guidelines; consider reinstatement of veteran's eligibility concerning D. L. Wilson and Julius B. Enlow; consider Celeste Graves' request to participate in the VLB program as a surviving spouse; forfeiture action on VLB delinquent accounts; consider VLB forfeited tracts to be ordered for sale; discuss the designated date for the VLB forfeited land sale; discuss the options of LaMoca Ranch subdivision; and general business of the board.

**Contact:** Richard Keahey, Stephen F. Austin Building, Room 738, 1700 North Congress Avenue, Austin, Texas 78701, (512) 475-6755.

**Filed:** April 26, 1985, 4:09 p.m.  
TRD-853683

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## Texas Water Commission

**Thursday, May 2, 1985, 10 a.m.** The Texas Water Commission will meet in emergency session in Room 124A, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will consider a request by the Lower

Colorado River Authority for a temporary order concerning the Cummins Creek support facility in Fayette County. The emergency status is necessary because the applicant is trying to maintain the schedule of construction for the support facility and provide the necessary storage for incoming mining equipment pending the commission's final decision on the application for a regular permit.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** April 30, 1985, 10:23 a.m.  
TRD-853784

**Monday, May 13, 1985, 2 p.m.** The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider an application of Transitional Learning Community at Galveston, 1528 Postoffice, Galveston, Texas 77550, to the Texas Department of Water Resources for a temporary order to authorize commencement of construction of an overland flow wastewater treatment system capable of treating 120,000 gallons per day (daily average) of wastewater from a commercial laundry known as 4M Linen and Uniform Laundry. The facility is to be located within the City of League City on FM Road 1266, approximately two miles northeast of the intersection of FM Road 1266 and FM Road 646 in Galveston County. The proposed facility will initially serve as a pretreatment system for wastewater which will enter the collection and treatment facilities of Bay Ridge Utility District, Permit 11169-01. 4M Linen and Uniform Laundry is currently discharging 35,000 gallons per day of untreated wastewater into the Bayridge District collection and treatment facilities and this wastewater has caused the Bayridge Sewage Treatment Plant to be hydraulically and organically overloaded.

**Contact:** Scott Peterson, P.O. Box 13087, Austin, Texas 78711, (512) 463-8079.

**Filed:** April 29, 1985, 3:23 p.m.  
TRD-853745

**Tuesday, May 21, 1985, 2 p.m.** The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will consider adjudication matters for the Upper Sabine River segment, the Lower Sabine River segment, the Brazos III segment, the Lower Neches-Angelina Rivers segment, the Lower Rio Grande segment, the San Antonio-Nueces Coastal Basin segment, and the Cypress Creek River Basin segment.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** May 1, 1985, 2:08 p.m.  
TRD-853875



**Thursday, May 23, 1985, 10 a.m.** The Texas Water Commission will meet in Room 124A, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will consider the adjudication of claims of water rights in the Brazos IV segment of the Brazos River Basin and the San Jacinto-Brazos Coastal Basin.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** May 1, 1985, 2:08 p.m.  
TRD-853876

**Tuesday, May 28, 1985, 10 a.m.** The Texas Water Commission will meet in the council chambers, city hall, 155 East Colorado Street, La Grange. According to the agenda, the commission will conduct a hearing on Application 4555 of the Lower Colorado River Authority for a permit to authorize the applicant to construct and maintain six dams and reservoirs on the Colorado River Basin for mining purposes in Fayette County.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** April 25, 1985, 2:16 p.m.  
TRD-853641

**Tuesday, June 11, 1985, 9 a.m.** The Texas Water Commission will meet in Room 119, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider an application from Randy Morine Development, Inc., 4501 Spicewood Springs Road, Suite 101, Austin, Texas 78759, to the Texas Department of Water Resources for proposed Permit 13063-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 1.58 million gallons per day from a proposed wastewater treatment plant which is to serve a proposed 738.6-acre development of single and multifamily housing along with some commercial and industrial acreage.

**Contact:** Kevin McCall, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

**Filed:** April 26, 1985, 2:19 p.m.  
TRD-853677

**Wednesday, June 12, 1985, 9 a.m.** The Texas Water Commission will meet in the grand jury room, first floor, new courthouse, Marshall. According to the agenda summary, the commission will consider an application from AMVAC Chemical Corporation, 4100 East Washington Boulevard, Los Angeles, California 90023, to the Texas Department of Water Resources for proposed Permit 02738 to authorize a discharge of stormwater runoff, noncontact cooling water and boiler blowdown from a plant which manufactures pesticides and pesticide intermediates at a volume not to exceed an average flow of 50,000 gallons per day.

**Contact:** Douglas P. Roberts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

**Filed:** April 26, 1985, 2:20 p.m.  
TRD-853678

**Thursday, June 13, 1985, 9 a.m.** The Texas Water Commission will meet in Room 618, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider an application from the City of Austin, Water and Wastewater Department, P.O. Box 1088, Austin, Texas 78767, to the Texas Department of Water Resources for an amendment to Permit 10543-11 to authorize an increase in the discharge of treated domestic wastewater effluent from a volume not to exceed an average flow of 25 million gallons per day, monthly average to 380 million gallons per day average flow for any consecutive 12 months period (100 million daily maximum) at its Walnut Creek Wastewater Treatment Plant. The applicant proposes to expand existing treatment facilities in phases to handle the increased flow. The proposed amendment would also authorize daily average flows based on an annual average for all interim flows.

**Contact:** Michael E. Field, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

**Filed:** April 26, 1985, 2:19 p.m.  
TRD-853679

**Thursday, June 13, 1985, 9 a.m.** The Texas Water Commission will meet in the conference room, San Antonio River Authority Building, 100 East Guenther, San Antonio. According to the agenda summary, the commission will consider an application from the United States Steel Corporation and NM Uranium, Inc., Texas Uranium Operations, P.O. Drawer V, George West, Texas 78022, to the Texas Department of Water Resources for proposed Permit 02753 to authorize a discharge of aquifer restoration/groundwater at a volume not to exceed an average flow of 600,000 gallons per day. The applicant proposes to discharge wastewater during the aquifer restoration process at its Moser *in situ* uranium mine.

**Contact:** James R. Larkins, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

**Filed:** April 26, 1985, 2:19 p.m.  
TRD-853680

**Thursday, June 13, 1985, 9 a.m.** The Texas Water Commission will meet in the Tyler City Council Room, second floor, City Hall, 212 North Bonner Avenue, Tyler. According to the agenda summary, the commission will consider an application of Tyler Independent School District, P.O. Box 2035, Tyler, Texas, 75710, to the Texas Department of Water Resources for proposed Permit 13109-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 14,000 gallons per day from the proposed Hazei Owens Elementary School

Wastewater Treatment Plant which is to serve a proposed elementary school to be opened in the fall of 1985.

**Contact:** Robert A. Caine, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

**Filed:** April 29, 1985, 3:23 p.m.  
TRD-853746

**Friday, June 21, 1985, 10 a.m.** The Texas Water Commission will meet in Room 618, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will conduct a hearing on the application of Durwood B. Greene for approval of plans for the construction of channel modification on the San Marcos River, Guadalupe River Basin.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** May 1, 1985, 2:09 p.m.  
TRD-853877

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#### **Texas Water Well Drillers Board**

**Tuesday, May 7, 1985, 9:30 a.m.** The Texas Water Well Drillers Board will meet in Room 513F, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board will consider approval of minutes; certification of applicants for registration; applications for driller-trainee registration; whether to set a public hearing or other appropriate legal action on complaints for James Anderson and Sam Byrd, Sam Byrd, Bob and Jimmy Cook, Craig Scott Courtney, Kenneth C. Faulkner, Donald D. Foster, Henry C. Griffin, Paul Higgins, Jerry Jasek, Randel S. Johnson, Cruz Lerma, Jr., Ronald May Maxey, Ramiro Molina, Juan Olvera, Jr., and John Williamson; and staff reports.

**Contact:** Jack Overton, P.O. Box 13087, Austin, Texas 78711, (512) 463-7994.

**Filed:** April 29, 1985, 3:23 p.m.  
TRD-853747

**Tuesday, May 7, 1985, 1:30 p.m.** The Texas Water Well Drillers Board will meet in Room 513F, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the board will consider whether to suspend or revoke the registrations of Jessie David Killingsworth, P.O. Box 143, Terlingua, Texas 79852, and Ed Robinson, P.O. Box 12, Jonesville, Texas 75659.

**Contact:** R. Michael Rogan, P.O. Box 13087, Austin, Texas 78711, (512) 463-8080.

**Filed:** April 29, 1985, 3:24 p.m.  
TRD-853748

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### **Texas Youth Commission**

**Thursday, May 9, 1985, 9 a.m.** The Board of the Texas Youth Commission will meet in Suite 322, 8900 Shoal Creek Boulevard, Austin. Items on the agenda summary include approval of medical contracts, approval of a chaplain's contract, an audit presentation, payment of overtime to state employees, the purchase of a telephone system, taxes on estate property, a contract with Pyrotronics for fire alarm systems training; and a legislative update.

**Contact:** Ron Jackson, 8900 Shoal Creek Boulevard, Austin, Texas, (512) 452-8111.

**Filed:** May 1, 1985, 9:25 a.m.  
TRD-853857



### **Regional Agencies Meeting Filed April 25**

**The Dallas County Appraisal District,** Board of Directors, met in the boardroom, 2601 Live Oak, Dallas, on May 1, 1985, at 7:30 a.m. Information may be obtained from Rick L. Kuehler, 2601 Live Oak, Dallas, Texas 75204, (214) 826-0030.

TRD-853636



### **Meetings Filed April 26**

**The Brown County Appraisal District,** Board of Directors, met at 403 Fisk Avenue, Brownwood, on May 6, 1985, at 7 p.m. Information may be obtained from Alvis Sewalt, 403 Fisk Avenue, Brownwood, Texas 76801, (915) 643-5676.

**The Burnet County Appraisal District** will meet at 215 South Pierce Street, Burnet, on May 9, 1985, at 6:30 p.m. Information may be obtained from Alvin C. Williams, P.O. Drawer E, Burnet, Texas 78611, (512) 756-8291.

**The Carson County Appraisal District,** Appraisal Review Board, will meet at 102 Main Street, Panhandle, on May 7, 1985, at 8:30 a.m. The Board of Directors will meet at the same location on May 8, 1985, at 8:30 a.m. Information may be obtained from Dianne Lavake, P.O. Box 970, Panhandle, Texas 79068, (806) 537-3569.

**The Central Texas Mental Health and Mental Retardation Center,** Board of Trustees, met at 408 Mulberry Drive, Brownwood, on April 29, 1985, at 4:30 p.m. Information

may be obtained from Randy K. Harkey, P.O. Box 250, Brownwood, Texas 76804, (915) 646-9574.

**The Dawson County Central Appraisal District,** Board of Directors, met at 611 North Dallas Avenue, Lamesa, on May 1, 1985, at 7 a.m. Information may be obtained from Tom Anderson, P.O. Box 797, Lamesa, Texas 79331, (806) 872-7060.

**The Hays County Central Appraisal District,** Board of Directors, met at the Hays County Courthouse Annex, San Marcos, on May 2, 1985, at 5 p.m. Information may be obtained from Lynnell Sedlar, 102 LBJ Drive, San Marcos, Texas 78666, (512) 396-4777.

**The Houston-Galveston Area Council,** Project Review Committee, will meet in the conference room, fourth floor, 3555 Timmons, Houston, on May 7, 1985, at 9:30 a.m. Information may be obtained from Geraldine McCray, P.O. Box 22777, Houston, Texas 77227, (713) 627-3200.

**The San Patricio County Appraisal District,** Board of Directors, will meet in Room 226, Courthouse Annex, Sinton, on May 9, 1985, at 9:30 a.m. Information may be obtained from Bennie L. Stewart, P.O. Box 938, Sinton, Texas 78387, (512) 364-5402.

**The South Plains Health Provider Organization, Inc.,** Board of Directors, met at 715 Amarillo Street, Plainview, on April 29, 1985, at 8 p.m. Information may be obtained from J. Sylvia Silvas, 706 Canyon, Plainview, Texas 79072, (806) 293-8561.

TRD-853676



### **Meetings Filed April 29**

**The Archer County Appraisal District,** Board of Directors, will meet at 108 West Main Street, Archer City, on May 8, 1985, at 5 p.m. Information may be obtained from A. G. Reis, P.O. Box 1141, Archer City, Texas 76351, (817) 574-2172.

**The Bexar-Medina-Atascosa Counties Water Control and Improvement District 1,** Board of Directors, met in the district office, Highway 81, Natalia, on May 6, 1985, at 10 a.m. Information may be obtained from C. A. Mueller, P.O. Box 170, Natalia, Texas 78059, (512) 663-2132.

**The Brazos Valley Development Council,** Executive Committee, will meet at 3006 East 29th Street, on May 9, 1985, at 1:30 p.m. Information may be obtained from R. J. Holmgreen, P.O. Drawer 4128, Bryan, Texas 77805, (409) 822-7421.

**The East Texas Council of Governments,** Executive Committee, met at 3800 Stone

Road, Kilgore, on May 2, 1985, at 2 p.m. Information may be obtained from Glynn J. Knight, 3800 Stone Road, Kilgore, Texas 75662, (214) 984-8641.

**The Region XII Education Service Center,** Administrative Board of Directors, will meet at 401 IH 35, Waco, on May 9, 1985, at 7:30 p.m. Information may be obtained from Weldon O. Mills, P.O. Box 1249, Waco, Texas 76703, (817) 756-7494.

**The Central Appraisal District of Erath County,** Appraisal Review Board, will meet in the boardroom, 1390 Harbin Drive, Stephenville, on May 7, 1985, at 10 a.m. Information may be obtained from Trecia Perales, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434.

**The High Plains Underground Water Conservation District 1,** Board of Directors, met in the conference room, 2930 Avenue Q, Lubbock, on May 6, 1985, at 10 a.m. Information may be obtained from A. Wayne Wyatt, 2930 Avenue Q, Lubbock, Texas 79405, (806) 762-0181.

**The Hockley County Appraisal District,** Appraisal Review Board, will meet at 913 Austin Street, Levelland, on May 15, 1985, at 10 a.m. Information may be obtained from Keith Toomire, P.O. Box 1090, Levelland, Texas, (806) 894-9654.

**The Tyler County Tax Appraisal District,** Board of Directors, will meet at 103 Pecan, Woodville, on May 7, 1985, at 4 p.m. Information may be obtained from Mary F. Mann, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736.

**The Wheeler County Appraisal District,** Board of Directors, met at the County Courthouse Square, Wheeler, on May 6, 1985, at 2 p.m. Information may be obtained from Marilyn Copeland, P.O. Box 349, Wheeler, Texas 79096, (806) 826-5900.

TRD-853693



### **Meetings Filed April 30**

**The Edwards Underground Water District,** Executive Committee, will meet at 1615 North Saint Mary's, San Antonio, on May 14, 1985, at 9:45 a.m. The Board of Directors will meet at the same location on the same day at 10 a.m. Information may be obtained from Thomas F. Fox, 1615 North Saint Mary's, San Antonio, Texas, (512) 222-2204.

**The Golden Crescent Service Delivery Area,** Private Industry Council, met in the Americana Room, second floor, Interfirst Bank, 1908 North Laurent, Victoria, on

May 6, 1985, at 6:30 p.m. Information may be obtained from Patrick J. Kennedy, P.O. Box 2028, Victoria, Texas 77902, (512) 578-1587.

The Hansford County Appraisal District, Board, will meet at 709 West Seventh Street, Spearman, on May 8, 1985, at 9 a.m. Information may be obtained from Alice Pedy, P.O. Box 567, Spearman, Texas 79081, (806) 659-5575.

The Hays County Central Appraisal District, Board of Directors, met at the Courthouse Annex, San Marcos, on May 6, 1985, at 5 p.m. Information may be obtained from Hays County Central Appraisal District, 102 LBJ Drive, San Marcos, Texas 78666, (512) 396-4777.

The Hunt County Tax Appraisal District, Board of Directors, met in emergency session in the boardroom, 4815-B King Street, Greenville, on May 2, 1985, at 7 p.m. Information may be obtained from Henry J. Popp or Jeanette Jordan, 4815-B King Street, Greenville, Texas 75401, (214) 454-3510.

TRD-853825



**Meetings Filed May 1**

The Ellis County Appraisal Review Board will meet at 406 Sycamore Street, Wax-

ahachie, on May 7, 1985, at 3 p.m. The Tax Appraisal District will meet at the same location on May 9, 1985, at 7 p.m. Information may be obtained from Gray Chamberlain, P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552.

The Lee County Appraisal District, Board of Review, will meet at 218 East Richmond Street, Giddings, on May 9, 1985, at 9 a.m. Information may be obtained from Delores Shaw, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618.

The Central Appraisal District of Rockwall County, Appraisal Review Board, will meet at 106 North San Jacinto, Rockwall, on May 7, 1985, at 9 a.m. Information may be obtained from Ray E. Helm, 106 North San Jacinto, Rockwall, Texas 75087, (214) 722-2034.

TRD-853879



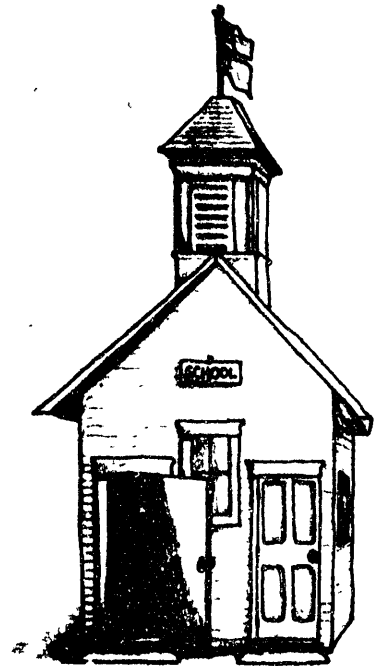
**Meetings Filed May 2**

The Lavaca County Central Appraisal District, Board of Directors, will meet at 113 North Main Street, Hallettsville, on May 13, 1985, at 4 p.m. Information may be obtained from Joe Pat Davis, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396.

The Panhandle Ground Water Conservation District 3, Board of Directors, will meet

at 300 South Omohundro, White Deer, on May 8, 1985, at 8 p.m. Information may be obtained from Richard S. Bowers, P.O. Box 637 White Deer, Texas 79097, (806) 883-2501.

TRD-853889



# 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

April 26

**HB 4** Relating to the operation and administration of the state cancer registry.

Sponsor: Brooks

**HB 275** Relating to payments for goods and services contracted for by the state or by a political subdivision of the state.

Sponsor: Sharp

**HB 620** Relating to bids by nonresident contractors for a public construction, improvement, or service contract.

Sponsor: Montford

**HB 934** Relating to the regulation of certain private institutions of higher education.

Sponsor: Edwards, Chet

**HB 1229** Relating to the duties of a dental hygienist.

Sponsor: Brooks

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## Bills Signed by the Governor

April 23

**HB 8** Relating to capital punishment for murder of two or more persons.

Effective Date: September 1, 1985

April 25

**HB 1064** Relating to the dates on which elections authorizing creation of certain hospital districts may be held.

Effective Date: Immediately

**SB 120** Relating to an extension of the jurisdiction of the Texas Youth Commission to a person under the age of 21.

Effective Date: September 1, 1985

**SB 185** Relating to creating the offense of carrying a deadly weapon while an inmate in a penal institution.

Effective Date: September 1, 1985

**SB 240** Relating to the interpretation of credit law by the consumer credit commissioner.

Effective Date: August 26, 1985

**SB 273** Relating to the regulation of architects; providing for fees and penalties.

Effective Date: September 1, 1985

**SB 405** Relating to eligibility requirements for public defenders.

Effective Date: Immediately.

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## Bills Enacted Without the Governor's Signature

**SB 501** Relating to outdoor advertising for alcoholic beverages.

Effective Date: August 26, 1985

**HB 724** Relating to certain taxes collected under the workers' compensation laws and to the authority of the Industrial Accident Board to accept grants, payments, and gifts.

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.

## State Banking Board Public Hearing

The state banking commissioner of the State Banking Board will conduct a hearing at 10 a.m. on May 9, 1985, at 2601 North Lamar Boulevard, Austin, on the matter of the liquidation of the First State Bank and Trust Company, Rio Grande City. The hearing will be held to determine whether the commissioner has jurisdiction to revive a charter and reopen a bank after the FDIC receiver has been discharged. The hearing will be conducted pursuant to Texas Civil Statutes, Article 342-807, Article 342-815, and the Administrative Procedure and Texas Register Act, Article 6252-13a.

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

TRD-853637      Jorge A. Gutierrez  
General Counsel  
Banking Department of Texas

Filed: April 25, 1985  
For further information, please call (512) 475-4451.



## Banking Department of Texas Application to Acquire Control of a State Bank

Texas Civil Statutes, Article 342-401a, require any person who intends to buy control of a state bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On April 26, 1984, the banking commissioner received an application to acquire control of White Oak Bancshares, Inc., White Oak, by George W. Moody; Spiro S. Mijalis; Superior Homes, Inc. (by Travis Stanley); G.P. Smith; Kelly D. Pieratt; Carolyn Linder; David Reynolds; Vernon Camp; and James M. Laney.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on April 26, 1985

TRD-853693      William F. Aldridge  
Director of Corporate  
Activities  
Banking Department of  
Texas

Filed: April 29, 1985  
For further information, please call (512) 475-4451.



## Cancellation of Hearing

The date of the hearing for Mabene Allen Funeral Home, Inc., Abilene, Taylor County, previously scheduled for April 29, 1985, has been canceled. The hearing has not been rescheduled as of this date.

Additional information may be obtained from Margaret McGloin Bennett, Assistant General Counsel, Banking Department of Texas, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on April 26, 1985.

TRD-853771      Jorge A. Gutierrez  
General Counsel  
Banking Department of Texas

Filed: April 30, 1985  
For further information, please call (512) 475-4451.



## Texas Department of Community Affairs Consultant Contract Award

**Contractor.** The Texas Department of Community Affairs (TDCA) announces that the firm of Peat, Marwick, Mitchell, and Company has been awarded a contract, under the provisions of Texas Civil Statutes, Article 6252-11c, for the period of April 15, 1985-June 30, 1986, to provide assistance to TDCA's Training and Employment Development Division in the design of financial and program management systems. The consultant proposal request was published in the November 16, 1984, issue of the *Texas Register* (9 TexReg 5945).

**Description of Services.** The firm of Peat, Marwick, Mitchell and Company shall perform services which may include an analysis and evaluation of existing financial and program management practices; and the identification of requirements for revised financial and program management practices consistent with the proper administration of the Job Training Partnership Act funds. The data and analysis provided by the evaluation will be utilized by TDCA in designing appropriate financial and program management systems and procedures.

**Business Address.** The business address of Peat, Marwick, Mitchell, and Company is 1100 American Plaza, Fifth and Lavaca Streets, Austin, Texas 78701.

**Contract Amount.** The total cost of services to be performed under this contract is presently estimated to be \$125,000.

**Project Reports.** Reports to be generated under this contract shall be submitted to TDCA upon completion throughout the period of performance of the contract.

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

TRD-853834 Douglas C. Brown  
General Counsel  
Texas Department of Community  
Affairs

Filed: April 25, 1985  
For further information, please call (512) 443-4100, ext. 210.

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## Contract Awards

The Texas Department of Community Affairs (TDCA) announces that the following units of general local government have been selected as contract recipients for planning/capacity building under the Texas Community Development Program (TCDP) established pursuant to Texas Civil Statutes, Article 4413(201), §4A.

The proposed amount of funding for each contract is indicated. A contract is not effective until executed by the unit of general local government and the executive director of the TDCA.

Beasley—\$10,625  
Rocky Mound—\$11,500  
Farmersville—\$12,350  
La Joya—\$13,300  
Sabinal—\$12,000  
Athens—\$15,300  
Eden—\$9,700  
Maverick County—\$25,000  
Holiday Lakes—\$11,400  
Flatonina—\$9,700  
Van Horn—\$17,500  
Cameron County—\$25,000  
Morgan—\$11,000  
Easton—\$11,875  
Eagle Pass—\$25,000  
Hutto—\$15,450  
Charlotte—\$15,500  
Glen Rose—\$12,875  
Winona—\$7,150  
Alamo—\$24,225  
Total—\$296,450

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

TRD-853783 Douglas C. Brown  
General Counsel  
Texas Department of Community  
Affairs

Filed: April 29, 1985  
For further information, please call (512) 443-4100, ext. 210.

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## Request for Applications

The Texas Department of Community Affairs (TDCA) is soliciting applications for Job Training Partnership Act (JTPA) Title III funds to operate worker adjustment projects for dislocated workers. The primary goal of the worker adjustment projects is the reemployment of dislocated workers in stable, productive employment that minimizes their wage loss.

Bidders must elect to apply for funding to operate projects which comply with the design specifications of the following project categories: worker adjustment center, customized training programs, and entrepreneurial training programs.

Bidders may not submit more than one bid within a category, but may submit proposals for more than one category. Single proposals submitted must not exceed \$300,000.

All federal formula funds received under the JTPA, Title III, must be equally matched with nonfederal resources.

Bidders must be a unit or consortium of state, county, or local government, including regional councils of government; other public or private nonprofit entities; or private-for-profit entities.

Bidders selected who are not already existing private industry councils (PICs) or JTPA administrative entities will be required to coordinate their efforts with those entities on a regular basis to ensure coordination and non-duplication of services under the JTPA.

Applications will be reviewed and evaluated on the basis of the following criteria:

- (1) responsiveness of the application to the goals for the worker adjustment projects;
- (2) proposed approach/plan of action/program design;
- (3) number of dislocated workers to be served and placed;
- (4) cost effectiveness; and
- (5) past experience providing employment and training or related services.

All provisions and condition must conform to relevant federal and state regulations. Technical assistance will not be provided by the TDCA in the preparation of proposals.

The TDCA retains the right to accept or reject any or all proposals. The TDCA is under no legal requirement to execute a resulting contract on the basis of its making this request for applications and intends the material provided only as a means of identifying and considering various contractor alternatives and the general cost of services desired.

This request for applications does not commit the TDCA to pay for any cost incurred prior to execution of a contract or prior to fund availability from the U.S. Department of Labor for this procurement. The TDCA specifically reserves the right to vary the provisions set forth at any time prior to execution of a contract where the TDCA deems such variance to be in the best interest of the State of Texas and to act otherwise as it deems in its sole discretion.

The period of performance for the worker adjustment projects is approximately 12 months, beginning on or about July 30, 1985.

The deadline for submission of complete applications is 4 p.m. on June 14, 1985. Any modifications to the original application must be received prior to the closing date.

Applications will not be accepted after the 4 p.m. deadline.

Interested bidders may obtain an application package from the Texas Department of Community Affairs, Training and Employment Development Division, 2015 IH 35 South, P.O. Box 13166, Austin, Texas 78711, Attention: Enrique Barrera, Room 262.

Issued in Austin, Texas, on May 1, 1985.

TRD-853847 Douglas C. Brown  
General Counsel  
Texas Department of Community  
Affairs

Filed: May 1, 1985  
For further information, please call (512) 443-4100.

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### Request for Proposals

In accordance with the Job Training Partnership Act (JTPA), Public Law 97-300, the Texas Department of Community Affairs (TDCA) announces a request for proposals (RFP) to provide employment and training programs for Vietnam-era, disabled, and recently separated veterans under the JTPA, Title IV-C. The goal of the Texas Rural Veterans' Employment and Training Program is to increase the long-term employment stability and earned incomes of participating veterans. This goal will be met by providing high quality, intensive labor exchange services on-the-job training in permanent high-paying jobs for Vietnam-era, disabled, and recently separated veterans. A total of \$400,000 will be available for the Texas Rural Veterans' Employment and Training Program.

Selected deliverers will be expected to assume responsibility for the delivery of services effective upon contract award.

Detailed information regarding the project format is set forth in the RFP instructions which will be available on or after May 7, 1985, at the TDCA, Training and Employment Development Division, Planning and Coordination Section, 2015 IH 35 South, P.O. Box 13166, Austin, Texas 78711.

The deadline for receipt of complete proposals in response to this request will be 4 p.m. on Friday, June 14, 1985.

The TDCA reserves the right to accept or reject any or all proposals submitted. The TDCA is under no legal requirement to execute a resulting contract on the basis of this advertisement and intends the material provided only as a means of identifying the various contractor alternatives. The TDCA intends to use responses as a basis for further negotiation of specific project details with potential contractors. The TDCA will base its choice on demonstrated competence, qualifications, and evidence of superior conformance with criteria.

This RFP does not commit the TDCA to pay any costs incurred prior to execution of a contract. Issuance of this material in no way obligates the TDCA to award a contract or to pay any costs incurred in the preparation of the response. The TDCA specifically reserves the right to vary all provisions set forth at any time prior to execution of a contract where the TDCA deems it to be in the best interest of the State of Texas.

For further information regarding this notice or to obtain copies of the RFP instructions, please contact Enrique Barrera or Arturo Gil, Texas Department of Community Affairs, Training and Employment Development Division, 2015 IH 35 South, P.O. Box 13166, Austin, Texas 78711, (512) 443-4100, ext. 266 or ext. 283.

Issued in Austin, Texas, on May 1, 1985

TRD-853848 Douglas C. Brown  
General Counsel  
Texas Department of Community  
Affairs

Filed: May 1, 1985  
For further information, please call (512) 443-4100.

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### Comptroller of Public Accounts Decisions 12,391 and 12,391A

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 issue to be resolved concerns the question of whether certain purchases can be subject to sales tax if the purchaser pays miscellaneous gross receipts tax. The petitioner contends that it cannot be subject to the miscellaneous gross receipts tax if its purchases to perform its telephone service are subject to sales tax. The comptroller holds that the Texas courts have already held that the petitioner is subject to the miscellaneous gross receipts tax. The administrative law judge concludes that the petitioner's purchases are subject to the sales and use tax based on the Sales Tax Statute, the Texas Tax Code, §151.323, and long-standing agency policy.

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

TRD-853862 Bob Bullock  
Comptroller of Public Accounts

Filed: May 1, 1985  
For further information, please call (512) 475-1913.

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### Decision 13,102

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.** A sales tax case where the issue is the statute of limitations for filing a refund claim. The petitioner contends that it timely filed a refund claim if it filed the claim within six months of the finality of a deficiency determination and the amount of the claim does not exceed the amount of the deficiency determination for the same period. The comptroller holds that transactions beyond the four-year limitation period which

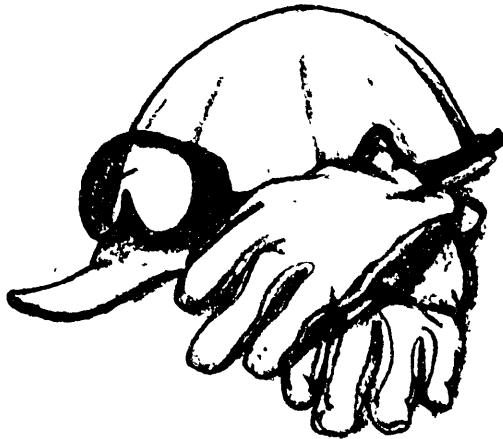
are not included in the deficiency determination were beyond the statute of limitations for refund purposes.

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

TRD-853088      Bob Bullock  
Comptroller of Public Accounts

Filed: April 29, 1985  
For further information, please call (512) 475-1913.

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## Office of Consumer Credit Commissioner Interpretations

The Office of Consumer Credit Commissioner has issued various interpretations which set out its position on matters relating to credit transactions.

Sam Kelley, consumer credit commissioner, has determined that the interpretations will benefit the public in that they will state the administrative position of the consumer credit commissioner on various questions relating to credit transactions and, therefore, will make known to the public these positions and interpretations and allow the public to rely on them.

In 1981, the 67th Legislature enacted House Bill 1228, which became effective May 8, 1981. Most of that bill is now codified in various sections of Texas Civil Statutes, Article 5069. Article 5069, §1.04(p), provides in part that "a person does not violate this Title by any acts done or omitted that conform to an interpretation of this Title by the consumer credit commissioner." Also, §8.01(f) provides, in part, that:

A person may not be held liable in any action brought under this Article for a violation of this Subtitle if the violation was an act done or omitted in good faith in conformity with any rule, regulation, or interpretation of this Title by any state agency, board, or commission, notwithstanding that after such act or omission has occurred, such rule, regulation, or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

These interpretations are presented pursuant to and in conformity with the previously mentioned statutory provisions.

These interpretations are for the most part excerpted from and based upon previous letter interpretations written by the consumer credit commissioner. They represent the present positions and views of the commissioner relative

to the matters covered thereby. Any interested party wishing to comment on any or all of the interpretations may do so by submitting such comments in writing to Sam Kelley, Consumer Credit Commissioner, P.O. Box 2107, Austin, Texas 78768. The commissioner will consider the interpretations published herein to represent the position of that office on the subject matter covered by such interpretations unless amended, withdrawn, or added to by publication of any such change(s) in this publication.

The interpretations published here are supplemental and in addition to those previously published interpretations numbered (1)-(34), which appeared in the August 17, 1982, issue of the *Texas Register* (7 TexReg 3040); those interpretations numbered (35)-(116), which appeared in the June 28, 1983, issue of the *Texas Register* (8 TexReg 2298); and those interpretations numbered (117)-(145), which appeared in the September 25, 1984, issue of the *Texas Register* (9 TexReg 5015).

147. A depository account agreement for demand deposit checking accounts whereby the bank is authorized to charge the customer interest at the rate of 18% per annum under Article 5069-1.04 on incidental overdrafts, and which agreement further provides that the customer has no right to overdraw the account and that the bank has no duty to permit an overdraft, and that if an overdraft does occur, the amount of the overdraft is immediately due and payable with no right of deferred payment is not subject to Article 5069, Chapter 3, 4, or 15. Article 5069, Chapter 1, is applicable to the program. (Letter Interpretation 84-7, July 27, 1984).

148. A bank which is charging Article 1.04 rates on an open-end credit plan subject to Chapter 15 is not required to give the Article 1.04(i) notice to participants in the plan when the bank, without changing the rate of interest (18%), only changes the method of computation of interest from a monthly periodic rate (15%) to an annual rate (18%). (Letter Interpretation 84-8, August 20, 1984).

149. The term "credit card" as used in Article 5069-1.01(g) and (i), and the other sections of Senate Bill 405 enacted by the 68th Legislature, 1983, does not include checks or drafts which may be used to access open-end credit programs. (Letter Interpretation 84-9, August 22, 1984).

150. The several interpretations set out in this paragraph are based on the following situation. A bank enters into debit card agreements with its customers which, in addition to standard debit card features, provide that the card may be used at certain point of sale terminals to pay for purchases of goods or services. If the customer, by separate agreement, has an open-end line of credit with the bank, it can be agreed that use of the debit card to debit an asset account which has insufficient funds to honor the transaction will activate the open-end line of credit and cause funds from the credit account to be transferred to the asset account. The bank, as a plan separate from the debit card and credit line products will market a club membership program which will feature things such as travel ticket discounts and accidental death insurance. An annual membership fee will be charged for club membership. Advertising material for all three plans may at times be distributed together. The open-end credit plan is subject to Article 5069, Chapter 15. The debit card will be used to debit a checking account.

(a) If a customer holds a debit card and a credit line, the imposition of a monthly checking account service charge will not violate Article 15.02(f) or any other applicable provision of Article 5069 because it is not in con-



nection with a Chapter 15 account. (Letter Interpretation 84-10, September 10, 1984).

(b) If a customer holds a debit card and a credit line, the imposition of a monthly debit card service charge will not violate Article 15.02(f) or any other applicable provision of Article 5069 because it is not in connection with a Chapter 15 account. (Letter Interpretation 84-10, September 10, 1984).

(c) If a customer holds a debit card and a credit line, the imposition of transaction fees on debit card transactions will not violate Article 15.02(f) or any other applicable provision of Article 5069 because it is not in connection with a Chapter 15 account. (Letter Interpretation 84-10, September 10, 1984).

(d) If a customer holds a credit line and a club membership, the imposition of the club membership fee will not violate Article 15.02(f) or any other applicable provision of Article 5069 because it is not in connection with a Chapter 15 account. (Letter Interpretation 84-10, September 10, 1984).

(e) If a customer has a debit card, a credit line, and a club membership, the imposition of the club membership fee will not violate Article 15.02(f) or any other applicable provision of Article 5069. (Letter Interpretation 84-10, September 10, 1984).

(f) The use of a debit card in the manner described in Letter Interpretation 84-10 and this paragraph (150) is not a "credit card transaction" as that term is defined in Article 1.01(g). (Letter Interpretation 84-10, September 10, 1984).

(g) If a customer holds a debit card and a credit line, the credit agreement as described in Letter Interpretation 84-10 and this paragraph (150) would not be a "lender credit card agreement" as that term is defined in Article 1.01(i). (Letter Interpretation 84-10, September 10, 1984).

**151.** It is the position of the consumer credit commissioner that no section of House Bill 1228, 67th Legislature, 1981, was intended to change existing concepts of the spreading of interest, regardless of whether the loan is a fixed-rate loan or a variable rate loan. (Letter Interpretation 84-11, November 27, 1984).

**152.** A creditor who extends credit pursuant to an open-end revolving loan agreement and never charges the debt or more than 10% per annum interest does not need to obtain a license from the commission. Such type of credit (with an interest charge of no more than 10% per annum) is authorized by the Texas Constitution, Article 16, §11, and Article 5069-1.02, and the credit grantor does not have to comply with the provisions of Article 1.04 or Article 5069, Chapter 15. (Letter Interpretation 85-1, January 25, 1985).

**153.** It is the position of the commission that state usury statutes establishing interest rate ceilings on first mortgage loans and/or credit sales of multifamily residential projects such as apartment buildings and condominiums which otherwise comply with federal requirements are preempted by federal law and, therefore, such loans would have no interest limitation. (Letter Interpretation 85-2, February 27, 1985).

**154.** A hospital may enter into revolving charge account agreements with patients whereby the patients could acquire on credit the services provided by the hospital and pay for such services over a period of time. The hospital may charge interest in accordance with Article 5069-1.04, and the hospital need not obtain a license from the commission. The transactions would not be subject to Article 5069, Chapters 3, 4, 6, or 15. An assignee of such transactions would not need to obtain a license from the com-

mission to purchase and service such accounts. (Letter Interpretation 85-3, March 1, 1985).

**155.** An out-of-state, federally insured state bank or state savings and loan institution may extend credit to residents of Texas and not be subject to Texas law where the initial solicitation of the obligors was by mail, the credit arrangement is opened by the bank or savings and loan association at its home office, and the credit arrangement selects as the governing law the law of the state of domicile of the bank or association. Such institutions would not need to obtain a license from the commission and would not be doing business under the authority of any of the provisions of Article 5069. (Letter Interpretation 85-4, March 14, 1985).

Issued in Austin, Texas, on April 16, 1985.

TRD-853682 Sam Kelley  
Consumer Credit Commissioner

Filed: April 26, 1985

For further information, please call (512) 475-2111.

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## Rate Ceilings

The consumer credit commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

Type of Rate Ceilings Effective Period (Dates are Inclusive)	Consumer <sup>(3)</sup> /Agricultural/Commercial <sup>(4)</sup> thru \$250,000	Commercial <sup>(4)</sup> over \$250,000
Indicated (Weekly) Rate—Article 1.04(a)(1) 05/06/85-05/12/85	18.00%	18.00%
Monthly Rate— Article 1.04(c)(1) 05/01/85-05/31/85	18.00%	18.00%
Standard Quarterly Rate—Article 1.04(a)(2) 04/01/85-06/30/85	18.00%	18.00%
Retail Credit Card Quarterly Rate— Article 1.11(3) 04/01/85-06/30/85	18.00%	N/A
Lender Credit Card Quarterly Rate— Article 15.02(d)(3) 04/01/85-06/30/85	16.42%	N/A
Standard Annual Rate— Article 1.04(a)(2)(2) 04/01/85-06/30/85	18.00%	18.00%
Retail Credit Card Annual Rate— Article 1.11(3) 04/01/85-06/30/85	18.00%	N/A
Annual Rate Applicable to Pre-July 1, 1983, Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from 04/01/85-06/30/85	19.27%	N/A

Type of Rate Ceilings Effective Period (Dates are Inclusive)	Consumer <sup>(1)</sup> Agricul- tural/Commercial <sup>(2)</sup> thru \$250,000	Commercial <sup>(3)</sup> over \$250,000
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**Judgment Rate—**

Article 1.05, §2

05/01/85-05/31/85

10.00%

10.00%

- (1) For variable rate commercial transactions only
- (2) Only for open-end credit as defined in Texas Civil Statutes, Article 5069-1 01(f).
- (3) Credit for personal, family, or household use
- (4) Credit for business, commercial, investment, or other similar purpose

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

TRD-853895

Sam Kalley  
Consumer Credit  
Commissioner

Filed: April 29, 1985

For further information, please call (512) 476-2111.

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### East Texas Council of Governments Amendment to Request for Consulting Services

The request for consulting services published in the April 30, 1985, issue of the *Texas Register* (10 TexReg 1373), concerning the East Texas Council of Governments (ETCOG) interest in receiving qualifications for consultants to develop an airport systems plan for the Tyler, Longview, and Marshall area, is revised to reflect that no formal request for proposal will be required from the three selected consultants. The Steering Committee will interview the three selected firms on May 21, 1985, and make a recommendation to the ETCOG Executive Committee. It is anticipated that the Executive Committee will act on the Steering Committee's recommendations at its June 6, 1985, meeting.

Issued in Kilgore, Texas, on April 25, 1985

TRD-853894

Glynn J. Knight  
Executive Director  
East Texas Council of Governments

Filed: April 29, 1985

For further information, please call (214) 984-8841.

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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 April 22-26, 1985.

Total allocated principal amount of private activity bonds authorized to be allocated by MW-27B through April 26, 1985:

\$91,678,667.88

Comprehensive listing of bond issues which have received a reservation date as per MW-27B during the week of April 22-26, 1985:

Issuer	User	Amount
Lancaster Industrial Development Authority	Carter Properties	\$1 million
City of Dallas Industrial Development Corporation	Eurodrive, Inc.	\$1.5 million
Wichita County Health Facilities Development Corporation	1100 Grace Center, Ltd.	\$2.4 million
City of Denton Industrial Development Authority	Glenn L. Hulcher	\$1.35 million
Nueces River Authority	ASARCO, Inc.	\$258,371.88
Trinity River Industrial Development Authority	Ramsey Laboratories, Inc.	\$2 million
Brazos Harbor Industrial Development Corporation	Gulf Chemical and Metallurgical Corporation	\$6 million
Mid-Hidalgo County Industrial Authority, Inc.	Phoenix Frozen Foods, Inc.	\$2.5 million

Comprehensive listing of bonds issued as per MW-27B during the week of April 22-26, 1985:

Issuer	User	Amount
Mesquite Health Facilities Development Corporation	Caduceus Investment Corporations	\$600,000
Harris County Industrial Development Corporation	Clyde Lindsey Enterprises, Inc.	\$589,000
Washington County Industrial Development Corporation	Regional Touring and Lodging Corporation	\$3.6 million

Issued in Austin, Texas, on May 1, 1985.

TRD-853846

Harden H. Weldemann  
Executive Director  
Texas Economic Development  
Commission

Filed: May 1, 1985

For further information, please call (512) 472-5059.

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### Texas Education Agency Request for Applications

The Texas Education Agency (TEA) is requesting applications for vocational education special projects as provided

for by Public Law 98-524, the Carl Perkins Vocational Act. Applications are requested in the areas of adult training and retraining, single parents and homemakers, sex equity, criminal offenders serving in correctional institutions, curriculum development, personnel development, and other program improvement. This request is not filed under the provisions of Texas Civil Statutes, Article 6252-11c.

**Due Dates.** Applications must be received by the TEA no later than 5 p.m. on Monday, June 3, 1985. The right to reject any or all applications is reserved.

**Eligible Applicants.** The following public education institutions are eligible applicants for these funds: school districts, community/junior colleges, technical institutes, senior colleges, universities, and education service centers.

**Procedures for Selecting Contractors.** Respondents deemed by a review panel to be best qualified by knowledge, experience, and education in the specialties required for the projects, capacity to complete the projects well and timely, and reputation for excellence of performance will be selected for cost and contract negotiations.

**Contact.** Further information and copies of instructions and forms for the preparation and submission of applications for discretionary funding of vocational special projects, including specific requests for applications, may be obtained by contacting Dr. R. D. Bristow, Department of Occupational Education and Technology, Texas Education Agency, 201 East 11th Street, Austin, Texas 78701, (512) 834-4165.

Issued in Austin, Texas, on April 30, 1985.

TRD-853867 W. N. Kirby  
Commissioner of Education

Filed: May 1, 1985  
For further information, please call (512) 475-7077.

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## **Texas Health Facilities Commission Applications Accepted for Amendment, Declaratory Ruling, Notices of Intent, and Petition for Reissuance of Certificate of Need**

Notice is hereby given by the Texas Health Facilities Commission of applications accepted as of the date of this publication. In the following list, the applicant is listed first, file number second, the relief sought third, and a description of the project fourth. DR indicates declaratory ruling; AMD indicates amendment of previously issued commission order; CN indicates certificate of need; PFR indicates petition for reissuance; NIE indicates notice of intent to acquire major medical equipment; NIEH indicates notice of intent to acquire existing health care facilities; NIR indicates notice of intent regarding a research project; NIE/HMO indicates notice of intent for exemption of HMO-related project; and EC indicates exemption certificate.

Should any person wish to become a party or interested person to any of the previously stated applications, that person must file a proper request to become a party or interested person to the application within 10 days after the date of this publication of notice. If the 10th day is a Saturday, Sunday, or state holiday, the last day shall be extended to 5 p.m. of the next day that is not a Saturday, Sunday, or state holiday. A request to become a party or interested person should be mailed to the chair of the commission at P.O. Box 50049, Austin, Texas 78763, and must be received at the commission no later than 5 p.m. on the last day allowed for filing of a request to become a party or interested person.

The contents and form of a request to become a party or interested person to any of these applications must meet the criteria set out in 25 TAC §515.9. Failure of a party or interested person to supply the necessary information in the correct form may result in a defective request to become a party or interested person.

Hillcrest Baptist Medical Center, Waco  
AH84-0213-092A(011785)

CN/AMD—Request for an amendment of Certificate of Need AH84-0213-092, which authorized the certificate holder to conduct a construction and renovation project including 122,236 square feet of construction and 57,216 square feet of renovation. The certificate holder requests an addition of 9,363 square feet of new construction and an increase in the total project cost from \$29,787,700 to \$29,788,614. The certificate holder also proposes not to construct the two-level parking structure and will instead purchase an additional 2.63 acres of land to be used for parking.

The Hillhaven Corporation, a Tennessee  
corporation, Tacoma, Washington  
AN85-0301-144

NIEH—Request for a declaratory ruling that a certificate of need is not required for The Hillhaven Corporation, a Tennessee corporation, to acquire by purchase the leasehold interest in TLC Nursing Center, an existing 120-bed nursing facility with 56 ICF beds and 64 skilled beds located in Harlingen, from Fundamental Care Corporation, Inc. TLC Nursing Center is currently owned by TLC Associates and leased to Fundamental Care Corporation, Inc.

Su Clinica Familiar, Inc., Harlingen  
AO85-0416-252

DR—Request for a declaratory ruling that neither a certificate of need nor a notice of intent to acquire an existing health care facility is required for Su Clinica Familiar, Inc., to dissolve its affiliation with Catholic Charities of the Diocese of Brownsville and to establish itself as a nonprofit corporation. No capital expenditure is involved for the proposed project.

Texas Maternity Center, Inc., a Texas corporation,  
Brownsville  
AO85-0417-254

DR—Request for a declaratory ruling that a certificate of need is not required for Texas Maternity Center, Inc., to construct and operate a birthing center adjacent to, but not connected to, Los Ebanos Surgical Center in Brownsville. The proposed center would provide only labor and delivery services. The total project cost is estimated to be \$600,000.

**Surgi-Center Investment Group and Plano Surgi-Center Operating Company for Plano Surgi-Center, Plano**  
AS83-1215-630A(041885)

**CN/AMD**—Request for an amendment of Certificate of Need AS83-1215-630, which authorized the certificate holder to construct, equip, and operate a 10,915-square-foot ambulatory surgical center consisting of five surgery suites, eight adult and four pediatric recovery beds, and other ancillary/support areas. The certificate holder requests authorization to relocate the site to Medical Court, approximately ½ mile west of the approved location, and to reduce the size of the facility by one operating room. The square footage of the facility will decrease from 10,915 square feet to 9,834 square feet, and the project cost will decrease from \$2,426,690 to \$2,200,761 as a result of the proposed changes. The certificate holder also requests an extension of the completion deadline from February 1, 1986, to May 1, 1986.

**Summit Health, Ltd., Studio City, California**  
AH85-0418-256

**NIEH**—Request for a declaratory ruling that a certificate of need is not required for Summit Health, Ltd., to acquire by purchase Parkview Hospital, an existing 60-bed general acute care hospital located in Midland, from Hospital Corporation of America.

**AmeriHealth-Lockhart, Inc., Atlanta, Georgia**  
AH85-0419-257

**NIEH**—Request for a declaratory ruling that a certificate of need is not required for AmeriHealth, Inc., to purchase 100% of the leasehold interest in Lockhart Hospital, an existing 44-bed general acute care hospital located in Lockhart, from Hospital Corporation of America. Lockhart Hospital is currently owned by the City of Lockhart and leased to Hospital Corporation of America.

**Consultants in Radiology, a Texas partnership, Fort Worth**  
AO85-0423-258

**NIE**—Request for a declaratory ruling that a certificate of need is not required for Consultants in Radiology, a Texas partnership, to acquire by lease a CT whole body scanner. The proposed equipment will be located at the office of Consultants in Radiology, 800 Fifth Avenue, Fort Worth, and utilized on an outpatient basis only.

**Vari-Care, Inc., Rochester, New York**  
AN85-0423-259

**NIEH**—Request for a declaratory ruling that a certificate of need is not required for Vari-Care, Inc., to acquire by purchase Hilltop Village, an existing 150-bed nursing facility with 60 private pay and 90-ICF beds, located in Kerrville, from Jack L. Reynolds.

Issued in Austin, Texas, on May 1, 1985.

TRD-853855      John R. Neel  
                            General Counsel  
                            Texas Health Facilities  
                            Commission

Filed: May 1, 1985

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

## **Texas Housing Agency** **Public Hearing for Approval of** **Industrial Development Bonds for** **Residential Real Property**

The Texas Housing Agency (THA) will conduct a public hearing concerning public approval for the issuance of industrial development bonds for residential real property. In accordance with federal law, the THA intends to seek public approval from the attorney general, the governor, or other applicable elected representative or designated official of the State of Texas for the issuance of a series of multifamily residential development revenue bonds (the bonds), in amounts not expected to exceed the following approximate amounts.

The bonds, pursuant to the statutory authority of the THA, are being proposed to provide financing for sanitary, decent, and safe dwelling accommodations for persons and families of low income and families of moderate income. If issued, the bonds will constitute limited obligations of the THA. Neither the State of Texas nor any political subdivision, other than the THA, will be liable for the bonds. The bonds will not constitute a debt of the State of Texas.

The executive administrator or deputy administrator of the THA will hold public hearings on the residential project proposed to be financed by the bonds. The hearing will be held at 10 a.m. on Tuesday, May 14, 1985, at the Ambassador Plaza Hotel, 1312 South Ervay, Dallas, Texas 75215, (214) 565-9003. The proposed residential project and description is as follows.

\$10 million for the benefit of Tenison, Ltd., a proposed Texas limited partnership, to provide financing for a multifamily rental residential development consisting of approximately 252 units to be located on approximately 8.8 acres located on both sides of an unnamed street at the southern intersection of the 7100 block of East Grand Avenue and G. C. & S. F. Railroad including Lots 6, 7, 8, 9, 10, 11, 12, 13, and 18 in city block 2696 out of the W.M. Jones survey, Abstract 686, in the City of Dallas, Dallas County (Tenison Apartments, THA 06144).

All interested persons are invited to attend the hearing to express their views on the projects and the proposed issuance of the bonds. For details, contact Stan Kantrowitz, General Counsel, Texas Housing Agency, 411 West 13th Street, Suite 700, Austin, Texas 78701, (512) 475-0812 or (800) 792-1119.

Persons who intend to appear at the hearing and express views are encouraged to contact Mr. Kantrowitz before the hearing. Any interested persons unable to attend the hearing may submit their views in writing to Mr. Kantrowitz before the hearing. All written comments will be made available for review by all parties attending the public hearing.

Issued in Austin, Texas, on April 29, 1985

TRD-853733      Stan Kantrowitz  
                            General Counsel  
                            Texas Housing Agency

Filed: April 29, 1985

For further information, please call (512) 475-0812  
or (800) 792-1119.

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## Texas Department of Human Resources Consultant Contract Award

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Human Resources (DHR) furnishes this notice of award for consulting services. The notice of invitation for offers was published in the February 15, 1985, issue of the *Texas Register* (10 Tex-Reg 608).

**Description of Service.** Service provided will be the conversion of DHR Region 10's computer systems and the analysis, development, and programming of the automated performance tracking and productivity improvement project. Contractor will be responsible for writing and documenting all code relating to the previously mentioned project as well as serving as technical consultant to the project director on procedure and system analysis.

**Contractor Selected.** The contractor selected is John R. Cox, 2127 Brairgrove, Nacogdoches, Texas 75961.

**Value of Contract and Effective Dates.** The total value of the contract is \$15,000. The contract began March 20, 1985, and ends October 31, 1985.

**Due Dates for Reports.** Documents will be delivered as specified under the terms of the contract, and as required by the project director.

Issued in Austin, Texas, on May 1, 1985.

TRD-853849      Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Resources

Filed: May 1, 1985  
For further information, please call (512) 450-3766.



## Request for Proposals

The Texas Department of Human Resources (DHR) announces a request for proposals for services in the Nutrition Education and Training Program. The DHR will be contracting for the following full-time positions of professional dietitians and evaluators to coordinate program activities: program coordinator; registered/licensed dietitian with management experience; systems manager; registered/licensed dietitian with ADP experience; workshop coordinator; registered/licensed dietitian with curriculum development experience; program evaluator; degree in behavioral or social science and experience in program evaluation.

Closing date for receipt of offers is July 8, 1985. The bid opening date is July 9, 1985, and the contracts will be awarded August 5, 1985.

For more information please contact Alexa Sparkman, Program Coordinator, Nutrition Education and Training, Texas Department of Human Resources, Food Services Division—520-W, P.O. Box 2960, Austin, Texas 78769, telephone (512) 450-3382.

Final selection of contractors will be based on experience, qualifications, and cost.

Contractors currently holding these positions may reapply and will be given consideration along with other applicants meeting the qualifying factors as listed in the request for proposal.

Issued in Austin, Texas, on May 1, 1985.

TRD-853850      Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Resources

Filed: May 1, 1985  
For further information, please call (512) 450-3766.



The Texas Department of Human Resources (DHR) announces a request for proposals (RFP) for purchased food stamp issuance services. The DHR uses a competitive procurement process to ensure and document that services purchased are of the highest quality, lowest price, and best meet the needs of clients served.

**Description of Services.** Over-the-counter food stamp issuance is the exchange of food coupon booklets for authorization to participate (ATP) cards. ATP cards will specify client name, case number, ID card number, total benefit amount, number of each denomination booklets to be issued, and month valid. Food stamp clients will present issuance agent with ATP and ID cards. Issuance agent will check to see that the ID card serial number matches the corresponding number on the ATP card. If so, the client will sign the ATP card in the presence of the issuance agent, who will then exchange the indicated number of each denomination of booklets for the signed ATP card. The issuance agent will write the issuance verification code (from the ID card) on the ATP card, date stamp the ATP card, and later batch it for delivery to the DHR.

To contract with the DHR, the contractor must comply with applicable federal and state laws, regulations, and policies; the DHR's service standards applicable to the service being purchased; generally accepted accounting principles and procedures recognized by the American Institute of Certified Public Accountants; and contractual terms such as those relating to sufficient operating capital, bonding requirements, assumption of liability for redemption errors, losses and audit exceptions, and contract termination.

The DHR will procure over-the-counter food stamp issuance services in counties of Cameron, Dallas, El Paso, Jefferson, Hidalgo, Lubbock, Nueces, and Tarrant.

**Terms of Contract.** Contracts will be for a 12 month period. The DHR has the option to renegotiate renewal on a non-competitive basis for additional periods. Contractors will be paid on a fee per transaction basis for eligible ATP cards processed.

**Contact Person.** To request a RFP package or additional information, contact Charley Jennings at (512) 450-3482. All proposals must be submitted to DHR no later than noon on May 24, 1985.

Sealed bids must be mailed to Charley Jennings, Director of Program Control, Program Management Division, 518-W, P.O. Box 2960, Austin, Texas 78769. Offerors must specify on the bid envelope the county of the location(s) on which they are bidding. If bidding on more

than one county, the bid for each county must be in a separate envelope.

Issued in Austin, Texas, on May 1, 1985.

TRD-853851      Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Resources

Filed: May 1, 1985

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

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The Food Services Division of the Texas Department of Human Resources (DHR) is responsible for the distribution of USDA commodities to eligible recipient agencies. Commercial warehousing is used to store the commodities between shipment from USDA and issuance to recipient agencies. This notice is to announce DHR's request for proposals for commercial warehousing for commodities.

**Description of Service Required.** Services required are freezer, cooler, and dry storage space to handle such products as butter, cheese, dry milk, flour, cornmeal, and canned beef. The volume of product will depend on the area served.

**Minimal Requirements.** To contract with DHR, the following are some general conditions that the contractor must comply with applicable state and federal laws, regulations and policies; DHR storage procedures; agree to maintain accounting records for three years and 90 days; be a bonded warehouse; assume liability for any resulting audit exceptions noted by DHR or USDA auditors; agree to the termination of the contract in the event federal funds become unavailable to continue the contracted agreement.

**Effective Dates of Contract.** The contract will be for a 24-month period beginning September 1, 1985, and ending August 31, 1987.

**Requesting Bid Packet.** Interested entities may request a bid packet from the Texas Department of Human Resources, P.O. Box 2960, Attention: Lynda Reed, 520-W, Austin, Texas 78769.

**Closing Date for Bids.** All bids must be received by 2 p.m. on June 14, 1985, at the Texas Department of Human Resources, John H. Winters Human Services Center, Room #3E, 701 West 51st Street, Austin, Texas 78769.

Issued in Austin, Texas, on May 1, 1985.

TRD-853862      Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Resources

Filed: May 1, 1985

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

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## Public Utility Commission of Texas Public Notice

In accordance with 16 TAC Public Utility Commission of Texas (PUC) §21.25, the Public Utility Commission

gives notice of the pendency before the PUC of a proceeding concerning the economic viability of the South Texas Electric Generating Station (STP), Unit 2.

On March 20, 1985, the PUC general counsel filed a petition of inquiry seeking to gather the best current evidence concerning the economic viability of STP Unit 2. That petition was docketed as Docket 6184. The proceeding is designed to be forward looking in nature and is not aimed at settling the question of the prudence of actions taken prior to the proceeding. Evidence will be taken concerning the costs to complete and operate the unit, and the availability of alternatives such as cogeneration, purchased power, and conservation and load leveling. Off setting cost to ratepayers and investors of cancellation or deferral also will be considered. It is not intended that any specific commission action will necessarily result immediately, although that possibility exists, but rather that the record will serve as a primary base from which future commission determinations of prudence can be made.

Persons who wish to intervene or otherwise participate in these proceedings should notify the commission as soon as possible. A request to intervene, participate, or for further information should be mailed to the Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757. Further information may also be obtained by calling the Public Utility Commission Consumer Affairs Division at (512) 458-0223 or (512) 458-0227, or (512) 458-0221 teletypewriter for the deaf.

Issued in Austin, Texas, on April 25, 1985

TRD-853640      Rhonda Colbert Ryan  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: April 25, 1985

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

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## Railroad Commission of Texas Public Hearing

The Railroad Commission of Texas will conduct a public hearing on 16 TAC §§5.146-5.148, concerning collective rate-making procedures; §5.422 and §5.423, concerning contested and uncontested proceedings; and §5.315, concerning agreements between carriers concerning group representation. The issues to be considered in the hearing include, but are not limited to, whether these proposed amendments are consistent with the Texas Motor Carrier Act, Article 911b; and the impact of the United States Supreme Court decision in Southern Motor Carriers Rate Conference, Inc., v. United States, Docket 82-1922 (decided March 27, 1985) on these proposed amendments. The public hearing will commence at 9 a.m. on May 17, 1985, in Room 309, Railroad Commission of Texas Building, 1124 IH 35 South, Austin.

This public hearing will be conducted in compliance with general and special rules of practice and procedure before the Transportation Division. Any interested member of the public may appear and offer comments. Cross-examination of witnesses will not be allowed, although the presiding examiner may ask questions of any person testifying.

For further information, please contact Merrily Porter, Hearings Examiner, Transportation Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1331.

Issued in Austin, Texas, on April 26, 1985.

TRD-853874      Walter Earl Lille  
Special Counsel  
Railroad Commission of Texas

Filed: April 26, 1985

For further information, please call (512) 445-1186.

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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 April 22-26, 1985.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 475-2678.

Listed is the name of the applicant and the city in which each facility is located; type of facility; location of the facility; permit number; and type of application—new permit, amendment, or renewal.

### **Period of April 22-26, 1985**

City of Pearland; wastewater treatment plant; 1092½ Barry Rose, immediately west of Clear Creek, approximately 7,000 feet north of FM Road 518 in Brazoria County; 10134-02; amendment

City of Pearland; wastewater treatment plant; 2217 Myrtle Wood Drive, immediately south of Clear Creek and immediately west of the Brazoria County and Galveston County common boundary in Brazoria County; 10134-03; amendment

Snider Industries, Inc., Marshall; lumber mill with cogeneration facilities; on the north side and adjacent to Loop 390 at the Loop 390, Sue Bell Lake Road intersection north of the City of Marshall in Harrison County; 02770; new permit

Mort L. Hall, Houston; sewage treatment plant; approximately 2,900 feet east of U.S. Highway 59 and

1,900 feet south of Little York Road in the City of Houston in Harris County; 13111-01; new permit

Helmerich and Payne, Inc., Baytown; natural gas odorizing division Mercaptan refinery; in the William Upper League Survey bounded on the north by the League Line and west by the San Jacinto River Authority Industrial Water Canal, approximately 1,900 feet west of Decker Drive in the City of Baytown in Harris County; 01385; renewal

San Antonio River Authority, San Antonio; sewage treatment plant; approximately 400 feet north of Benz-Engleman Road, approximately one mile west of FM Road 1516 and one mile north of IH 10 in Bexar County; 10749-03; renewal

City of League City; wastewater treatment plant; on Jeb Stuart Drive, approximately one mile west of IH 45 in Galveston County; 10568-06; renewal

Galveston County WCID 1, Dickinson; wastewater treatment plant; on the north side of Dickinson Bayou between the Galveston, Houston, and Henderson Railroad and Nebraska Street in the Village of Dickinson in Galveston County; 10173-01; renewal

M G L, Inc., Houston; wastewater treatment plant; approximately three miles northeast of Mont Belvieu, 1,000 feet south of the confluence of Cherry Point Gully and Old River in Chambers County; 11520-01; amendment

DKB Developers, Inc., Mont Belvieu; planned condominium complex; 11818 Haas Road, approximately 1.5 miles south-southwest of the intersection of Cedar Bayou Bay Road and FM Road 2354 in Chambers County; 13099-01; new permit

City of Austin Electric Utility, Power Production Chemistry, Austin; steam electric power plant; 2400 Holly Street on the north side of Town Lake immediately upstream from Longhorn Dam in the City of Austin in Travis County; 01886; amendment

City of Electra; wastewater treatment plant; southeast of Electra, immediately southeast of the U.S. Highway 287 crossing over South Fork Buffalo Creek in Wichita County; 10020-01; renewal

Galveston County WCID 1, Dickinson; wastewater treatment plant; on the south bank of Dickinson Bayou approximately ¼ mile east of the Galveston, Houston, and Henderson Railroad in Galveston County; 10173-02; renewal

Lone Star Steel Company, Lone Star; steel mill; on the northwest side of U.S. Highway 259 at its intersection with FM Road 729 approximately two miles south of the City of Lone Star in Morris County; 00348; amendment

Texas Parks and Wildlife Department, Three Rivers; domestic wastewater disposal system; within the boundary of Choke Canyon State Park-Calliham Unit, approximately 12 miles east of the City of Tilden and 10.5 miles west of the City of Three Rivers in McMullen County; 13100-01; new permit

Fred J. Farner Interests, Inc., Houston; planned multi-family subdivision; approximately 500 feet south and 4,200 feet east of the intersection of North Belt and John F. Kennedy Boulevard in Harris County; 13103-01; new permit

Camfield Municipal Utility District, Houston; regional sewage treatment plant; approximately 3,500 feet east

of Jackrabbit Road and 4,500 feet north of FM Road 529 in Harris County; 12304-01; amendment

Ponderosa Joint Powers Agency, Houston; wastewater treatment plant; 17940 Butte Creek, immediately south of Cypress Creek, approximately 2.3 miles west of IH 45 in Harris County; 11081-01; amendment

Associates Utility Company, Houston; camp/recreational complex; near the west end of Callender Lake Dam, approximately 1.8 miles east of the intersection of FM Road 773 and FM Road 2339 on the north side of FM Road 2339 in northern Henderson County; 13112-01; new permit

U.S. Department of the Army, Fort Sam Houston; sewage treatment plant; approximately 3,300 feet east of FM Road 306 and 2,500 feet north of Jacob Creek Park Road in Comal County; 12074-01, renewal

Issued in Austin, Texas, on April 26, 1985.

TRD-853749

Mary Ann Hefner  
Chief Clerk  
Texas Water Commission

Filed: April 29, 1985

For further information, please call (512) 475-4514.

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