

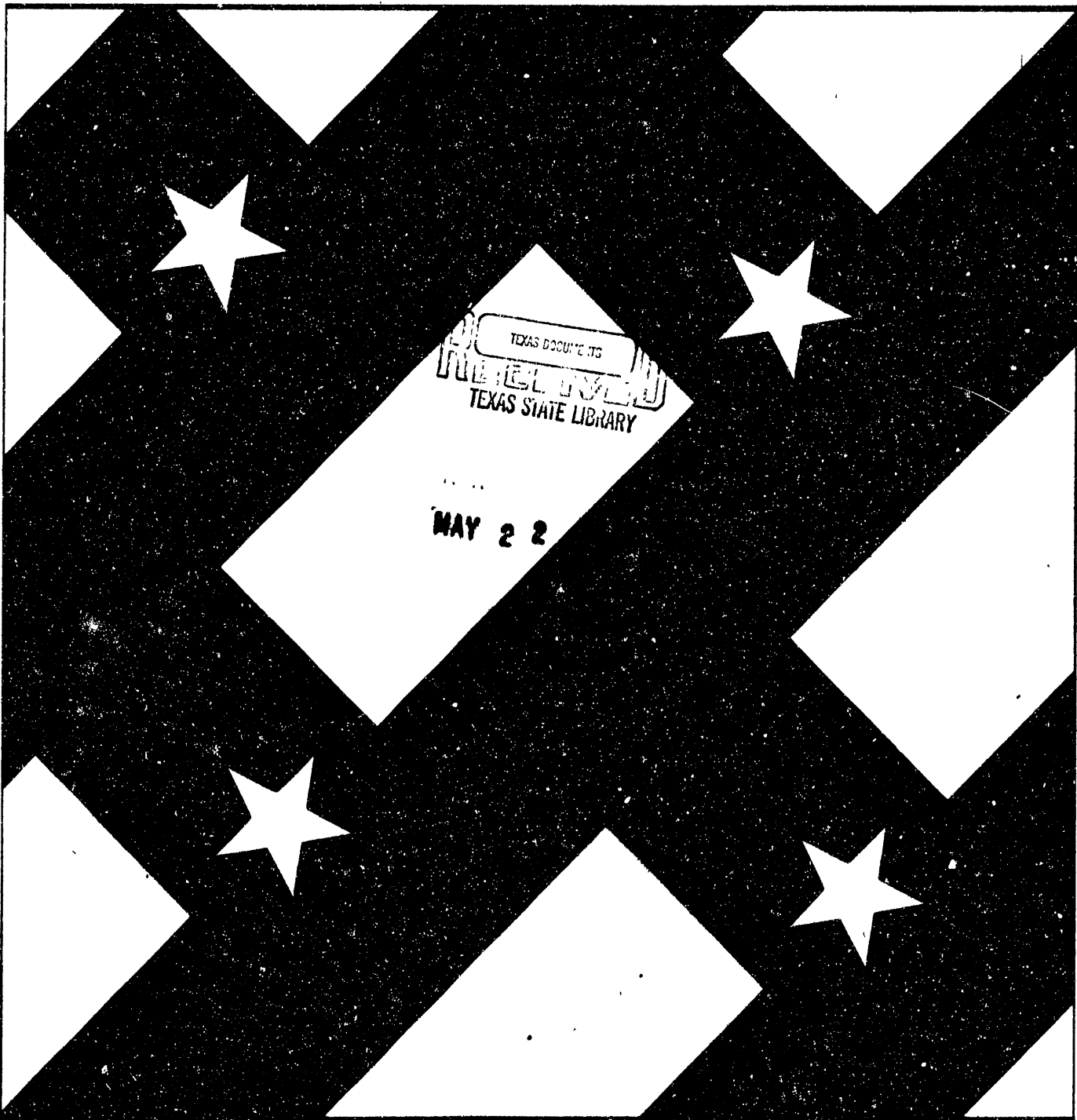
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Texas Register

Volume 10, Number 39, May 21, 1985

Pages 1601 - 1654



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**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*, P.O. Box 13824, Austin, Texas 78711-3824.

Information Available: The 11 sections of the *Register* represent various facets of state government. Documents contained within them include:

- Governor—appointments, executive orders, and proclamations
- Secretary of State—summaries of opinions based on election laws
- State Ethics Advisory Commission—summaries of requests for opinions and opinions
- Attorney General—summaries of requests for opinions, opinions, and open records decisions
- Emergency Rules—rules adopted by state agencies on an emergency basis
- Proposed Rules—rules proposed for adoption
- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date
- Adopted Rules—rules adopted following a 30-day public comment period
- Open Meetings—notices of open meetings
- The Legislature—bills submitted to, signed by, and vetoed by the Governor and bills that are submitted to the Governor and enacted without his signature
- In Addition—miscellaneous information required to be published by statute or provided as a public service

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

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

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

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

Texas Administrative Code

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

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

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

TAC stands for the *Texas Administrative Code*;

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



Texas Register Publications

a division of the
Office of the Secretary of State
P.O. Box 13824
Austin, Texas 78711-3824
512-475-7866

Myra A. McDaniel
Secretary of State

Director
Dave Harrell

Documents Section Coordinator
Jane Hooks

Document Editors
Cynthia Cooke, Phyllis Smith

Open Meetings Specialists
Roberta Knight, Judy Brewster

Production Section Coordinator
Sue Bumpous

Production Editors
Richard Salinas, Lindy Vaughan

Typographer
C. Steven Lowe

Circulation Section Coordinator
Dee Wright

Circulation Assistant
Kristine Hopkins Mohajer

TAC Editors
William Craig Howell
Hollis Glaser
Tracie L. Miller
Dennis W. Zabel
Vincent M. Amsdion

Subscriptions—one year (96 regular issues and four index issues), \$80; 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 Senate of the 69th Legislature, 1985, for confirmation.)

Appointments Submitted May 10

Texas Guaranteed Student Loan Corporation

For a term to expire January 31, 1991:

George Verduzco
1903 Musser
Laredo, Texas 78041

Mr. Verduzco is replacing Joseph C. Garza of McAllen, whose term expired.

Texas Board of Private Investigators and Private Security Agencies

For a term to expire January 31, 1989:

John Wayne Snelson
910 Luella
Deer Park, Texas 77536

Mr. Snelson is replacing Roland M. Searcy, Jr., of Bryan, who no longer qualifies for the position.

State Preservation Board

To the Advisory Committee for a term to expire at the pleasure of this governor:

Harry A. Golemon
10303 Olympia
Houston, Texas 77042

Mr. Golemon is being appointed pursuant to Senate Bill 147, 68th Legislature, 1983.

Texas Woman's University

To the Board of Regents for terms to expire February 1, 1991:

Mary Beth Scull
4706 22nd Street
Lubbock, Texas 79407

Ms. Scull is replacing Gay Stubblefield of Yoakum, whose term expired.

LaVonne Dalby Unsell
3701 Bellaire Drive North
Denton, Texas 76201

Ms. Unsell is being reappointed.

Richard White, Jr.
5418 Theall Road
Houston, Texas 77066

Mr. White is replacing Mrs. Ben Carpenter of Irving, whose term expired.

Issued in Austin, Texas, on May 10, 1985.

TRD-854296 Mark White
Governor of Texas

Appointments Submitted May 13

Texas Guaranteed Student Loan Corporation

For a term to expire January 31, 1991:

George M. Crews
3624 Stephenson
Bedford, Texas 76021

Mr. Crews is being reappointed.

Texas Woman's University

To the Board of Regents for a term to expire February 1, 1987:

June Page Johnson
1811 Exposition
Austin, Texas 78703

Ms. Johnson is replacing Karl Rove of Austin, whose appointment was not confirmed by the senate.

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

TRD-854296 Mark White
Governor of Texas

★ ★ ★

Emergency

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

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

**TITLE 31. NATURAL
RESOURCES AND
CONSERVATION**
Part II. Texas Parks and
Wildlife Department
Chapter 57. Fisheries
Gulf Shrimping Season

★31 TAC §57.351

The Texas Parks and Wildlife Department adopts on an emergency basis new §57.351, concerning the provision of an early closure of the shrimping season in Gulf (outside) waters of the Texas territorial sea (nine nautical miles). Based on sound biological data, the executive director has determined that migration of small brown shrimp from the bays to the Gulf of Mexico will occur earlier than the June 1 statutory closure date.

The purpose of the closed Gulf season is to protect brown shrimp during their major period of emigration from the bays to the Gulf of Mexico until they reach a larger, more valuable size before harvest and to prevent waste caused by the discarding of smaller individuals. The executive director found that imminent peril to the public welfare requires the closure as an emergency measure to prevent waste of the resource.

The new section is adopted on an emergency basis under the Texas Parks and Wildlife Code, §77.062. In April 1978, the Texas Parks and Wildlife Commission delegated to the executive director the duties and responsibilities of opening and closing the shrimping season under this section.

§57.371. *Early Closure of Gulf Shrimping Season.* The 1985 general closed season for shrimp as defined in the Texas Parks

and Wildlife Code, §77.061(i), extends from 30 minutes after sunset May 20, 1985, to 30 minutes after sunset July 15, 1985.

issued in Austin, Texas, on May 13, 1985.

TRD-854270

Boyd M. Ineson
Legal Counselor
Texas Parks and
Wildlife Department

Effective date: May 20, 1985

Expiration date: July 19, 1985

For further information, please call
(512) 479-4805 or (800) 792-1112.



Proposed Rules

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

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

TITLE 19. EDUCATION Part II. Texas Education Agency Chapter 78. Occupational Education and Technology Subchapter D: Secondary School Vocational Education Vocational Students ★ 19 TAC §78.103

The Texas Education Agency proposes an amendment to §78.103, concerning specific requirements for student eligibility for vocational education. The Advisory Council for Technical-Vocational Education in Texas recommended changing the requirement that students in cooperative education programs be employed for 15 hours per school week. The council recommended that the number of hours be reduced to 10 hours during the school week because of the increase in academic requirements which students must meet. The implementation of this recommendation requires the amendment of §78.103. This change is effective beginning with the 1985-1986 school year.

Richard Bennett, associate commissioner for finance, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule.

Dr. Beverly J. Bardsley, director for policy development, and Mr. Bennett have determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is increased flexibility in scheduling work hours for students in vocational cooperative programs. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Dr. Beverly J. Bardsley, Director for Policy Development, 201 East 11th Street, Austin, Texas 78701, (512) 475-7077. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure

and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

This amendment is proposed under the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for the implementation of the Foundation School Program, and §16.155, which makes vocational education a part of the Foundation School Program.

§78.103. Student Eligibility—Specific Requirements.

(a) (No change.)
(b) Each student, while enrolled, must be employed part time in one of the approved occupations listed under the appropriate program of vocational education. To receive three units of credit, a student must be employed 15 hours per [school] week[;]. **At least 10 of the required 15 hours must be during the school week.** For two units of credit, the student must be employed 10 hours per school week. Districts shall identify cooperative program units as either two-credit or three-credit units. All students enrolled in the same cooperative program unit shall be eligible to receive the same units of credit. A student may be counted as an eligible student from the date of employment, provided an approved training plan is on file with the Central Education Agency within three weeks after the date of employment. Cooperative education training plans shall be developed by the cooperative training teacher/coordinator in consultation with the person responsible for providing on-the-job training experiences to the student involved. Training stations shall be reputable business or industrial establishments willing to provide each student with a broad range of meaningful training activities. Approvable training plans shall be competency based and shall include the appropriate essential elements identified in Chapter 75 of this title (relating to Curriculum).

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

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

TRD-854280 W. N. Kirby
Commissioner of
Education

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

★ ★ ★

Chapter 125. Central Education Agency, Fund Allocations, Contracts, and Agreements Subchapter D. Adoptions by Reference

★ 19 TAC §125.61

(Editor's note: The text of the following rule proposed for repeal will not be published. The rule may be examined in the offices of the Texas Education Agency, 201 East 11th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Education Agency proposes the repeal of §125.61, concerning the adoption by reference of the *Guide for Determining Indirect Cost Rates for Federal Grants and Contracts*. Directions to school districts for determining indirect cost rates for federal grants and contracts are now included in the Texas Education Agency's Bulletin 679, *Financial Accounting Manual*.

Richard Bennett, associate commissioner for finance, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Dr. Beverly J. Bardsley, director for policy development, and Mr. Bennett have determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the re-

peal is elimination of duplicate regulations. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Dr. Beverly J. Bardsley, Director for Policy Development, 201 East 11th Street, Austin, Texas 78701, (512) 475-7077. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

This repeal is proposed under the Texas Education Code, §11.02, which authorizes the Central Education Agency to enter into agreements with the federal government with respect to educational undertakings

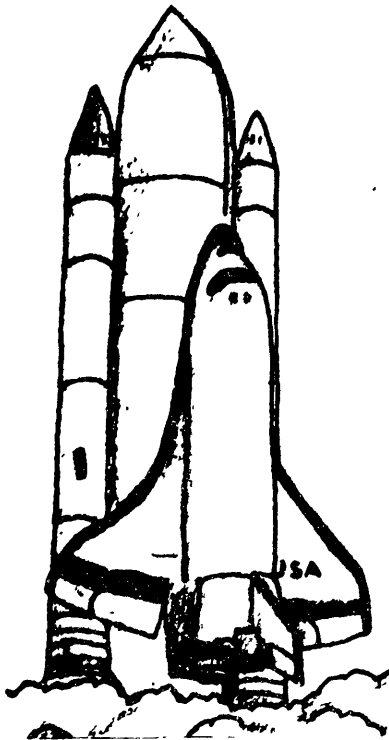
§125.61. Guide for Determining Indirect Cost Rates for Federal Grants and Contracts.

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

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

TRD-854281 W. N. Kirby
Commissioner of
Education

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



TITLE 22. EXAMINING BOARDS

Part VI. Texas State Board of Registration for Professional Engineers Chapter 131. Practice and Procedure

**Application for Registration
★22 TAC §131.59.**

The Texas State Board of Registration for Professional Engineers proposes new §131.59, concerning the withdrawal of an application. This section establishes procedures and conditions which may permit an application to be withdrawn from consideration by the board.

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

Mr. Bartosh 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 clarification of application procedures. The anticipated cost to individuals who are required to comply with the rule as proposed is the forfeiture of the application fee.

Comments on the proposal may be submitted to Kenneth J. Bartosh, P.E., Executive Director, Texas State Board of Registration for Professional Engineers, P.O. Drawer 18329, Austin, Texas 78760.

The new section is proposed under Texas Civil Statutes, Article 3271a, §8, which provide the board with the authority to make and enforce all rules and regulations necessary for the performance of its duties.

§131.59. Withdrawing an Application.

(a) With the approval of the board, an application for registration may be withdrawn from further consideration by the board.

(b) A request for withdrawal shall be made in writing by the applicant stating the specific reasons for requesting withdrawal. No such request for withdrawal will be considered if received after the applicant is notified the board has approved, not approved, or proposed to reject his application.

(c) The board may, for reasons it deems sufficient, refuse to grant the request to withdraw and continue to process the application.

(d) An application withdrawn from consideration by action of the board will be so designated on the records of the board, and the application itself, together with the application fee, shall be retained by the

board. Future action by the applicant to become registered will require a new application and application fee under requirements in effect at the time of submittal.

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 13, 1985.

TRD-854289 Kenneth J. Bartosh, P.E.
Executive Director
Texas State Board of
Registration for
Professional
Engineers

Proposed date of adoption:
July 18, 1985
For further information, please call
(512) 475-3141.



Professional Conduct and Ethics

★22 TAC §131.151

The Texas State Board of Registration for Professional Engineers proposes an amendment to §131.151, concerning the Code of Responsibility for Professional Engineers, by deleting paragraph (6)(B)(v). The board proposes to delete this language because it has been determined to be vague and unenforceable

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

Mr. Bartosh 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 deletion of an unclear disciplinary rule. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Kenneth J. Bartosh, P.E., Executive Director, Texas State Board of Registration for Professional Engineers, P.O. Drawer 18329, Austin, Texas 78760.

The amendment is proposed under Texas Civil Statutes, Article 3271a, §8, which provide the board with the authority to make and enforce all rules and regulations necessary for the performance of its duties

§131.151. Code of Responsibility for Professional Engineers. The following is the Code of Responsibility for Professional Engineers to establish standards of conduct and ethics for engineers in keeping with the purpose and intent of the Act and is in its entirety a board rule. All applicants for reg-

stration and licensure to practice engineering in Texas shall subscribe to and agree to exemplify the Code.

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

(6) Canon V. The engineer should endeavor to build his practice and professional reputation solely on the merit of his services.

(A) (No change.)

(B) Disciplinary rules.

(i)-(iv) (No change.)

(v) DR 5.5. The engineer shall not supplant, nor attempt to supplant, directly or indirectly, another engineer in a particular engagement, after definite steps have been taken toward such other engineer's employment.]

(7)-(11) (No change.)

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

Issued in Austin, Texas, on May 13, 1985

TRD-854290

Kenneth J. Bartosh, P.E.
Executive Director
Texas State Board of
Registration for
Professional
Engineers

Proposed date of adoption.

July 18, 1985

For further information, please call
(512) 475-3141.

★ ★ ★

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 229. Food and Drug Retail Food Store Sanitation

★ 25 TAC §§229.231-229.239

The Texas Department of Health proposes new §§229.231-229.239, concerning retail food store sanitation. These sections, developed by the Association of Food and Drug Officials and the U.S. Food and Drug Administration as a model code, provide uniform minimum standards for food store operations.

This publication is a reproposal of the same rules published in the December 11, 1984, issue of the *Texas Register*. A comment was received requesting additional public hearings on the rules. Therefore, considering that the six-month time period allowed for adopting rules is about to expire, the rules are being re-proposed to include two additional public hearings.

Stephen Seale, chief accountant III, has determined that for the first five-year pe-

riod the rules will be in effect there will be no fiscal implications for state or local governments or small businesses as a result of enforcing or administering the rules as proposed.

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 will be the regulation of all retail food stores by a set of uniform minimum standards which provide greater protection to the consuming public and eliminate confusion as to regulatory requirements. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Robert L. Henna, R.Ph., Director, Division of Food and Drugs, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7248. Comments will be accepted for a period of 30 days following publication in the *Texas Register*. In addition, public hearings on the proposed rules will be held at 9 a.m. on Thursday, June 27, 1985, at the High Plains Underground Water Conservation District 1, 2930 Avenue Q, Lubbock; and at 1 p.m. on Friday, June 28, 1985, in the council chambers, Grand Prairie City Hall, 317 College Street, Grand Prairie.

The new sections are proposed under Texas Civil Statutes, Article 4476-5, §20, which provide the Texas Board of Health with the authority to promulgate reasonable and necessary regulations for the efficient enforcement of Texas Civil Statutes, Article 4476-5.

§229.231 General Provisions.

(a) Purpose. These sections shall be liberally construed and applied to promote its underlying purpose of protecting the public health.

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

(1) Bulk food—Unpackaged or unwrapped, processed or unprocessed food in aggregate containers from which quantities desired by the consumer are withdrawn. For the purpose of this interpretation, the term does not include fresh fruits, fresh vegetables, nuts in the shell, salad bars, and potentially hazardous foods.

(2) Corrosion-resistant materials—Those materials that maintain acceptable sanitary surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and sanitizing solutions, and other conditions of the use environment.

(3) Display area—A location or locations, including physical facilities and equipment, where bulk food is offered for customer self-service.

(4) Easily cleanable—That surfaces are readily accessible and made of such

material and finish and so fabricated that residue be effectively removed by normal cleaning methods.

(5) Employee—The permit holder, individual having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or any other person working in a food store.

(6) Equipment—Items other than utensils used in the storage, preparation, display, and transportation of food such as stoves, ovens, hoods, slicers, grinders, mixers, scales, meat blocks, tables, food shelving, reach-in refrigerators and freezers, sinks, ice makers, and similar items used in the operation of a retail food store. This item does not include fork lift trucks or dollies.

(7) Food—Any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.

(8) Food-contact surfaces—Those surfaces of equipment and utensils with which food normally comes into contact, and those surfaces from which food may drain, drip, or splash back onto surfaces normally in contact with food.

(9) Food service establishment—Any place where food is prepared and intended for individual portion service, and includes the site at which individual portions are provided. The term includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term includes delicatessens that offer prepared food in individual service portions. The term does not include private homes where food is prepared or served for individual family consumption, retail food stores, the location of food vending machines, and supply vehicles.

(10) Hermetically sealed container—A container which is designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its contents after processing.

(11) Law—Applicable federal, state, and local statutes, ordinances, and regulations.

(12) Packaged—Bottled, canned, cartoned, bagged, or securely wrapped.

(13) Permit—The document issued by the regulatory authority which authorizes a person to operate a retail food store.

(14) Person—Any individual, partnership, corporation, association, or other legal entity.

(15) Person in charge—The individual present in a retail food store who is the supervisor of the retail food store at the time of inspection.

(16) Potentially hazardous food—Any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other

Ingredients, including synthetic ingredients, and which is in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include: clean, whole, uncracked, odor-free shell eggs; foods that have a pH level of 4.6 or below or a water activity (aw) value of 0.85 or less under standard conditions; food products in hermetically sealed containers processed to prevent spoilage.

(17) **Product module**—A food-contact container (multi-use or single-service) designed for customer self-service of bulk food by either direct or indirect means.

(18) **Regulatory authority**—The state and/or local enforcement authority or authorities having responsibility for enforcing these sections

(19) **Retail food store**—Any establishment or section of an establishment where food and food products are offered to the consumer and intended for off-premise consumption. The term includes delicatessens that offer prepared food in bulk quantities only. The term does not include establishments which handle only prepackaged, nonpotentially hazardous foods; roadside markets that offer only fresh fruits and fresh vegetables for sale; food service establishments; or food and beverage vending machines as defined in the Vending of Food and Beverages, 1978, Department of Health, Education, and Welfare Publication (FDA) 78-2091.

(20) **Safe materials**—Articles manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food. If materials are food additives or color additives as defined in the Federal Food, Drug, and Cosmetic Act amended May 1980, §201(s) or (t), Department of Health and Human Services Publication (FDA) 80-1051, as used, they are "safe" only if they are used in conformity with regulations established pursuant to that Act, §409 or §706. Other materials are "safe" only if, as used, they are not food additives or color additives as defined in the Federal Food, Drug, and Cosmetic Act amended May 1980, §201(s) or (t), Department of Health and Human Services Publication (FDA) 80-1051, and are used in conformity with all applicable regulations of the Food and Drug Administration.

(21) **Sanitization**—Effective bactericidal treatment as defined in the Procedures for the Bacteriological Examination of Food Utensils and/or Food Equipment Surfaces, Technical Information Bulletin 1, 1967, Public Health Service Publication 1631, by a process that provides enough accumulative heat or concentration of chemicals for enough time to reduce the bacterial count, including pathogens, to a safe level on cleaned food-contact surfaces of utensils and equipment.

(22) **Sealed**—Free of cracks or other openings that permit the entry or passage of moisture.

(23) **Servicing area**—A designated location or locations equipped for cleaning, sanitizing, drying, or refilling product modules or for preparing bulk food.

(24) **Single-service articles**—Items used by the retailer or consumer such as cups, containers, lids, and packaging materials, including bags and similar articles, intended for contact with food, and designed for one-time use. The term does not include "single use" articles such as number 10 cans, aluminum pie pans, bread wrappers, and similar articles into which food has been packaged by the manufacturer.

(25) **Transportation (transported)**—Movement of food within the retail food store or delivery of food from that retail food store to another place while under the control of the person in charge.

(26) **Utensil**—Any food-contact implement used in the storage, preparation, transportation, or dispensing of food.

(27) **Warewashing**—The cleaning and sanitizing of food-contact surfaces of equipment and utensils.

§229.232. Food.

(a) Food supplies.

(1) **General.** Food shall be in sound condition and safe for human consumption. Food shall be obtained from sources that comply with the applicable laws relating to food safety. Food prepared in a home shall not be used or offered for sale. Bulk food product modules shall be labeled with either:

(A) the manufacturer's or processor's bulk container labeling plainly in view; or

(B) a counter card, sign, or other appropriate device bearing prominently and conspicuously the common name of the product, a list of ingredients in proper order of predominance and declaration of artificial color or flavor and chemical preservatives if contained in the product.

(2) Special requirements.

(A) Fluid milk and fluid milk products used or offered for sale shall be pasteurized and shall comply with the Grade A standards as established by law. Dry milk and milk products used or offered for sale shall be made from pasteurized milk and milk products.

(B) Fresh and frozen shucked shellfish (oysters, clams, or mussels) shall be received and/or repacked in nonreturnable packages identified with the name and address of the original shell stock processor, shucker-packer, or repacker, and the state certification number issued according to law. Shucked shellfish should be kept in the container in which they were received until used or sold.

(C) Each original container of unshucked shellfish (ysters, clams, or mussels) shall be identified by an attached

tag, to be retained for a period of 90 days, that states the name and address of the original shellfish processor, the kind and quantity of shellfish and the certification number issued by the state or foreign shellfish control agency, where applicable.

(D) Only clean shell eggs meeting applicable grade standards or pasteurized liquid, frozen or dry eggs, or pasteurized dry egg products shall be used or offered for sale.

(E) Only ice which has been manufactured from potable water and handled in a sanitary manner shall be used or offered for sale. Ice offered for sale shall be packaged and shall meet all of the requirements in the departments §§229.181-229.184 of this title (relating to the Registration of Manufacturers of Foods).

(b) Food protection.

(1) General.

(A) At all times, including while being stored, prepared, displayed, dispensed, packaged, or transported, food shall be protected from cross-contamination between foods and from potential contamination by insects, insecticides, rodents, rodenticides, probe-type price or probe-type identification tags, unclean equipment and utensils, unnecessary handling, flooding, draining, and overhead leakage or condensation, or other agents of public health significance. The temperature of potentially hazardous foods shall be 45°F (7°C) or below or 140°F (60°C) or above, at all times, except as otherwise provided in these sections. Hermetically sealed packages shall be handled so as to maintain product and container integrity. Food items that are spoiled or that are in damaged containers that may affect the product and those food items that have been returned to, or are being detained by, the retail food store because of spoilage, container damage, or other public health considerations, shall be segregated and held in designated areas pending proper disposition unless disposed of under the supervision of the regulatory authority.

(B) Bulk foods and product modules shall be protected from contamination during display, customer self-service, refilling, and storage.

(C) Containers of bulk pet foods and bulk nonfood items shall be separated from other foods by a barrier or open space from product modules.

(D) Bulk food returned to the store by the customer shall not be offered for resale.

(E) Only containers provided by the store in the display area shall be filled with bulk foods.

(2) **Emergency occurrences.** The person in charge of a retail food store that is affected by a fire, flood, extended power outage, or a similar significant occurrence that creates a reasonable probability that food in the retail food store may have been contaminated or that the temperature level

of food which is in a potentially hazardous form may have caused that food to have become hazardous to health, shall take such action as is necessary to protect the public health and shall promptly notify the regulatory authority of the emergency.

(c) Food storage.

(1) General.

(A) Food packaged in an immediate closed container, once the container is opened in the retail food store prior to use or retail sale, shall be kept covered. Food, whether raw or prepared, if removed from the immediate closed container in which it was originally packaged prior to use or retail sale, shall be stored in a clean, covered container, except during necessary periods of preparation. Whole and unprocessed fresh raw vegetables and fresh raw fruits shall be exempted from this requirement. Container covers shall be impervious and nonabsorbent. During periods of storage, subprimal cuts of meat shall be covered with single-service wrapping material. Primal cuts, quarters or sides of meat, or processed meats such as country hams, slab bacon, and smoked or cured sausages, may be hung uncovered on clean, sanitized hooks or placed on clean, sanitized metal racks in such a manner as to preclude contamination of any food products in storage.

(B) Containers of food shall be stored a minimum of six inches (152 millimeters (mm)) above the floor or stored on dollies, skids, racks, or open-ended pallets, provided such equipment is easily movable either by hand or with the use of a pallet-moving equipment that is on the premises and used. Such storage areas shall be kept clean. Cased food packaged in cans, glass, or other waterproof containers need not be elevated when the case of food is not exposed to floor moisture and the storage area is kept clean.

(C) Food and containers of food shall not be stored under exposed or unprotected sewer lines, or water lines that are leaking or on which condensed water has accumulated.

(D) Packaged foods shall not be stored in contact with water or undrained ice.

(E) A food ingredient, such as flour, sugar, salt, baking powder, cooking oil or vinegar, that is not stored in the original package and is not readily identifiable on sight, shall be stored in a container identifying it by common name.

(F) Labels or marking pens shall be available to customers to identify their take-home containers with the common name of the product unless the product is readily identifiable on sight.

(G) Toilet rooms and their vestibules, and garbage or mechanical rooms shall not be used for the storage of food.

(2) Refrigerated/frozen storage.

(A) Refrigeration units or effectively insulated units shall be provided in

such number and of such capacity to assure the maintenance of potentially hazardous food at required temperatures during storage. Each mechanically refrigerated unit storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer, accurate to +3°F (+1°C). The sensing element shall be located to measure the air temperature in the unit at a location that is representative of the air temperature in the unit. The thermometer scale shall be located to be easily readable. Recording thermometers, accurate to +3°F (+1°C) may be used in lieu of indicating thermometers.

(B) Potentially hazardous food requiring refrigeration after preparation shall be rapidly cooled to an internal temperature of 45°F (7°C) or below. Potentially hazardous foods of large volume or prepared in large quantities shall be rapidly cooled utilizing such methods as shallow pans, agitation, quick chilling, or water circulation external to the food container so that the cooling period shall not exceed four hours. Potentially hazardous food to be transported shall be pre-chilled and held at a temperature of 45°F (7°C) or below unless maintained in accordance with the hot storage requirements of these sections.

(C) Potentially hazardous frozen foods shall be kept frozen and shall be stored at an air temperature of 0°F (-18°C) or below except for defrost cycles and brief periods of loading or unloading.

(D) Ice used as a cooling medium for food storage shall not be used or sold for human consumption.

(3) Hot storage.

(A) Hot food storage units shall be provided in such number and of such capacity to assure the maintenance of potentially hazardous food at the required temperature during storage. Each hot food storage unit storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer, accurate to +3°F (+1°C). The sensing element shall be located to measure the air temperature in the unit at a location that is representative of the temperature in the unit. The thermometer scale shall be located to be easily readable. Recording thermometers accurate to +3°F (+1°C) may be used in lieu of indicating thermometers. Where it is impractical to install thermometers on equipment such as heat lamps, calorod units, or insulated food transport carriers, a food product thermometer shall be available and used to check internal food temperature.

(B) The internal temperature of potentially hazardous foods requiring hot storage shall be 140°F (60°C) or above, except during necessary periods of preparation. Potentially hazardous food to be transported shall be held at a temperature of 140°F (60°C) or above unless maintained in accordance with the refrigerated storage requirements of these sections.

(d) Food preparation.

(1) General.

(A) Food shall be prepared with a minimum of manual contact. Food shall be prepared on food-contact surfaces and with utensils which are clean and have been sanitized.

(B) Each time there is a change in processing between raw beef, raw pork, raw poultry, or raw seafood, or a change in processing from raw to ready-to-eat foods, each new operation shall begin with food-contact surfaces and utensils which are clean and have been sanitized. Salads and other ready-to-eat foods should be prepared in separate rooms or in areas that are separated by a barrier or open space from areas used for processing potentially hazardous raw products.

(C) Potentially hazardous foods that are in a form to be consumed without further cooking such as salads, sandwiches, and filled pastry products should be prepared from chilled products.

(2) Raw fruits and raw vegetables. Raw fruits and raw vegetables that will be cut or combined with other ingredients or will be otherwise processed into food products by the retail food store will be thoroughly cleaned with potable water before being used.

(3) Cooking potentially hazardous foods.

(A) Potentially hazardous foods being processed within the retail food store by cooking shall be cooked to heat all parts of the food to a temperature of at least 140°F (60°C), except that:

(i) poultry, poultry stuffings, stuffed meats, and stuffings containing meat, shall be cooked to heat all parts of the food to at least 165°F (74°C) with no interruption of the cooking process;

(ii) pork and pork products shall be cooked to heat all parts of the food to at least 150°F (66°C), or, if cooked in a microwave oven, to at least 170°F (77°C);

(iii) when beef roasts under 10 pounds (five kilograms (kg)) in weight are cooked in a still dry heat oven, the oven shall be preheated to and held at an air temperature of at least 350°F (177°C) throughout the process. If cooked in a convection oven, the oven shall be preheated to and held at an air temperature of at least 325°F (163°C) throughout the process.

(B) When beef roasts of 10 pounds (five kilograms (kg)) or over in weight are cooked in a dry heat oven, the oven shall be preheated to and held at an air temperature of at least 250°F (122°C) throughout the process.

(C) Further, in order to meet public health requirements for the processes cited in subparagraphs (A)-(B) of this paragraph, the following table lists the minimum internal temperature of the beef roast for the minimum time the roast needs to be held at such temperature.

**Minimum Holding Times for Beef Roasts
at Various Internal Temperatures**

Minimum internal temperature		Minimum holding time	Minimum internal temperature		Minimum holding time
°F	°C	Minutes	°F	°C	Minutes
130	54.4	121	138	58.9	19
131	55.0	97	139	59.5	15
132	55.6	77	140	60.0	12
133	56.1	62	141	60.6	10
134	56.7	47	142	61.1	8
135	57.2	37	143	61.7	6
136	57.8	32	144	62.2	5
137	58.4	24			

(D) Beef roasts, if cooked in a microwave oven, shall be cooked to an internal temperature of at least 145°F (63°C).

(4) Bakery product fillings.

(A) Custards, cream fillings, and similar products, including synthetic fillings, shall meet the temperature requirement in subsection (c)(2)(B) of this section following preparation and be maintained at that temperature during storage, transportation, and display. Products with synthetic fillings may be excluded from this requirement if:

(i) the food, including the interface between the bakery product and its filling, has a pH level of 4.6 or below or a water activity (aw) value of 0.85 or less under standard conditions;

(ii) it is handled in such a manner as to preclude contamination with and the growth of pathogenic microorganisms after heat processing; or

(iii) other scientific evidence is on file with the regulatory authority demonstrating that the specific product will not support the growth of pathogenic microorganisms.

(B) Bakery products with synthetic fillings, which meet the criteria in subparagraph (A) of this paragraph, may be labeled to state that refrigeration is not required.

(5) Reheating. Potentially hazardous foods that have been cooked and then refrigerated shall be reheated rapidly to an internal temperature of 165°F (74°C) or higher before being placed in hot food storage holding units. Food warmers and other hot food holding units shall not be used for the reheating of potentially hazardous foods.

(6) Food product thermometers. Metal stem-type numerically scaled indicating thermometers, accurate to +2°F (+1°C) shall be provided and used to assure attainment and maintenance of proper temperatures during preparation of all potentially hazardous foods.

(7) Thawing potentially hazardous foods. Potentially hazardous foods shall be thawed:

(A) in refrigerated units at a temperature not to exceed 45°F (7°C);

(B) under potable running water at a temperature of 70°F (21°C) or below, with sufficient water velocity to agitate and float off loose food particles into the overflow and for a period not to exceed that reasonably required to thaw the food;

(C) in a microwave oven only when the food will be immediately transferred to conventional cooking units as part of a continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven, or

(D) as part of the conventional cooking process.

(e) Food display.

(1) Potentially hazardous foods. Potentially hazardous foods shall be held at an internal temperature of 45°F (7°C) or below or at an internal temperature of 140°F (60°C) or higher during display, except that rare roast beef which is offered for sale hot shall be held at a temperature of at least 130°F (55°C).

(2) Frozen foods. Foods intended for sale in a frozen state shall be displayed at an air temperature of 0°F (-18°C) or below, except for defrost cycles and brief periods of loading or unloading. Frozen foods should be displayed below or behind product food lines according to cabinet manufacturers' specifications.

(3) Food display.

(A) Food on display, other than whole, unprocessed raw fruits and unprocessed raw vegetables, shall be protected from contamination by being packaged, by display cases, by covered containers for self-service, or by similar protective equipment. All food shall be displayed above the floor in a manner that will protect the food from contamination. Hot or cold food units shall be provided to assure the maintenance of

potentially hazardous food at the required temperature during display. Potentially hazardous food shall not be provided for consumer self-service.

(B) Bulk foods shall be dispensed only from product modules which are protected by close fitting, individual covers. If opened by the customer, the covers shall be self-closing and shall remain closed when not in use.

(C) Customer access to bulk food in product modules shall be limited and controlled to avoid the introduction of contaminants. Means considered suitable include, but are not limited to:

(i) providing a product module depth of no more than 18 inches (457 millimeters (mm)), and

(ii) either locating product modules with access from the top so that there is at least 30 inches (762 mm) between the access point and the floor; or, if the product module access point is less than 30 inches (762 mm) off the floor, providing access from the side or at an angle provided that when the product module is open, the cover extends across the surface of the product and provides overhead protection.

(4) Dispensing utensils. To avoid unnecessary manual contact with the food, suitable dispensing utensils and single-service articles shall be used by employees. Consumers who serve themselves bulk food shall be provided suitable dispensing utensils. Manual contact of bulk foods by the customer during dispensing shall be avoided. Methods considered suitable are:

(A) mechanical dispensing devices including gravity dispensers, pumps, extruders, and augers;

(B) manual dispensing utensils, including tongs, scoops, ladles and spatulas; and

(C) wrapping or sacking.

(5) Manual use of utensils. If the dispensing devices and utensils listed in subparagraphs (A) and (B) of this paragraph

do not prevent manual customer contact with certain bulk foods, then these foods must be wrapped or sacked prior to display.

(6) Protection from contamination. Manual dispensing utensils listed in subparagraph (B) of this paragraph shall be protected against becoming contaminated and serving as vehicles for introducing contamination into bulk food. Means considered suitable include, but are not limited to:

(A) using a tether which is constructed of easily cleanable material, is of such length that the utensil cannot contact the floor, and is designed to prevent interference with the requirement for close fitting covers, and

(B) storing the utensil in a sleeve or protective housing attached or adjacent to the display unit when not in use, or utilizing a utensil designed so that the handle cannot contact the product if left in the product module. Since it is not practical to store ladles and spatulas used in other than dry foods in sleeves or protective housings, they shall be stored in the food with handles extending to the outside of the product module. Handles shall not prevent lids from being self-closing.

(C) storing the utensil in running potable water.

(7) Food sample demonstrations and food promotions. When food sample demonstrations and food promotions are authorized in the retail food store, the person in charge shall ensure that such activities comply with the applicable sanitation provisions of these sections.

(f) Food transportation by the retail food store. Food, other than hanging primal cuts, quarters, or sides of meat, and raw fruits and raw vegetables, shall be protected from contamination by use of packaging or covered containers while being transported. All food being transported shall meet the applicable requirements of these sections relating to food protection and food storage. Foods packaged in immediate closed containers do not need to be overwrapped or covered if the immediate closed containers have not been opened, torn, or broken.

§229.233. Personnel.

(a) Employee health. No employee, while infected with a disease in a communicable form that can be transmitted by foods or who is a carrier of organisms that cause such a disease or while affected with a boil, an infected wound, or an acute respiratory infection, shall work in a retail food store in any capacity in which there is a likelihood of such person contaminating food or food-contact surfaces with pathogenic organisms or transmitting disease to other persons.

(b) Personal cleanliness. Employees engaged in food preparation and warewashing operations shall thoroughly wash their hands and the exposed portions of their arms with soap or detergent and warm wa-

ter before starting work; after smoking, eating, or using the toilet; before and after handling raw meat, or raw poultry, or raw seafood; and as often as is necessary during work to keep them clean. Employees shall keep their fingernails trimmed and clean.

(c) Clothing.

(1) Employees shall wear clean outer clothing.

(2) Employees shall use effective hair restraints where necessary to prevent the contamination of food or food-contact surfaces.

(d) Employee practices.

(1) Employees shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices during all working periods.

(2) Employees shall consume food, beverages, or use tobacco only in designated areas. Such designated areas must be located so that the eating, drinking, or tobacco use of an employee does not result in contamination of food, equipment, or utensils.

§229.234. Equipment and utensils.

(a) Materials. Multi-use equipment and utensils shall be constructed and repaired with safe materials, including finishing materials; shall be corrosion resistant and shall be nonabsorbent; and shall be smooth, easily cleanable, and durable under conditions of normal use. Single-service articles shall be made from clean, sanitary, safe materials. Equipment, utensils, and single-service articles shall not impart odors, color, taste, nor contribute to the contamination of food. Product modules and utensils shall be constructed of safe materials; and shall be corrosion resistant, nonabsorbent, smooth, easily cleanable and durable under conditions of normal use.

(1) Solder. If solder is used, it shall be composed of safe materials and be corrosion resistant.

(2) Wood. Hard maple or equivalent nonabsorbent wood that meets the general requirements set forth in this subsection may be used for cutting blocks, cutting boards, and bakers' tables. Wood shall not be used as a food-contact surface under other circumstances, except for contact with raw fruits, raw vegetables, and nuts in the shell.

(3) Plastics and rubber materials. Safe plastic or safe rubber or safe rubber-like materials that are resistant under normal conditions of use to scratching, scoring, decomposition, crazing, chipping, and distortion, that are of sufficient weight and thickness to permit cleaning and sanitizing by normal warewashing methods, and which meet the general requirements set forth in this subsection are permitted for repeated use.

(4) Cutting surfaces. Cutting surfaces subject to scratching and scoring must be resurfaced so as to be easily cleaned, or

be discarded when these surfaces can no longer be effectively cleaned and sanitized.

(5) Single-service articles. Single-service articles shall not be reused.

(b) Design and fabrication.

(1) General. All equipment and utensils, including plastic-ware, shall be designed and fabricated for durability under conditions of normal use and shall be resistant to denting, buckling, pitting, chipping, and crazing. As a general principle, the specifications for design and fabrication of equipment should maintain uniformity with equipment design criteria found in food codes and national equipment standards.

(A) Food-contact surfaces shall be easily cleanable, smooth, and free of breaks, open seams, cracks, chips, pits, and similar imperfections, and free of difficult-to-clean internal corners and crevices. Cast iron may be used as a food-contact surface only if the surface is used for cooking. Threads shall be designed to facilitate cleaning; ordinary "V" type threads are prohibited in food-contact surfaces, except that in equipment such as ice makers, hot oil cooking equipment, or hot oil filtering systems, such threads shall be minimized.

(B) Equipment containing bearings and gears requiring lubricants not made of safe materials shall be designed and constructed so that the lubricant cannot leak, drip, or be forced into food or onto food-contact surfaces. Equipment designed to receive lubrication of bearings and gears on or within food-contact surfaces shall be lubricated with materials meeting the requirements of 21 Code of Federal Regulations (CFR) Part 178.3570.

(C) Sinks and drain boards shall be sloped to drain and be self-draining.

(D) Product modules, lids, dispensing units, and utensils shall be designed and fabricated to meet the requirements for food-contact surfaces.

(2) Accessibility. Unless designed for in-place cleaning, food-contact surfaces shall be accessible for cleaning and inspection:

(A) without being disassembled;

(B) by disassembling without the use of tools; or

(C) by easy disassembling with the use of only simple tools, such as mallets, screwdrivers, or open-end wrenches which are kept near the equipment.

(D) Individual product modules shall be designed to be easily removable from the display unit for servicing unless the modules are so designed and fabricated that they can be effectively cleaned (and sanitized when necessary) through a manual in-place cleaning procedure that will not contaminate or otherwise adversely affect bulk food or equipment in the adjoining display area.

(3) Cleaned in place (CIP). Equipment designed and constructed for CIP shall meet requirements equivalent to those contained in the department's rules on food

service sanitation, §229.165(b)(3) of this title (relating to Equipment and Utensils).

(4) Food product thermometers. Indicating thermometers required for immersion into food or cooking media shall be of metal stem-type construction, numerically scaled, and accurate to +2°F (+1°C).

(5) Nonfood-contact surfaces.

(A) Surfaces of equipment not intended for contact with food, but which are exposed to splash or food debris or which otherwise require frequent cleaning, shall be designed and fabricated to be smooth, washable, free of unnecessary ledges, projections, or crevices, and readily accessible for cleaning, and shall be of such material and in such repair as to be easily maintained in a clean and sanitary condition.

(B) Surfaces of product module display units, tethers, and all display equipment not intended for food-contact, but which are exposed to splash, food debris, or other soiling, shall be designed and fabricated to be smooth, cleanable, durable under conditions of normal use, and free of unnecessary ledges, projections, or crevices.

(C) Tethers shall be designed to be easily removable from the products module for cleaning.

(D) The material for nonfood-contact surfaces shall be nonabsorbent or made nonabsorbent by being finished and sealed with a cleanable coating.

(6) Ventilation hoods. Ventilation hoods and devices, where installed, shall be designed to prevent grease or condensation from collecting on walls and ceilings, and from dripping into food or onto food-contact surfaces. Filters or other grease extracting equipment shall be readily removable for cleaning and replacement, if not designed to be cleaned in place.

(7) Maintenance of equipment and utensils. All equipment and utensils shall be maintained in good repair to comply with the requirements of this code.

(c) Equipment installation and location.

(1) General. Equipment, including ice makers and ice storage equipment, shall not be located under exposed or unprotected sewer lines, water lines that are leaking or on which condensed water has accumulated, open stairwells, or other sources of contamination.

(2) Table-mounted equipment.

(A) Table-mounted equipment shall be installed to facilitate the cleaning of the equipment and the adjacent areas.

(B) Equipment that is mounted on tables or counters, unless portable, shall be sealed to the table or counter or elevated on legs to provide at least a four-inch (102 mm) clearance between the table or counter, except that if no part of the table under the equipment is more than 18 inches (457 mm) from cleaning access, the clearance space

shall be three inches (76 mm) or more; or if no part of the table under the equipment is more than three inches (76 mm) from cleaning access, the clearance space shall be two inches (51 mm) or more.

(C) Equipment is portable within the meaning of subparagraph (B) of this paragraph if:

(i) it is small and light enough to be moved easily by one person;

(ii) it has no utility connection, has a utility connection that disconnects quickly, or has a flexible utility connection line of sufficient length to permit the equipment to be moved for easy cleaning;

(iii) it is table-mounted, such as powered mixers, grinders, slicers, tenderizers, and similar equipment, which does not exceed 80 pounds (36 kilograms (kg)), or which is equipped with a mechanical means of safely tilting the unit for cleaning.

(3) Floor-mounted equipment.

(A) Floor-mounted equipment, unless easily moveable, shall be:

(i) sealed to the floor; or

(ii) elevated on legs to provide at least a six-inch (152 mm) clearance between the floor and equipment, except that equipment may be elevated to provide at least a four-inch (102 mm) clearance between the floor and equipment if no part of the floor under the equipment is more than six inches (152 mm) from cleaning access.

(B) Display shelving units, display refrigeration units, and display freezer units are exempt from the provisions of clauses (i) and (ii) of this subparagraph if they are installed so that the floor beneath the units can be cleaned.

(C) Equipment is easily movable if:

(i) it is mounted on wheels or casters; and

(ii) it has no utility connection, has a utility connection that disconnects quickly, or has a flexible utility line of sufficient length to permit the equipment to be moved for easy cleaning.

(D) Unless sufficient space is provided for easy cleaning between, behind, and above each unit of fixed equipment, the space between it and adjoining equipment units and adjacent walls or ceilings shall be not more than 1/32 inch (0.8 mm) and, if exposed to seepage, the space shall be sealed.

(4) Aisles and working spaces.

Aisles and working spaces between units of equipment and between equipment and walls, shall be unobstructed and of sufficient width to permit employees to perform their duties readily without contamination of food or food-contact surfaces by clothing or personal contact. All easily movable storage equipment such as dollies, skids, racks, and open-ended pallets shall be positioned to provide accessibility to working areas.

§229.235. *Cleaning, Sanitization, and Storage of Equipment and Utensils.*

(a) Equipment and utensil cleaning and sanitization.

(1) Cleaning frequency.

(A) Utensils and food-contact surfaces of equipment shall be cleaned and sanitized as follows:

(i) each time there is a change in processing between raw beef, raw pork, raw poultry, or raw seafood, or a change in processing from raw to ready-to-eat foods;

(ii) after any interruption of operations during which time contamination may have occurred; and

(iii) after final use each working day.

(B) Tongs, scoops, ladles, spatulas, other appropriate utensils and tethers used by customers shall be cleaned and sanitized at least daily or at more frequent intervals based on the type of food and amount of food particle accumulation or soiling.

(C) Product modules, lids, and other equipment shall be cleaned prior to restocking, when soiled or at intervals on a schedule based on the type of food and amount of food particle accumulation.

(D) Where equipment and utensils are used for the preparation of potentially hazardous foods on a continuous or production-line basis, utensils and the food-contact surfaces of equipment shall be cleaned and sanitized at intervals throughout the day on a schedule based on food temperature, type of food, and amount of food particle accumulation.

(E) The food-contact surfaces of cooking devices and the cavities and door seals of microwave ovens shall be cleaned at least once each day of use, except that this shall not apply to hot oil cooking equipment and hot oil filtering systems. The food-contact surfaces of all baking equipment and pans shall be kept free of encrusted grease deposits and other accumulated soil.

(F) Food-contact surfaces shall be cleaned and sanitized immediately if contamination is observed or suspected.

(G) Nonfood-contact surfaces of equipment, including transport vehicles, shall be cleaned as often as is necessary to keep the equipment free of accumulation of dust, dirt, food particles, and other debris.

(2) Wiping cloths.

(A) Cloths or sponges used for wiping food spills on food-contact surfaces of equipment shall be clean and rinsed frequently in one of the sanitizing solutions permitted in paragraph (3)(G) of this subsection and used for no other purpose. These cloths and sponges shall be stored in the sanitizing solution between uses.

(B) Cloths or sponges used for cleaning nonfood-contact surfaces of equipment shall be clean and rinsed as specified in subparagraph (A) of this paragraph and

used for no other purpose. These cloths and sponges shall be stored in the sanitizing solution between uses.

(C) Single-service disposable towels are permitted in lieu of wiping cloths or sponges if they are discarded after each use.

(3) Manual cleaning and sanitizing.

(A) Facilities and/or equipment shall be available, either in a servicing area or in place, to provide for proper cleaning and sanitizing of all food-contact surfaces including product modules, lids, and dispensing utensils.

(B) For manual cleaning and sanitizing of equipment and utensils, a sink with two or three compartments shall be provided and used. Sink compartments shall be large enough to accommodate the immersion of most equipment and utensils, and each compartment of the sink shall be supplied with hot and cold potable running water. Where immersion in sinks is impracticable (e.g., because equipment is too large), equipment and utensils shall be cleaned and sanitized manually or by pressure spray methods.

(C) Drain boards or easily moveable utensil tables of adequate size shall be provided for proper storage and handling of soiled utensils prior to cleaning and for cleaned utensils following sanitizing and shall be located so as not to interfere with proper use of the warewashing facilities.

(D) Equipment and utensils shall be preflushed or prescraped and, when necessary, presoaked to remove food particles and soil.

(E) The sinks shall be cleaned before use.

(F) When a three-compartment sink is utilized for warewashing, the operation shall be conducted in the following sequence:

(i) equipment and utensils shall be thoroughly cleaned in the first compartment with a hot detergent solution that is kept clean and at a concentration indicated on the manufacturer's label;

(ii) equipment and utensils shall be rinsed free of detergent and abrasives with clean water in the second compartment; and

(iii) equipment and utensils shall be sanitized in the third compartment according to one of the methods included in subparagraph (G) of this paragraph.

(G) When a two-compartment sink is utilized for warewashing, a three-step sanitization sequence must be followed which is acceptable to the regulatory authority.

(H) The food-contact surfaces of all equipment and utensils shall be sanitized by one of the following methods:

(i) immersion for at least ½ minute in clean, hot water of a temperature of at least 170°F (77°C);

(ii) immersion for at least one minute in a clean solution containing at least 50 parts per million of available chlorine as a hypochlorite and having a temperature of at least 75°F (24°C);

(iii) immersion for at least one minute in a clean solution containing at least 12.5 parts per million of available iodine, having a pH range which the manufacturer has demonstrated to be effective and at a temperature of at least 75°F (24°C);

(iv) immersion for at least one minute in a clean solution containing 200 parts per million of a quaternary ammonium compound and having a temperature of at least 75°F (24°C). The quaternary ammonium compound used shall have been compounded by the manufacturer to assure effectiveness in waters up to 500 parts per million hardness at use concentration;

(v) immersion in a clean solution containing any other chemical sanitizing agent allowed under 21 CFR Part 178.1010, that will provide the equivalent bactericidal effect of a solution containing at least 50 parts per million of available chlorine as a hypochlorite at a temperature of at least 75°F (24°C) for one minute;

(vi) treatment with steam free from materials or additives other than those specified in 21 CFR Part 173.310, in the case of equipment too large to sanitize by immersion, but in which steam can be confined; or

(vii) rinsing, spraying, or swabbing with a chemical sanitizing solution of at least twice the strength required for that particular sanitizing solution under clauses (ii), (iii), and (v) of this subparagraph in the case of equipment too large to sanitize by immersion.

(H) When hot water is used for sanitizing, the following equipment shall be provided and used:

(i) an integral heating device or fixture installed in, on, or under the sanitizing compartment of the sink capable of maintaining the water at a temperature of at least 170°F (77°C);

(ii) a numerically scaled indicating thermometer, accurate to +3°F (+1°C) convenient to the sink for frequent checks of water temperature; and

(iii) utensil racks or baskets of such size and design to permit complete immersion of utensils and equipment in the hot water.

(I) When chemicals are used for sanitization, they shall not have concentrations higher than the maximum permitted under 21 CFR Part 178.1010, and a test kit or other device that measures the parts per million concentration of the solution shall be provided and used.

(4) Mechanical cleaning and sanitizing.

(A) Facilities and/or equipment shall be available, either in a servicing area or in place, to provide for proper cleaning and sanitizing of all food-contact surfaces

including product modules, lids, and dispensing utensils.

(B) Mechanical cleaning and sanitizing equipment and practices shall conform to the provisions contained in the department's rules on food service sanitation, §229.166(a)(4) of this title (relating to Cleaning, Sanitation, and Storage of Equipment and Utensils).

(5) Drying. Unless used immediately after sanitization all equipment and utensils shall be air dried. Towel drying shall not be permitted.

(6) Retail food stores without equipment and utensil cleaning facilities. Retail food stores that do not have facilities for proper cleaning and sanitizing of utensils and equipment shall not prepare or package food or dispense unpackaged food other than raw fruits and raw vegetables.

(b) Equipment and utensil handling and storage.

(1) Handling. Cleaned and sanitized equipment and utensils shall be handled in a way that protects them from contamination.

(2) Storage.

(A) Cleaned and sanitized utensils and equipment shall be stored at least six inches (152 mm) above the floor in a clean, dry location in a way that protects them from splash, dust, and other means of contamination. The food-contact surfaces of fixed equipment shall also be protected from contamination. Equipment and utensils shall not be placed under exposed or unprotected sewer lines, or water lines that are leaking or on which condensed water has accumulated.

(B) Utensils shall be air dried before being stored or shall be stored in a self-draining position.

(C) Stored utensils shall be covered or inverted wherever practical.

(3) Single-service articles.

(A) Single-service articles shall be stored in closed cartons or containers at least six inches (152 mm) above the floor or on easily movable dollies, skids, racks, or open-ended pallets. Such storage shall protect the articles from contamination and shall not be located under exposed or unprotected sewer lines, or water lines that are leaking or on which condensed water has accumulated.

(B) Single-service articles shall be handled in a manner that prevents contamination of surfaces that may come in contact with food.

(C) Take-home containers (bags, cups, lids, etc.) provided in the display area for customer use shall be stored and dispensed in a sanitary manner.

(4) Prohibited storage areas. Food equipment, utensils, or single-service articles shall not be stored in locker rooms, toilet rooms or their vestibules, garbage rooms, or mechanical rooms.

§229.236. Sanitary Facilities and Controls.

(a) Water supply.

(1) General. Sufficient potable water for the needs of the retail food store shall be provided from a source constructed, maintained, and operated according to law.

(2) Water delivery. All potable water not provided to the retail food store directly from the source by pipe shall be delivered in a bulk water transport system and shall be transferred to a closed water system. Both of these systems shall be constructed, maintained, and operated according to law.

(3) Water under pressure. Water under pressure at the required temperatures shall be provided to all fixtures and equipment that use water.

(4) Steam. Steam used in contact with food or food-contact surfaces shall be free from any materials or additives other than those specified in 21 CFR Part 173.310.

(b) Sewage—general. All sewage, including liquid waste, shall be disposed of by a public sewerage system or by a sewage disposal system constructed, maintained, and operated according to law. Nonwater carried sewage disposal facilities are prohibited, except as permitted by the regulatory authority.

(c) Plumbing.

(1) General. Plumbing shall be sized, installed, and maintained according to law. There shall be no cross-connection between the potable water supply and any other system containing:

(A) water of unknown or questionable origin, or

(B) contaminating or polluting substances.

(2) Nonpotable water system. A nonpotable water system is permitted for air conditioning, equipment cooling, and fire protection, and shall be installed according to law. Nonpotable water shall not directly or indirectly contact food or equipment or utensils that contact food. The piping of any nonpotable water system shall be durably identified so that it is readily distinguishable from piping that carries potable water.

(3) Backflow. The potable water system shall be installed to preclude the possibility of backflow. Devices shall be installed to protect against backflow and backsiphonage at all fixtures and equipment where an air gap at least twice the diameter of the water system inlet is not provided between the water supply inlet and the fixture's flood level rim. No hose shall be attached to a faucet that is not equipped with a backflow prevention device.

(4) Grease traps. Grease traps, if used, shall be located to be easily accessible for cleaning.

(5) Garbage grinders. Garbage grinders, if used, shall be installed and maintained according to law.

(6) Drains. Except for properly trapped open sinks, there shall be no direct connection between the sewerage system and any drains originating from equipment in which food, portable equipment, or utensils are placed. When a warewashing machine is located within five feet (152 centimeters (cm)) of a trapped floor drain, the warewasher waste outlet may be connected directly on the inlet side of a properly vented floor drain trap if permitted by law.

(d) Toilet facilities.

(1) Toilet installation. Toilet facilities shall be installed according to law, shall be at least one and not less than the number required by law, shall be conveniently located, and shall be accessible to employees at all times.

(2) Toilet design. Toilets and urinals shall be designed to be easily cleanable.

(3) Toilet rooms. Toilet rooms shall be completely enclosed and shall have tight-fitting, self-closing solid doors, except for louvers that may be necessary for ventilation systems.

(4) Toilet facility maintenance. Toilet facilities, including toilet fixtures and any related vestibules, shall be kept clean and in good repair. A supply of toilet tissue shall be provided at each toilet at all times. Easily cleanable receptacles shall be provided for waste materials. Toilet rooms used by women shall have at least one covered waste receptacle.

(e) Handwashing facilities.

(1) Handwashing facility installation. Handwashing facilities shall be installed according to law, shall be at least one and not less than the number required by law, and shall be conveniently located to permit use by all employees in food preparation and warewashing areas. Handwashing facilities shall be accessible to employees at all times. Handwashing facilities shall also be located in or immediately adjacent to toilet rooms or their vestibules. Sinks used for food preparation or for warewashing shall not be used for washing of hands or for any other purpose.

(2) Handwashing facility faucets. Each handwashing facility shall be provided with hot and cold water tempered by means of a mixing valve or combination faucet. Any self-closing, or metering faucet used shall be designed to provide a flow of water for at least 15 seconds without the need to reactivate the faucet. Steam mixing valves are prohibited at handwashing facilities.

(3) Handwashing supplies. A supply of hand-cleansing soap or detergent shall be available at each handwashing facility. A supply of sanitary towels or a hand-drying device providing heated air shall be conveniently located near each handwashing facility. Common towels are prohibited. If disposable towels are used, easily cleanable waste receptacles shall be conveniently located near the handwashing facilities.

(4) Handwashing facility maintenance. Handwashing facilities, soap and detergent dispensers, hand-drying devices, and all related facilities shall be kept clean and in good repair.

(5) Handwashing facilities accessibility. When handwashing facilities are not available at the bulk food display area customers, upon request, are permitted access to handwashing facilities located in employee restroom(s). Accessibility may be required by state or local authority.

(6) Waste receptacles. When sanitary paper towels or disposable towelette are provided, easily cleanable waste receptacle(s) shall be conveniently provided in the display area.

(f) Garbage and refuse.

(1) Containers.

(A) Garbage and refuse shall be held in durable, easily cleanable, insect-resistant, and rodent-resistant containers that do not leak and do not absorb liquids. Plastic bags and wet strength paper bags may be used to line these containers. Such bags and durable plastic garbage and refuse containers may be used for storage inside the retail food store.

(B) Containers used in food preparation and utensil washing areas shall be kept covered during nonworking hours and after they are filled.

(C) Containers stored outside the establishment, including dumpsters, compactors, and compactor systems, shall be easily cleanable, shall be provided with tight-fitting lids, doors, or covers, and shall be kept covered when not in actual use. In containers designed with drains, drain plugs shall be in place at all times, except during cleaning.

(D) There shall be a sufficient number of containers to hold all the garbage and refuse that accumulates.

(E) Soiled containers shall be cleaned at a frequency to prevent insect and rodent attraction. Each container shall be thoroughly cleaned on the inside and outside in a way that does not contaminate food equipment, utensils, or food preparation areas. Suitable facilities, detergent, and hot water or steam, shall be provided and used for cleaning containers. Liquid waste from compacting or cleaning operations shall be disposed of as sewage.

(2) Storage.

(A) Garbage and refuse on the premises shall be stored in a manner to make them inaccessible to insects and rodents. Outside storage of nonrodent-resistant plastic containers, unprotected plastic bags, wet strength paper bags, or baled units which contain garbage or refuse is prohibited. Cardboard or other packaging material not containing garbage or food wastes need not be stored in covered containers.

(B) Garbage or refuse storage rooms, if used, shall be constructed of easily cleanable, nonabsorbent, washable materials, shall be kept clean, shall be insect and

rodent resistant, and shall be large enough to store all the garbage and refuse containers necessitated by disposal pick-up frequency.

(C) Outside storage areas or enclosures, if used, shall be kept clean and shall be large enough to store all the garbage and refuse containers necessitated by disposal pick-up frequency. Garbage and refuse containers, dumpsters, and compactor systems located outside, shall be stored on or above a smooth surface of nonabsorbent material, such as concrete or machine-laid asphalt, that is kept clean and maintained in good repair.

(3) Disposal.

(A) Garbage and refuse shall be disposed of often enough to prevent the development of objectionable odors and the attraction of insects and rodents.

(B) Where garbage or refuse is burned on the premises, it shall be done by controlled incineration in accordance with law. Areas around incineration units shall be kept clean and orderly.

(g) Insect and rodent control.

(1) General. Effective measures shall be utilized to minimize the entry, presence, and propagation of rodents, flies, cockroaches, or other insects. The premises shall be maintained in a condition that prevents the harborage or feeding of insects or rodents.

(2) Openings. Openings to the outside shall be effectively protected against the entry of rodents. Outside openings shall be protected against the entry of insects by tight-fitting, self-closing doors; closed windows; screening; controlled air currents; or other means. Screen doors shall be self-closing, and screens for windows, skylights, transoms, intake and exhaust air ducts, and other openings to the outside shall be tight-fitting and free of breaks. Screening material shall be not less than 16 mesh to the inch.

§229.237. Construction and Maintenance of Physical Facilities.

(a) Floors.

(1) Floor construction.

(A) Except as specified in paragraph (2) of this subsection, floors and floor coverings of all food preparation, food storage, and warewashing areas, and the floors of all walk-in refrigerators, dressing rooms, locker rooms, toilet rooms and vestibules, shall be constructed of smooth durable material such as sealed concrete, terrazzo, quarry tile, ceramic tile, durable grades of vinyl asbestos or plastic tile, or tight-fitting wood impregnated with plastic, and shall be maintained in good repair. Nothing in this section shall prohibit the use of anti-slip floor covering in areas where necessary for safety reasons.

(B) Floors which are water flushed or which receive discharges of water or other fluid wastes or are in areas where pressure spray methods for cleaning are

used, shall be provided with properly installed trapped drains. Such floors shall be constructed only of sealed concrete, terrazzo, quarry tile, ceramic tile, or similar materials and shall be graded to drain.

(C) In all establishments utilizing concrete, terrazzo, quarry tile, ceramic tile, or similar flooring materials or where water flush cleaning methods are used, the junctures between walls and floors shall be coved and sealed. In all other cases, the juncture between walls and floors shall be coved so as not to present an open seam of more than 1/32 inch (0.8 mm).

(2) Floor carpeting. Carpeting, if used as a floor covering, shall be of closely woven construction, properly installed, easily cleanable, and maintained in good repair. Carpeting shall not be used in food preparation and warewashing areas, in food storage areas, or in toilet room areas where urinals or fixtures are located.

(3) Prohibited floor covering. Sawdust, wood shavings, granular salt, baked clay, diatomaceous earth, or similar materials shall not be used as floor coverings; however, these materials may be used in amounts necessary for immediate spot clean-up of spills or drippage on floors.

(4) Mats and duckboards. Mats and duckboards shall be of nonabsorbent, grease resistant materials, and of such size, design, and construction to facilitate cleaning and shall be maintained in good repair.

(5) Utility line installation. Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the floor. In all new or extensively remodeled establishments, installation of exposed horizontal utility service lines and pipes on the floor is prohibited.

(b) Walls and ceilings.

(1) Maintenance. Walls and ceilings, including doors, windows, skylights, and similar closures, shall be maintained in good repair.

(2) Construction. The walls, wall coverings, and ceilings of walk-in refrigeration units, food preparation areas, warewashing areas, and toilet rooms and their vestibules shall be smooth, nonabsorbent, and easily cleanable. Concrete or pumice blocks and bricks used for interior wall construction in these locations shall be finished and sealed to provide a smooth easily cleanable surface.

(3) Exposed construction. Studs, joists, and rafters shall not be exposed in those areas listed in paragraph (2) of this subsection. If exposed in other rooms or areas they shall be finished to provide a cleanable surface.

(4) Utility line installation. Utility service lines and pipes shall not be unnecessarily exposed on walls or ceilings in those areas listed in paragraph (2) of this subsection. Exposed utility service lines and pipes shall be installed in a way that does not ob-

struct or prevent cleaning of the walls and ceilings.

(5) Attachments. Light fixtures, vent covers, wall mounted fans, decorative materials, and similar attachments to walls and ceilings shall be easily cleanable and shall be maintained in good repair.

(6) Covering material installation. Wall and ceiling covering materials shall be attached and sealed in a manner to be easily cleanable.

(c) Cleaning physical facilities.

(1) General. Cleaning of floors, walls, and ceilings shall be done as often as necessary, but preferably during periods when the least amount of food is exposed, such as after closing. Only dustless methods of cleaning floors, walls, and ceilings shall be used, such as vacuum cleaning, wet cleaning, treated dust mops, or the use of dust-arresting sweeping compounds with brooms. Floors, mats, duckboards, walls, ceilings, and attachments (e.g., light fixtures, vent covers, wall mounted fans, and similar equipment), and decorative materials (e.g., signs and advertising materials) shall be kept clean.

(2) Service sinks. At least one service sink or curbed cleaning facility with a floor drain shall be provided and used for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water or similar liquid wastes. Handwashing or warewashing facilities, or food preparation sinks shall not be used for this purpose.

(d) Lighting.

(1) General.

(A) Permanently fixed artificial light sources shall be installed to provide at least 50 footcandles of light on all food preparation surfaces and at warewashing work levels.

(B) Permanently fixed artificial light sources shall be installed to provide, at a distance of 30 inches (762 mm) from the floor:

(i) at least 30 footcandles of light in sales areas, utensil and equipment storage areas, and in handwashing and toilet areas; and

(ii) at least 20 footcandles of light in walk-in refrigeration units, dry food storage areas, and in all other areas.

(2) Protective shielding.

(A) Lamps located over or within food storage, food preparation, and food display facilities, and facilities where utensils and equipment are cleaned and stored shall be shielded, coated, or otherwise shatter resistant.

(B) Infrared or other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed.

(e) Ventilation.

(1) General. All rooms shall have sufficient ventilation to keep them free of excessive heat, steam, condensation,

vapors, obnoxious odors, smoke, and fumes. Ventilation systems shall be installed and operated according to law and, when vented to the outside, shall not create a harmful or unlawful discharge. Intake and exhaust air ducts shall be maintained to prevent the entrance of dust, dirt, and other contaminating materials.

(f) Dressing rooms and locker areas.

(1) Dressing rooms and areas. If employees routinely change clothes within the establishment, rooms or areas shall be designated and used for that purpose. These designated rooms or areas shall not be used for food preparation, food storage, food display, warewashing, or storage of utensils and equipment.

(2) Locker areas. Lockers or other suitable facilities shall be provided and used for the orderly storage of employee clothing and other belongings. Lockers or other suitable facilities may only be located in the designated dressing rooms or areas or, in food storage rooms or areas containing only completely packaged food or packaged single-service articles.

(g) Poisonous or toxic materials.

(1) Materials permitted. Only those poisonous or toxic materials necessary and intended for the maintenance of the establishment, including the cleaning and sanitization of equipment and utensils, and the control of insects and rodents, shall be present in retail food stores, except those items being stored or displayed for retail sale as described in paragraph (5) of this subsection.

(2) Labeling of materials. Containers of poisonous or toxic materials necessary for operational maintenance of the establishment shall be prominently and distinctly labeled in accordance with law. Small working containers of bulk cleaning agents shall be individually labeled for easy identification of contents.

(3) Storage of materials. Poisonous or toxic materials necessary for the maintenance of the establishment consist of the following two categories:

(A) insecticides and rodenticides;

(B) detergents, sanitizers, related cleaning or drying agents, and caustics, acids, polishes, and other chemicals.

(4) Location of materials. Materials in subparagraphs (A) and (B) of this paragraph shall be stored and located to be physically separated from each other; shall be stored in cabinets or in similar physically separated compartments or facilities used for no other purpose; and, to preclude potential contamination, shall not be stored above or intermingled with food, food equipment, utensils, or single-service articles, except that this latter requirement does not prohibit the convenient availability of detergent sanitizers, or sanitizers at warewashing facilities.

(5) Use of materials.

(A) Sanitizers, cleaning compounds, or other compounds intended for use on food-contact surfaces shall not be used in a way that leaves a toxic residue on such surfaces, nor in a way that constitutes a hazard to employees or other persons.

(B) Poisonous or toxic materials shall not be used in a way that contaminates food, equipment, or utensils, nor in a way other than in full compliance with the manufacturer's labeling.

(6) Storage and display of materials for retail sale. Poisonous or toxic materials stored or displayed for retail sale shall be separated from food and single-service articles by spacing, partitioning, or dividers. These materials shall not be stored or displayed above food or single-service articles.

(7) First-aid supplies and personal medications. Retail food store employee first-aid supplies and personal medications shall be stored in a way that prevents them from contaminating food and food-contact surfaces.

(h) Premises.

(1) General.

(A) Retail food stores and all parts of the property used in connection with operations of the establishment shall be reasonably free of litter and articles not essential to the operation or maintenance of the establishment.

(B) The walking and driving surfaces of all exterior areas of retail food stores shall be surfaced with concrete, asphalt, or with gravel or similar material effectively treated to facilitate maintenance and minimize dust. These surfaces shall be graded to facilitate drainage.

(2) Living areas. No operation of a retail food store shall be conducted in any room used as living or sleeping quarters. Retail food store operations shall be separated from any living or sleeping quarters by complete partitioning and solid, self-closing doors.

(3) Laundry facilities.

(A) If provided, laundry facilities in a retail food store shall be restricted to the washing and drying of linens and work clothes used in the operation. If such items are laundered on the premises, an electric or gas dryer shall be provided and used.

(B) Separate rooms shall be provided for laundry facilities, except that such operations may be conducted in storage rooms containing only packaged foods or packaged single-service articles.

(4) Linens and work clothes storage.

(A) Clean work clothes and linens, including articles such as wiping cloths, shall be stored in a clean place and protected from contamination until used.

(B) Soiled work clothes and linens, including articles such as wiping cloths, shall be kept in nonabsorbent containers or washable laundry bags until removed for

laundering and shall be stored to prevent contamination of food, food equipment, and utensils.

(5) Cleaning equipment storage. Maintenance and cleaning tools such as brooms, mops, vacuum cleaners, and similar equipment shall be maintained in good repair and stored in a way that does not contaminate food, utensils, equipment, or linens and shall be stored in an orderly manner to facilitate the cleaning of that storage location.

(6) Animals.

(A) Live animals shall be excluded from within the retail food store operational areas and from immediately adjacent areas inside the store under the control of the permit holder. This exclusion does not apply to edible fish, crustacea, shellfish, or fish in aquariums.

(i) Live or dead fish bait shall be stored separately from food or food products.

(ii) Patrol dogs accompanying security or police officers shall be permitted in offices, storage areas, and outside store premises. Sentry dogs may be permitted to run loose in outside fenced areas for security reasons. Guide dogs accompanying blind persons shall be permitted in sales areas.

(B) While on duty, persons employed in the food preparation areas of an establishment shall not care for or handle any pets, or patrol/sentry dogs.

§229.238. Compliance Procedures.

(a) Inspections.

(1) Access. Agents of the regulatory authority, after proper identification, shall be permitted to enter any retail food store at any reasonable time, for the purpose of making inspections to determine compliance with these sections. The agents shall be permitted to examine the records of the establishments to obtain information pertaining to food and supplies purchased, received, or used, or to persons employed.

(2) Report of inspections. Whenever an inspection is made of a retail food store, the findings shall be recorded on the inspection report form referred to in subsection (c) of this section. A copy of the inspection report form shall be furnished to the owner or person in charge at the completion of the inspection and constitutes a written notice. The inspection report form shall summarize the requirements of these sections, and shall set forth a weighted point value for each requirement. The rating score of the establishment shall be the total of the weighted point value for all violations, subtracted from 100. The completed inspection report form is a public document that shall be made available for public disclosure to any person who requests it according to law.

(3) Correction of violations. The inspection report form shall specify a reasonable period of time for the correction of the violations found, and correction of the violations shall be accomplished within

the period specified, in accordance with the following provisions.

(A) If an imminent health hazard exists, such as complete lack of sanitation, refrigeration, an extended loss of water supply, an extended power outage, or sewage backup into the establishment, the establishment shall immediately cease affected retail food store operations. Such operations shall not be resumed until authorized by the regulatory authority.

(B) All violations of four- or five-point weighted items shall be corrected within a time specified by the health authority, but in any event, not to exceed 10 days.

(C) All one- or two-point weighted items shall be corrected as soon as possible, but in any event, by the time of the next routine inspection.

(D) When rating score of the establishment is less than 60, the establishment shall initiate corrective action on all identified violations within 48 hours. One or more reinspections shall be conducted at reasonable time intervals to assure correction.

(4) Examination and condemnation of food. The regulatory authority may examine and collect samples of food as often as necessary for the enforcement of these sections. The regulatory authority shall, upon written notice to the owner or person in charge specifying the reason therefor, place under detention any food which it has probable cause to believe is adulterated or misbranded in accordance with the provisions of the Texas Food, Drug, and Cosmetic Act, Texas Civil Statutes, Article 4476-5, §6, and §21(2).

(5) Procedure when infection is suspected. When the regulatory authority has reasonable cause to suspect the possibility of disease transmission from any retail food store employee, it may secure a morbidity history of the suspected employee or make any other investigation as may be indicated and shall take appropriate action.

The regulatory authority may require any or all of the following measures:

(A) the immediate exclusion of the employee from all retail food stores;

(B) the immediate closing of the retail food store concerned until, in the opinion of the regulatory authority, no further danger of disease outbreak exists;

(C) restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease;

(D) adequate medical and laboratory examination of the employee, of other employees, and of the body discharges of such employees.

(b) Enforcement.

(1) Penalties. Any person (or responsible agent of that person) who operates a retail food store, and who creates a public health hazard because of a failure to correct the violations stated in subparagraphs (A)-(C) of this paragraph is subject to prosecution under the provision of the Texas Food, Drug, and Cosmetic Act, Texas Civil Statutes, Article 4476-5:

(A) all four- or five-point violations within the time specified by the regulatory authority;

(B) violations of these sections within a specified time when the retail food store rating score falls below 60;

(C) repeated violations of the same provisions of these sections.

(2) Injunctions. The regulatory authority may seek to enjoin violators of these sections under the provisions of the Texas Food, Drug and Cosmetic Act, Texas Civil Statutes, Article 4476-5.

(c) Inspection report form. The department adopts by reference the department form titled, "Retail Food Store Inspection Report," described in subsection (a)(2) of this section and available in the department's Food and Drug Division Office, 1100 West 49th Street, Austin, Texas, 78756.

§229.239. *Enactment Provisions.*

(a) Exceptions.

(1) Building facilities and equipment in use before the effective date of these sections and which do not meet fully all of the design and fabrication requirements of these sections shall be acceptable if they are in good repair, capable of being maintained in a sanitary condition, and the food-contact surfaces (if any) are in compliance with the definition of safe materials in §229.231(b) of this title (relating to General Provisions).

(2) New building facilities and new equipment for which contractual obligations are incurred before the effective date of these sections, and which do not fully meet all the design and fabrication requirements of these sections, shall be acceptable if they are capable of being maintained in a sanitary condition and the food-contact surfaces (if any) are in compliance with the definition of safe materials in §229.231(b) of this title (relating to General Provisions).

(b) Separability. If any provision or application of any provision of these sections is held invalid, that invalidity shall not affect other provisions or applications of these sections.

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

Issued in Austin, Texas, on May 15, 1985.

TRD-854315

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

Proposed date of adoption:
July 20, 1985

For further information, please call
(512) 458-7248.

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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 7. BANKING AND SECURITIES

Part VII. State Securities Board

Chapter 107. Terminology

★7 TAC §107.2

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed amendments to §107.2 submitted by the State Securities Board have been automatically withdrawn, effective May 14, 1985. The amendments as proposed appeared in the November 13, 1984, issue of the *Texas Register* (9 TexReg 5807).

TRD-854297
Filed: May 14, 1985

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Chapter 109. Transactions Exempt from Registration

★7 TAC §109.4

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the

proposed repeal of §109.4 submitted by the State Securities Board has been automatically withdrawn, effective May 14, 1985. The notice of proposed repeal appeared in the November 13, 1984, issue of the *Texas Register* (9 TexReg 5807).

TRD-854298
Filed: May 14, 1985

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Chapter 133. Forms

★7 TAC §133.29

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed repeal of §133.29 submitted by the State Securities Board has been automatically withdrawn, effective May 14, 1985. The notice of proposed repeal appeared in the November 13, 1984, issue of the *Texas Register* (9 TexReg 5807).

TRD-854299
Filed: May 14, 1985

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TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 229. Food and Drug Retail Food Store Sanitation

★25 TAC §§229.231-229.239

The Texas Department of Health has withdrawn from consideration for permanent adoption proposed new §§229.231-229.239, concerning retail food store sanitation. The text of the new sections as proposed appeared in the December 11, 1984, issue of the *Texas Register* (9 TexReg 6240).

Issued in Austin, Texas, on May 14, 1985.

TRD-854314

Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department
Health

Filed: May 15, 1985
For further information, please call
(512) 458-7236.

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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 1. ADMINISTRATION Part IV. Office of the Secretary of State Chapter 71. Office of the Secretary Practice and Procedure ★ 1 TAC §71.9

The Office of the Secretary of State adopts an amendment to §71.9, without changes to the proposed text published in the March 12, 1985, issue of the *Texas Register* (10 TexReg 852).

The section is amended to keep up with the current state budget condition by deleting a provision allowing governmental agencies free information or copies for which the public is required to pay.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Articles 3914, 3916, and 5949, §10, Texas Civil Statutes, Article 6252-13b, §5, the Texas Business Corporation Act, Article 9.03; the Texas Election Code, Articles 1.03 and 1.03a, and 14.13, §(G); and the Texas Business and Commerce Code, §9.407, which provide the Office of the Secretary of State with the authority to issue rules and regulations necessary to the administration of the office and to collect fees in a specified manner.

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 13, 1985.

TRD-854243

Hyattye Simmons
Assistant General
Counsel
Office of the Secretary
of State

Effective date: June 3, 1985

Proposal publication date: March 12, 1985

For further information, please call
(512) 475-2015.

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TITLE 19. EDUCATION Part II. Texas Education Agency Chapter 77. Comprehensive Instruction Subchapter V. Adoptions by Reference ★ 19 TAC §77.453

The Texas Education Agency adopts amendments to §77.453, with changes to the proposed text published in the February 5, 1985, issue of the *Texas Register* (10 TexReg 359).

The title of the plan has been changed to "State Plan for Federal Vocational Education Funding," to make it clearer that it is an application for federal vocational funds.

The section concerns the adoption by reference of the state plan for federal vocational education funding for fiscal years 1985-1988

Under the new provisions of Public Law 98-524, a three-year plan is necessary, rather than a five-year plan. Changes in federal law which are reflected in the assurances included in the new state plan include revised distribution of assistance requirements; strengthened requirements concerning services to handicapped students, including requirements for coordination and information about opportunities; and requirements for personnel development and curriculum development to further goals in the state plan.

A public hearing on the state plan for federal vocational education funding for fiscal years 1986-1988 was conducted by the State Board of Education Committee for Finance and Programs on February 8, 1985.

The Texas Industrial Arts Association recommended that the goals for members of secondary students enrolled in exploratory industrial arts be increased. The agency's response was to modify Objective 2.1 under Goal 2 to clarify that only vocationally funded exploratory industrial arts enrollments were being considered in the enrollment projections listed.

Wilma Griffin, Department of Home Economics, The University of Texas at Austin, suggested adding the development of

youth leadership activities to the list of functions of the office of the associate commissioner for occupational education and technology; expressed concern about the extent of program evaluation required and the ability of area staff to perform evaluations within funding available; and expressed concern that program evaluators might not be specialists in the area being evaluated. The agency's response was to add "direct youth leadership activities for students participating in vocational programs, services, and activities" to the functions of the office of the associate commissioner for occupational education and technology. The agency also stated that the state plan, as written, does not preclude the continuation of funding for area field offices for vocational education. The state plan provides for the evaluations required to comply with Public Law 98-524. Also, the state plan, as written, does not preclude the use of subject area specialists for program evaluation.

Dee Bonorden, Texas Vocational Consortium, Austin, commented in support of the plan, but expressed concern that federal legislation is too restrictive in the use of funds for disadvantaged and handicapped students. The agency responded that the state plan contains requirements concerning the disadvantaged and handicapped that are necessary to comply with Public Law 98-524.

Joyce Crow, Taylor Independent School District, representing the district and several other nonmetropolitan districts which operate licensed vocational nursing (LVN) programs in cooperation with community hospitals, expressed concern that if LVN programs are going to be funded with federal funds they will require a 50-50 match. She urged continued support for these programs. The agency responded that the continuation of state funding for the LVN programs is still being considered by the legislature. The state plan provides a mechanism to continue support for these programs with federal funds should the state funding be discontinued. However, the federal funding would require cost sharing, as indicated by Ms. Crow.

W. D. Perkins, Texas Vocational Technical Association, urged that the use of specialists in the vocational area field offices be continued. The agency responded that the state plan, as written, does not preclude the use of subject area spe-

cialists in the area field offices for vocational education.

W. H. Meischen, Vocational Agriculture Teachers Association of Texas commented that the plan should include travel funding for supervising students in their supervised occupational experience programs, that persons involved in program evaluation should have the expertise to evaluate programs properly, and that area field office staff should remain in place. The agency responded that the following program improvement activity was added as an allowable expenditure of federal funds.

travel expenses related to local program improvement, including supervision of off-campus learning experiences for students enrolled in vocational education

The agency also stated that the state plan, as written, does not preclude the use of subject area specialists for program evaluation or the continuation of funding for area field offices for vocational education.

Dorothy Vacek, Vocational Home Economics Teachers Association of Texas, requested that youth leadership be added to the functions of the associate commissioner's office. She also requested that travel for extended learning experiences be funded and that the area field staff be retained. The agency responded by adding "direct youth leadership activities for students participating in vocational programs, services, and activities" to the functions of the office of the associate commissioner for occupational education and technology. The agency also added the following program improvement activity as an allowable expenditure of federal funds:

travel expenses related to local program improvement, including supervision of off-campus learning experiences for students enrolled in vocational education

The agency added that the state plan, as written, does not preclude the continuation of funding for area field offices for vocational education.

Ann Pennington, Texas Industrial Vocational Association, supported the comments of previous speakers and urged that the area field staff be retained. The agency responded that the state plan, as written, does not preclude the continuation of funding for area field offices for vocational education.

Mike Sims, Future Farmers of America, urged continued support for vocational area field offices and for vocational youth activities. The agency responded that the state plan, as written, does not preclude the continuation of funding for area field offices for vocational education. The agency also added "direct youth leadership activities for students participating in vocational programs, services, and activities" to the functions of

the office of the associate commissioner for occupational education and technology. Charlotte McCright, Young Homemakers of Texas, supported those aspects of the state plan concerning program improvement and accountability and urged continued support for the area field offices. The agency responded that the state plan, as written, does not preclude the continuation of funding for area field offices for vocational education.

Tommy Davis, Young Farmers of Texas, urged continued support for vocational youth activities. The agency responded by adding "direct youth leadership activities for students participating in vocational programs, services, and activities" to the functions of the office of the associate commissioner for occupational education and technology.

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

§77.453. *State Plan for Federal Vocational Education Funding.* The administrative provisions for occupational education and technology are described in the state plan for federal vocational education funding, fiscal years 1986-1988, adopted April 1985, which was developed as a requirement under Public Law 98-524. The plan is adopted by this reference as the Central Education Agency's official rule. A copy is available for examination during regular office hours, 8 a.m. to 5 p.m., except holidays, Saturdays, and Sundays, at the Central Education Agency. On the effective date of this rule, the agency is located at 201 East 11th Street, Austin, Texas 78701. During the summer of 1985, the agency will move to 1701 Congress Avenue, Austin, Texas 78701. After the agency's move, the rule will be available for inspection at that location.

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

Issued in Austin, Texas, on May 14, 1985

TRD-854279 W. N. Kirby
Commissioner of
Education

Effective date: June 3, 1985
Proposal publication date: February 5, 1985
For further information, please call
(512) 475-7077

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Chapter 78. Occupational Education and Technology Subchapter D. Secondary School Vocational Education Vocational Program Approval

★ 19 TAC §78.63

The Texas Education Agency adopts amendments to §78.63, without changes to the proposed text published in the March 22, 1985, issue of the *Texas Register* (10 TexReg 968)

House Bill 72, 68th Legislature, 2nd Called Session, 1984, changed the funding system for vocational education from one based on personnel units to one based on full-time equivalent students. Under the old system, districts received additional state funds for vocational personnel units approved and employed for 11 or 12 months. Under the adopted section, vocational program units are approved for 10 months. Upon special request from the superintendent, program units may be approved for 11 or 12 months. Teachers assigned to these program units must use the extended employment period in accordance with the standards in this subchapter. The extended employment period may include the participation in Central Education Agency-approved inservice workshops. In an effort to reduce the paperwork burden on school districts, the requirement for districts to submit a summer plan (justifying the need for 11- and 12-month vocational personnel) has been deleted from the section.

No comments were received regarding the adoption of the amendments.

The amendments are adopted under the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for the implementation of the Foundation School Program.

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

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

TRD-854283 W. N. Kirby
Commissioner of
Education

Effective date: June 3, 1985
Proposal publication date: March 22, 1985
For further information, please call
(512) 475-7077.

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Program Standards

★ 19 TAC §78.122

The Texas Education Agency adopts amendments to §78.122, without changes to the proposed text published in the

March 22, 1985, issue of the *Texas Register* (10 TexReg 968).

House Bill 72, 68th Legislature, 2nd Called Session, 1984, changed the funding system for vocational education from one based on personnel units to one based on full-time equivalent students. Under the old system, districts received additional state funds for vocational personnel units approved and employed for 11 or 12 months. Under the new funding system, this is no longer the case.

In subsection (a), for each vocational agriculture program unit approved for more than 10 months, the district must ensure that the activities of the teacher include supervising and instructing the students in the supervised occupational experience program. In subsection (b), consumer and homemaking program units approved for more than 10 months shall include a summer program. The summer program must consist of organized group instruction and supervised extended learning experiences, and may include other activities conducted for prospective students. In subsection (c), concerning pre-employment laboratory and technical education program units, teachers assigned to program units in excess of 10 months shall use the extended employment period for activities directly related to and for the purpose of improving the instructional program involved. In an effort to reduce the paperwork burden on school districts, the current requirement for districts to submit a summer plan justifying the need for 11- and 12-month vocational personnel has been deleted from this section. Teachers assigned to program units in excess of 10 months must use the extended employment period for activities directly related to and for the purpose of improving the instructional program involved.

No comments were received regarding adoption of the amendments.

The amendment is adopted under the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for the implementation of the Foundation School Program.

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

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

TRD-854284

W. N. Kirby
Commissioner of
Education

Effective date: June 3, 1985

Proposal publication date: March 22, 1985

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



Chapter 157. Hearings and Appeals

Subchapter A. Hearings and Appeals Generally

★ 19 TAC §§157.1, 157.21, 157.22

The Texas Education Agency adopts amendments to §157.1 and §157.21, and new §157.22, without changes to the proposed text published in the March 22, 1985, issue of the *Texas Register* (10 Tex-Reg 972).

House Bill 72, 68th Legislature, 2nd Called Session, 1984, deleted those provisions of the Texas Education Code authorizing the State Board of Education to review quasijudicial decisions issued by the commissioner of education. The statute also amended the Texas Education Code, §11.13, to require that appeals by students to the commissioner be reviewed on a substantial evidence basis. The changes will make the agency's rules consistent with House Bill 72 in these aspects.

Section 157.1, concerning the nature of hearings and appeals, has been amended so that decisions of the commissioner of education are subject to review by or appeal to the State Board of Education, except where the commissioner's decision is made final by law or made directly appealable to court.

Section 157.21, concerning computing time and extensions, has been amended to delete a provision that student discipline cases in which the student is not receiving educational services pending the outcome of the appeal to be subject to an expedited schedule. Provisions concerning student discipline cases, including a provision for them to be expedited, are contained in new §157.68, concerning student appeals.

New §157.22, concerning dismissal without hearing, provides for the commissioner of education to dismiss a case without a hearing for the following reasons: failure to prosecute, unnecessary duplication of proceedings, *res judicata*, withdrawal, mootness, untimely filing, lack of jurisdiction, failure of a party requesting relief from the commissioner to set forth facts in its pleadings which would support a decision in that party's favor, and failure to state a cause of action upon which relief may be granted.

No comments were received regarding adoption of the amendments and new section.

The amendments and new section are adopted under Texas Civil Statutes, Article 6552-13a, §4(a)(1), which require each state agency to adopt rules of practice setting forth the nature and requirements of hearing procedures.

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

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

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

TRD-854285

W. N. Kirby
Commissioner of
Education

Effective date: June 3, 1985

Proposal publication date: March 22, 1985

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

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Subchapter B. Hearings of Appeals to the Commissioner

★ 19 TAC §§157.41, 157.50, 157.52, 157.60, 157.62, 157.63, 157.68

The Texas Education Agency adopts amendments to §§157.41, 157.50, 157.52, 157.60, 157.62, and 157.63, and new §157.68, without changes to the proposed text published in the March 22, 1985, issue of the *Texas Register* (10 Tex-Reg 972).

House Bill 72, 68th Legislature, 2nd Called Session, 1984, deleted those provisions of the Texas Education Code authorizing the State Board of Education to review quasijudicial decisions issued by the commissioner of education. The statute also amended the Texas Education Code, §11.13, to require that appeals by students to the commissioner be reviewed on a substantial evidence basis. The amendments to Chapter 157 will make the agency's rules consistent with House Bill 72 in these respects.

The amendment to §157.41 changed the title of the section from "Hearing Procedure" to "Procedure." The amended section clarifies that the rules as set forth under this subchapter must apply to all proceedings before the commissioner, except where made inapplicable by a conflicting provision of this subchapter.

Amended §157.50 adds a new subsection (b), stating that except where a substantial evidence review is authorized by statute, the burden shall be on the party requesting relief from the commissioner to prove its case by a preponderance of the evidence.

Section 157.52, concerning witnesses, discovery, and interrogatories, is amended to delete the provision that the commissioner may strike the pleadings and enter a default judgment against any party who fails to answer interrogatories. This becomes one option in new subsection (g). A new subsection (f) has been added that provides at any time after the respondent has made an appearance in a contested case, a party may cause to be delivered to any party a written re-

quest for the admission by such party of the genuineness of any relevant documents described in and exhibited with the request or of the truth of any relevant matters of fact set forth by the request. Subsection (g) sets out actions the commissioner may take if any party refuses to obey an order for discovery made under this subchapter

Several amendments to §157.60 have been adopted. The amendment to subsection (a) provides that any replies to any exception must be filed within 15 days after the date on which the exceptions are filed. Previously, replies to exceptions were filed within 15 days after the date for filing of such exceptions. The amendment to subsection (c) provides that, in the absence of good cause, no issue may be raised for the first time in a party's exceptions to the proposal for decision.

Section 157.62 concerns motions for rehearing. The amendment to subsection (b) provides that a motion for rehearing is a prerequisite to any appeal, since the commissioner is now the last level of administrative appeal. Subsection (c) adds the provision that if no action is taken by the commissioner within 45 days after the date of rendition of the final decision or order, the motion for rehearing is overruled by operation of law. The commissioner may, by written order, extend the period of time for filing the motion for rehearing and replies and the commissioner taking action, except that an extension may not extend the period for the commissioner's action on the motion for rehearing beyond 90 days after the date of rendition of the commissioner's final decision or order. Previously, the period was 60 days. Subsection (d) provides that, in the absence of good cause, no issue may be raised in a motion for rehearing which was not raised in the moving party's exceptions to the proposal for decision, unless the disposition of that issue in the commissioner's decision differs from that in the proposal for decision. Subsection (e) provides that the parties may, by agreement, with the approval of the commissioner, modify any of the time periods provided in this section.

Section 157.63 establishes the points at which orders of the commissioner of education become final

New §157.68 concerns student appeals. This section applies in all appeals brought by students from actions or decisions of a local board of trustees. To the extent that this section conflicts with any other sections governing proceedings before the commissioner, the requirements of this section shall prevail

In student appeal cases, the school district must file a record of appeal, including a certified transcript of the local hearing, with its answer. The commissioner's decision shall be based upon a review of

the record of appeal, unless the commissioner has ordered that additional evidence be taken. The commissioner may substitute his or her own judgment for that of the local board of trustees only when the local board's decision was arbitrary, capricious, unlawful, or not supported by substantial evidence

No comments were received regarding adoption of the amendments and new section

The amendments and new section are adopted under Texas Civil Statutes, Article 6552-13a, §4(a)(1), which require each state agency to adopt rules of practice setting forth the nature and requirements of hearing procedures

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

Issued in Austin, Texas, on May 13, 1985

TRD-854286

W. N. Kirby
Commissioner of
Education

Effective date June 3, 1985

Proposal publication date: March 22, 1985

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

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Subchapter C. Appeals to the State Board of Education

★ 19 TAC §157.71, §157.73

The Texas Education Agency adopts amendments to §157.71 and §157.73, without changes to the proposed text published in the March 22, 1985, issue of the *Texas Register* (10 TexReg 975)

House Bill 72, 68th Legislature, 2nd Called Session, 1984, deleted those provisions of the Texas Education Code authorizing the State Board of Education to review quasijudicial decisions issued by the commissioner of education. The adopted amendments are intended to make the agency's rules consistent with provisions of House Bill 72.

Section 157.71 concerns the procedure for an appeal. The amendment to subsection (a) provides that, where the commissioner's decision is not made final by law and is not made directly appealable to district court by statute, any party who has been aggrieved by the decision may appeal to the State Board of Education. There were no changes in subsections (b)-(e) of this section

The title of §157.73 is changed to "Testimony and Evidence; Briefs; Issues." Subsection (a) provides that appeals to the board shall be considered on the record made before the commissioner and any briefs filed by the parties. The amendment deleted the provision that

proposed findings of fact and conclusions of law had to be filed by the appealing party. This is adequately provided for in the Administrative Procedure and Texas Register Act. New subsection (b) specifies that no issue may be appealed to the State Board of Education which was not presented to the commissioner of education in the appealing party's motion for rehearing

No comments were received regarding adoption of the amendments.

These amendments are adopted under Texas Civil Statutes, Article 6252-13a, §4(a)(1), which requires each state agency to adopt rules of practice setting forth the nature and requirements of hearing procedures.

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

Issued in Austin, Texas, on May 13, 1985

TRD-854287

W. N. Kirby
Commissioner of
Education

Effective date June 3, 1985

Proposal publication date: March 22, 1985

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

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Chapter 169. Relationship with University Interscholastic League

★ 19 TAC §169.1

The Texas Education Agency adopts new §169.1, without changes to the proposed text published in the March 22, 1985, issue of the *Texas Register* (10 TexReg 975).

This section implements the provisions of House Bill 72, 68th Legislature, 2nd Called Session, 1984, regarding the University Interscholastic League (UIL).

Section 169.1, the only section in the chapter at this time, delineates the responsibilities of the UIL and of the Texas Education Agency in respect to enforcement of UIL rules. The section also defines the timelines for submission of UIL rules to the State Board of Education for consideration, provides for quarterly reports of complaints of violation of rules concerning extracurricular activities to the State Board of Education Committee for Students, and requires regular distribution to school districts of technical assistance documents interpreting the rules.

No comments were received regarding adoption of the new section.

This new section is adopted under the Texas Education Code, §21.921, which requires the University Interscholastic League rules to be submitted to the State Board of Education for approval, disapproval, or modification

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 13, 1985

TRD-854282 W N Kirby
Commissioner of
Education

Effective date June 3, 1985
Proposal publication date March 22, 1985
For further information, please call
(512) 475-7077.

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TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 325. Solid Waste Management

The Texas Department of Health adopts an amendment to §325.462 and new §325.901 and §325.906, with changes to the proposed text published in the February 5, 1985, issue of the *Texas Register* (10 TexReg 378), and new §§325.561, 325.563, 325.564, and 325.566, with changes to the proposed text published in the February 26, 1985, issue of the *Texas Register* (10 TexReg 682) Sections 325.562, 325.565, and 325.567 and the repeal of §325.901 and §325.906 and new §325.906 are adopted without changes to the proposed text published in the February 26, 1985, issue of the *Texas Register* (10 TexReg 682) and the February 5, 1985, issue of the *Texas Register* (10 TexReg 378), respectively, and will not be republished

The new sections on guidelines for local and regional solid waste management plans are required by the Comprehensive Municipal Solid Waste Management, Resource Recovery, and Conservation Act, §7, which was enacted by the 68th Legislature, 1983. The Act directs the Texas Board of Health to adopt rules for review of solid waste management plans which may be developed by regional planning agencies or local governments as well as criteria for approval of regional and local solid waste management plans. The Act, §8(i), directs the board to adopt rules related to state provision of financial assistance to regional planning agencies and local governments for the development of regional and local solid waste management plans. The Act also requires

regional and local solid waste management plans to conform to the provisions and requirements of the state solid waste management plan

The new guidelines should serve to promote planned activities for better management of solid waste and therefore a reduction in risks to public health and the environment. In addition, enforcement of the adopted guidelines will encourage local governments to combine resources and cooperate in solving solid waste management problems and create joint use systems or facilities. When plans are properly prepared and adopted as a rule by the Board of Health, then the provisions or requirements in the plans will be enforceable as a part of the department municipal solid waste regulatory process.

Changes made to the forms adopted under §325.901 and §325.906 are for clarification purposes only. Section II of the form adopted under §325.901 was expanded and clarified to serve better the purposes of those registering land application sites

Concerning the proposed guidelines for local and regional solid waste plans, the rules were supported by all who commented, including the Texas Association of Regional Councils. The Board of Health was asked to adopt the rules in a timely manner, and the department was asked to be flexible when reviewing plans. The state association of regional councils offered assistance in the implementation of the rules.

Concerning §325.563(a)(3), it was suggested that this paragraph should be changed to match similar wording under provisions for local planning and read, "As applicable, the regional plan should include " instead of "The regional plan shall include ". The department intends for each item which follows the wording in question to be required to be addressed in each regional plan. It is the level of detail at which each item must be addressed which is intended to be optional, since the applicability may vary in each region. Therefore, the wording has not been changed in the adopted rules. Local plans may have a scope which is much more narrow than a regional plan and the wording is more permissive concerning what the local plan must include.

Concerning the proposed rules, a regional planning agency expressed strong support for the partnership approach outlined in the guidelines among the state, regional planning agencies, and local governments.

Concerning §325.566(b), it was suggested that language should be added to indicate that a local or regional agency has the right to appeal a negative decision by the commissioner to the Board of Health. The department agrees and this language has been added to the adopted rule

Concerning §325.566 and the time period the department is given to act upon submitted plans, it was suggested that this period should be lengthened because of public comment requirements which are applicable to the announcement of the board's decision and which were not taken into account when the time period was originally established. The department agrees and applicable wording has been added. Language related to the time period provides adequate flexibility.

Concerning §325.561(b)(3)(E)(i), it was recommended that the department replace the term "source separation" with language which broadens separation to include source, front end, and back end separation. The language has not been changed in the adopted rule since the term "processing" is already included and the meaning encompasses any process of shredding, hand separation, or mechanical separation that could take place.

Concerning §325.561(b)(4)(B), it was recommended that regional and local solid waste plans also be required to consider waste from incidental hazardous waste generators. The term "hazardous" waste is already included and is intended to include all hazardous waste, regardless of the source or quantity, to the extent that it may cause a problem. Therefore, the wording has not been changed in the adopted rule.

Concerning §325.561(b)(4)(C), it was recommended that the reference to inclusion of wastes regulated by other agencies be expanded to specify these wastes should be included when they go into facilities which are included in a plan under the department's review. Similar wording is already in §325.561(b)(4)(A) but has been repeated in this rule in response to the recommendation

Concerning §325.532, it was recommended that "materials recovery" be added into the definition for solid waste management and that the word "unrecovered" replace "nonrecoverable" in the definition for solid waste management system. Although inclusion of a definition of materials recovery has merit, it would be somewhat duplicative of the term "resource recovery," which is already defined. The new term has not been included in the adopted rule. Changing the word "nonrecoverable" to "unrecovered" also has merit, but to do so would cause a slight conflict with the definition of a solid waste management system which is used in the statute which mandates these rules--the Comprehensive Municipal Solid Waste Management, Resource Recovery, and Conservation Act. Therefore, the definition has not been changed in the adopted rule to incorporate the recommendation.

Concerning §325.564(a)(2), it was recommended that the Texas Air Control Board be mentioned specifically in the list of

state agencies whose requirements affecting solid waste management should be considered in local and regional plans. The department agrees and this recommendation has been incorporated in the adopted rule

The Houston Section of the American Planning Association passed a resolution dated March 22, 1985, which endorses the proposed guidelines and encourages the Board of Health to act quickly in adopting final rules and to place a high priority on allocating resources for plan development.

Concerning §325.901, the department found the existing form to be difficult to use when registering sites for the beneficial use of sludge by land application. To aid registrants in filling out the form, Section II of the form has been expanded to place all information requirements in one place within §325.901

The Texas Association of Regional Councils, the Houston-Galveston Area Council of Governments, the North Central Texas Council of Governments, and the Houston Section of the American Planning Association all submitted statements in support of the proposed guidelines. Charles Ware, director of the City of Houston's Solid Waste Management Department, submitted minor revisions to the proposed rules but did not express a position for or against the guidelines.

Subchapter N. Management of Sludges and Similar Wastes Land Application for Beneficial Use

★ 25 TAC §325.462

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

§325.462. *Basic Requirements for Land Application.*

- (a) (No change.)
- (b) Registration of land application for beneficial use sites. Operators of sites which qualify for exemption from a permit as set forth in §325.52 of this title (relating to Permit Exemptions) and for which a permit has not been issued shall register such sites with the department by utilizing the form contained in Section II of §325.901 of this title (relating to Appendix A—Application for a Permit/Registration to Operate a Municipal Solid Waste Site—Part A (General Data)). Registration of a site at which wastes are applied to the land for beneficial use is effective on the date that the department, by letter, acknowledges receipt of a properly completed application and pro-

vides the owner/operator a registration number. Site registration information on file with the department shall be confirmed or updated, in writing, whenever:

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

(2) requested by the department.

(c) Permits for land application for beneficial use sites. Although a permit is not required for the operation of a site used for land application of certain wastes for beneficial use, the operator of such a site may request the department to issue a permit. When a permit is requested, the application shall be prepared and processed in accordance with §§325.51-325.62, 325.71-325.75, and 325.91-325.95 of this title (relating to Permit Procedures and Design Criteria), as applicable. The design and operational requirements contained in §§325.461-325.465 of this title (relating to Land Application for Beneficial Use) shall be applicable to such permitted sites.

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 13, 1985

TRD-854248

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

Effective date: June 3, 1985

Proposal publication date: February 5, 1985

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

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Subchapter O. Guidelines for Regional and Local Solid Waste Management Plans

★ 25 TAC §§325.561-325.567

The new sections are adopted under the Comprehensive Municipal Solid Waste Management, Resource Recovery, and Conservation Act, Texas Civil Statutes, Article 4477-7c, §8(i)-(k) and §11(c)(3), which provides the Texas Department of Health with the authority to adopt rules for the use and distribution to public agencies and planning regions of money in the planning fund and to establish guidelines for regional and local solid waste management plans.

§325.561. *Purpose and Scope.*

(a) Purpose. The sections in this subchapter are intended to guide in the development and implementation of regional and local solid waste management plans. They specify the required and recommended content of regional and local solid waste management plans, provide for coordina-

tion with other programs and public participation, establish criteria for regional and local plan submission and approval, and set out criteria for financial assistance to regional and local governments for the development of regional and local solid waste management plans.

(b) Scope.

(1) Planning process. A regional or local solid waste management plan shall be the result of a planning process related to proper management of solid waste in the planning area under consideration. The process shall include identification of problems and collection and evaluation of data necessary to provide a written public statement of goals and objectives and the actions recommended to accomplish those goals and objectives.

(2) Geographic area. A regional solid waste management plan shall consider the entire area within an identified planning region and it shall provide an overview of the solid waste management situation throughout the region. A local solid waste management plan shall consider all of the area within the jurisdiction of one or more local governments, but it shall not include an entire planning region. It shall be more specific than a regional plan in addressing solid waste management problems and in providing for implementation.

(3) Management activities. The regional plan shall provide an overview of solid waste management activities, including institutional arrangements and options for private sector involvement, with particular emphasis on identifying priorities and factors which need more detailed consideration at the local level. The local plan should address local activities, including contractual agreements, in a manner that is specific enough to provide for implementation of suggested courses of action. Aspects of solid waste management listed in subparagraphs (A)-(J) of this paragraph shall be considered, as appropriate:

- (A) collection;
 - (B) transportation;
 - (C) storage;
 - (D) transfer;
 - (E) resource conservation and recovery:
 - (i) source separation;
 - (ii) incineration;
 - (iii) gasification; and
 - (iv) methane recovery;
 - (F) processing;
 - (G) treatment;
 - (H) disposal;
 - (I) management and institutional arrangements, including public and private sector involvement;
 - (J) costs and financing.
- (4) Waste types.

(A) The regional or local plan shall address all solid wastes in the particular region or local area to the extent the wastes impact upon municipal operations, systems, or facilities. Particular emphasis

shall be placed on waste that possesses the potential for adverse effects to health or the environment or which provides the opportunity for resource conservation or recovery.

(B) The regional or local plan shall consider, where appropriate, the types of solid waste listed in clauses (i)-(iv) of this subparagraph:

- (i) hazardous waste;
- (ii) residential, commercial, institutional, and recreational waste;
- (iii) waste from military reservations and installations;
- (iv) municipal sludge:
 - (I) wastewater treatment plant sludge;
 - (II) water supply treatment plant sludge;
 - (III) septage and other vacuum truck waste; and
 - (IV) grease and grit trap wastes;

(C) The regional or local plan should address, where applicable, wastes which may be governed by separate rules under the jurisdiction of other departments. Addressing these wastes is considered applicable where the impact upon municipal operations, systems, or facilities. The wastes which may need to be addressed:

- (i) industrial wastes;
- (ii) mining wastes; and
- (iii) agricultural wastes.

§325.563. Regional and Local Plan Requirements.

(a) Regional plans. A regional plan identifies the problems, goals, objectives, and recommended actions for solid waste management over a long-range period for the entire planning region.

(1) Geographic scope. The geographic scope of the regional planning process shall be the entire planning region designated by the governor. The regional plan shall use the four types of planning units listed in subparagraphs (A)-(D) of this paragraph as appropriate for the information presented. It is not anticipated that the regional plan will present site-specific information.

(A) Small geographic areas such as census tracts or city boundaries for the most detailed data collection and manipulation.

(B) Planning areas to be used for the assessment of problems and the evaluation of alternatives. These planning areas shall be aggregations of small geographic areas.

(C) County boundaries for the summarization and presentation of key information.

(D) The entire planning region.

(2) Planning periods. The regional planning process shall address solid waste management over a long-range period. Long range is considered to be a period of at least 15 years. The maximum planning

period addressed by the plan shall be stated on the plan cover and title page and at other appropriate locations within the body of the plan. The regional plan shall use the four planning periods listed in subparagraphs (A)-(D) of this paragraph as appropriate for the information presented.

(A) current and historical information;

(B) short-range planning period, one to five years, with specific information presented by year;

(C) intermediate planning period, six to 10 years, with information in less detail;

(D) long-range planning period, 11 to 15 years or longer, with information in the least detail.

(3) Plan content. A regional plan shall be the result of a planning process related to the proper management of solid waste in the planning region. The process shall include identification of problems and collection and evaluation of the data necessary to provide a written public statement of goals and objectives and actions recommended to accomplish those goals and objectives. The regional plan shall include:

(A) population patterns, commercial and industrial data, and other demographic information necessary to estimate solid waste quantities and characteristics;

(B) estimates of current and future solid waste amounts by type;

(C) current and planned solid waste management activities in the region and an assessment of the adequacy of existing resource recovery, storage, transportation, treatment, and disposal facilities and practices;

(D) identification of public and private management agencies and responsibilities;

(E) identification of solid waste management problems and establishment of priorities for addressing those problems;

(F) planning areas and agencies with common solid waste management problems which could be addressed through joint action;

(G) incentives and barriers for waste reduction and resource recovery, including identification of potential markets;

(H) regional goals and objectives;

(I) advantages and disadvantages of alternative actions; and

(J) the recommended plan of action and associated timetable, including the need for new or expanded facilities and practices.

(4) Special considerations or restrictions. The regional plan shall not prohibit, in fact or by effect, importation or exportation of waste from one political jurisdiction into another.

(b) Local plans. A local plan addresses specific short- or long-range prob-

lems and actions related to solid waste management within the jurisdiction of one or more local governments and may be developed regardless of whether a regional plan has been developed which will affect the local planning area.

(1) Geographic scope. The geographic scope of the local planning process shall be the jurisdiction of one or more local governments with common problems or needs, but shall not include the entire planning region. The local plan shall use the three types of planning units listed in subparagraphs (A)-(C) in this paragraph as appropriate for the information presented. In certain cases the local plan may present site-specific information:

(A) small geographic areas such as census tracts or city boundaries for the most detailed data collection and manipulation. These small areas should be the same as those used in the regional plan;

(B) planning areas to be used for the assessment of problems and the evaluation of alternatives. These planning areas should be aggregations of the small geographic areas;

(C) the entire area encompassed by the local plan.

(2) Planning periods. The local planning process shall address specific short- or long-range problems and actions in solid waste management. The maximum planning period addressed by the plan shall be stated on the plan cover and title page and at other appropriate locations within the body of the plan. The local plan should use the planning periods listed in subparagraphs (A)-(D) of this paragraph as appropriate for the information presented:

(A) current and historical information;

(B) short-range planning period, one to five years, with specific information presented by year;

(C) intermediate planning period, six to 10 years, with information in less detail;

(D) long-range planning period, 11 to 15 years or longer.

(3) Plan content. A local plan shall be the result of a planning process that is related to the proper management of solid waste in the local planning area. The process shall include identification of problems and collection and evaluation of the data necessary to provide a written public statement of goals and objectives and the actions recommended to accomplish those goals and objectives. As applicable, the local plan should include:

(A) population and commercial and industrial data from the regional planning process, supplemented with other local demographic information as necessary;

(B) composition, characteristics, and amounts of waste, by type, which affect the local planning area;

(C) identification of the short- and long-range solid waste management

problems within the local planning area;

(D) local goals and objectives associated with management problems;

(E) advantages and disadvantages of alternative actions; and

(F) the recommended plan of action and associated timetable for accomplishing the goals and objectives.

(4) Special considerations or restrictions. The local plan shall not prohibit, in fact or by effect, importation or exportation of waste from one political jurisdiction to another.

§325.564. Coordination with Other Programs.

(a) All solid waste plans shall be consistent with provisions established by federal, state, and local programs that affect solid waste management and shall consider programs and requirements from:

(1) federal jurisdiction—U.S. Environmental Protection Agency;

(2) state jurisdiction:

(A) Texas Department of Health;

(B) Texas Department of Water Resources;

(C) Railroad Commission of Texas;

(D) Texas Air Control Board;

and

(E) other state agencies.

(3) substate jurisdiction:

(A) regional planning agencies;

(B) special districts or authorities;

(C) counties; and

(D) cities.

(b) All solid waste management plans shall consider other programs and responsibilities with the aim of avoiding duplication of effort and gaps in program coverage.

§325.566. Procedures for Regional and Local Plan Submission and Approval.

(a) Prior to the submission of a plan, the plan shall be adopted by the regional planning agency or local government(s) pursuant to applicable administrative procedures. Local governments shall coordinate with the appropriate regional solid waste planning agency and ensure the plan is consistent with any regional solid waste management plan in effect for the region encompassing the jurisdiction of the local government, if a regional plan has been approved by the department.

(b) Within 90 days after a regional or local plan has been submitted, the commissioner will tentatively determine if the plan conforms to this subchapter and the state solid waste management plan. The commissioner will communicate this determination to the agency which submitted the plan. If the plan is not in conformance, a notice of deficiencies will be provided to the planning agency within 30 days of the tentative disapproval. The commissioner has authority to disapprove any plan which has deficiencies.

Disapproved plans will not be considered by the board until the commissioner determines that deficiencies have been corrected, unless the applicant submits a request for appeal to the board. In order for a plan to be considered under such circumstances, the appeal must be in writing and must be submitted to the commissioner within 30 days following the day the applicant receives notification of tentative plan disapproval by the commissioner.

(c) If the commissioner tentatively determines a regional or local plan meets the requirements of this subchapter, is in conformance with the state solid waste management plan, and should be approved, the commissioner will submit the plan to the board, which, if it concurs with the commissioner's approval, shall approve a plan by adopting a rule in accordance with the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a. Board action on the plan will normally occur within 60 days of the tentative decision by the commissioner to approve the plan, but the approval will not be effective until the plan has completed the rulemaking process specified by the Administrative Procedure and Texas Register Act, i.e., publication of the proposed action in the *Texas Register*, a 30-day public comment period, and publication of the final rule action in the *Texas Register*. If approved, the commissioner will notify the planning agency of the board's approval. In the event the plan is not approved, the board will state the plan's deficiencies and the commissioner will immediately notify the planning agency of the board's decision and the plan's deficiencies. The plan may be resubmitted for approval if the commissioner determines that deficiencies have been corrected.

(d) If a regional or local solid waste management plan is adopted by rule of the board, public and private solid waste management activities and state regulatory activities shall conform to the adopted regional or local solid waste management plan. The plan shall only remain in effect during the planning period defined in the plan. When the effective date or planning period has passed or expired, requirements or restrictions of the plan shall no longer be binding. Under procedures and criteria of subsections (g) and (h) of this section, the commissioner may grant a variance from an adopted regional or local solid waste management plan.

(e) If a portion of a regional or local plan is determined by the commissioner to no longer be in compliance with the state solid waste management plan or these sections, the commissioner may request that the regional body or local government revise the plan. If such a revision is not submitted to the department within 180 days, the commissioner may ask the board to withdraw its approval of that portion of the plan.

(f) A planning agency may submit revisions or updates to an approved plan that reflect new information or changed conditions. These revisions shall be considered by the same procedures as original plan submission and approval.

(g) Upon application, the commissioner may grant a variance from an adopted regional or local solid waste management plan when:

(1) application of the plan creates unnecessary hardship;

(2) equally safe, effective methods could be used;

(3) practical difficulties are encountered in meeting the requirements of a plan; or

(4) deviation or exception would not affect substantial compliance with the plan and not threaten health or safety.

(h) If the commissioner intends to grant a variance from the requirements of a plan, the department will offer the opportunity for a public hearing on the matter prior to the commissioner's final decision. The hearing, if requested, will be advertised and conducted within the area affected by the plan.

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 13, 1985

TRD-854249

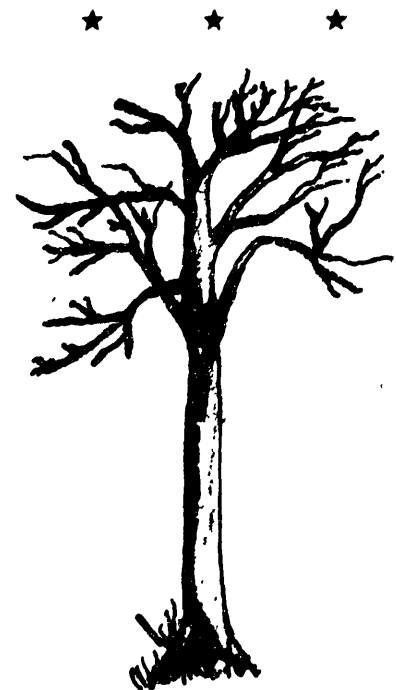
Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of
Health

Effective date June 3, 1985

Proposal publication date: February 26, 1985

For further information, please call

(512) 458-7271.



Subchapter X. Forms and Documents

★ 25 TAC §325.901, §325.906

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

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 13, 1985

TRD-854250

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

Effective date: June 3, 1985
Proposal publication date: February 5, 1985
For further information, please call
(512) 458-7271.

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

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

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

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

**PART A - GENERAL DATA
SECTION I - ALL SITES**

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

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

PERMIT/REGISTRATION APPLICATION NO. _____ (Applicant Leave Blank)

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

NOTE: Individuals requesting Registration of a Land Application for Beneficial Use Site must complete Section II.

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

(*) See Subchapter D of the rules

Facility is: Existing _____ Proposed _____ (Check One)
(Date Established)

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

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

Appendix A, continued

Name of Applicant _____

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

Geographic coordinates: _____

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

County of _____ City Limits of City of _____

Extraterritorial jurisdiction (ETJ) of City of _____

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

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

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

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

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

Appendix A, continued

Name of Applicant _____

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

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

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

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

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

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

Appendix A, continued

Name of Applicant _____

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

(Signature of Applicant or Authorized Agent)

(Typed or Printed Name and Title)

(Street or P. O. Box)

(City) (State) (Zip Code)

(Area Code) (Telephone)

(Date)

1. For registration of a site to be used for trench burner operations, submit a copy of the Texas Air Control Board permit for the trench burner and all items required by Section I.
2. The following form is to be used by persons applying wastewater treatment plant sludge, septage (septic tank pumpings), and/or water supply treatment plant sludge to land under the provisions of 25 TAC § 325.461 - 325.465.

**REQUEST FOR REGISTRATION OF A
LAND APPLICATION FOR BENEFICIAL USE SITE**

This form is to be used by persons applying wastewater treatment plant sludge, septage (septic tank pumpings), and/or water supply treatment plant sludge to land under the provisions of 25 TAC § 325.461 - 325.465 (relating to Land Application for Beneficial Use) and must be submitted by the site operator before a site of application can be registered as specified in 25 TAC § 325.462(b). This form cannot be used to request issuance of a permit as described in 25 TAC § 325.462(c). Mail the completed form to:

Texas Department of Health
Bureau of Solid Waste Management
1100 West 49th Street
Austin, Texas 78756

Please submit the original and two (2) copies of this form and three copies of the legal description described in Part XIV of this form. Instructions regarding submission of maps are given in Part V of this form. Do not submit any other supporting documents unless requested by the Texas Department of Health (TDH).

Failure to submit the required number of originals or copies, or to provide complete information, will delay processing this request for registration. ALL ENTRIES ON THIS FORM MUST BE TYPED OR PRINTED CLEARLY IN BLACK INK.

REGISTRATION NUMBER _____ (For TDH Use) Region No. _____ (for TDH Use)

- I. **SITE OPERATOR/REGISTRANT.** A person applying waste to the land for beneficial use is the site operator and is responsible for complying with operator requirements for such sites, including the land application standards of 25 TAC § 325.463 and the sampling, analysis, and records requirements of 25 TAC § 325.464.

A. Name: _____
(Individual, Corporation, Government Agency, or other legal entity)

B. Telephone Number: _____ (_____) _____ - _____

C. Street Address: _____
_____ Zip Code _____

D. Mailing Address: _____
_____ Zip Code _____

Appendix A, continued

Name of Site Operator/Registrant _____

II. AGENT FOR THE SITE OPERATOR/REGISTRANT. A person authorized to act for the site operator/registrant is an agent for the site operator/registrant.

- A. Name: _____
(Individual, Corporation, Government Agency, or other legal entity)
- B. Function: _____
(Registration Request, Site Operations, Operational Records, etc.)
- C. Telephone Number: _____ (_____) _____ - _____
- D. Street Address: _____
_____ Zip Code _____
- Mailing Address: _____
_____ Zip Code _____

III. LANDOWNER. The person owning the land contained within the boundary of the site as described in the attached legal description is the landowner.

- A. Name: _____
(Individual, Corporation, Government Agency, or other legal entity)
- B. Telephone Number: _____ (_____) _____ - _____
- C. Mailing Address: _____
_____ Zip Code _____

IV. SITE LOCATION AND AREAS. The site is the land contained within the boundary described in the attached legal description.

- A. Site Location. Complete applicable statements.
1. The site is in _____ county or counties.
 2. The site is within the city limits of _____.
 3. The site is outside city limits but is within the extraterritorial jurisdiction of the city of _____.
 4. The site is outside city limits and city extraterritorial jurisdiction and the nearest community with a population of over 250 persons is _____.

Appendix A, continued

Name of Site Operator/Registrant _____

- B. Site Area. The area contained within the boundary of the site as described in the attached legal description is the site area and is _____ acres.
- C. Waste Application Area. The area or areas contained within the site boundary and proposed to receive waste is the waste application area and is _____ acres. (if more than one area, enter the sum of the acreages).

V. SITE MAPS. Fold all maps being submitted to a size of 8 1/2 x 11 inches and attach to this request for registration.

A. General Location Map. This map must be at a scale of 1 inch equals 2 miles and must be submitted in triplicate. Copies or portions of published maps are not acceptable.

1. Submit the number of General Highway (County) Maps most recently published by the State Department of Highways and Public Transportation required to show all area within at least one mile of the site boundary.
2. Mark the map in red to show the boundary of the site and label the boundary appropriately.
3. If two or more county maps are needed to meet the requirements of Part V-A-1 of this form, it is not necessary to splice them together.

B. Topographic Map. This map must be at a scale of 1:24,000 or 1:62,500 as explained below. Only one topographic map is required to be submitted. Copies or portions of published maps are not acceptable. Maps submitted must be the latest revised versions.

1. If the site area is on a 7 1/2 minute series topographic map (scale 1:24,000) distributed by the U.S. Geological Survey, submit the number of such maps required to show all area within at least 1,000 feet of the site boundary.
2. If the site is not on a 7 1/2 minute series topographic map but is on a 15 minute series topographic map (scale 1:62,500) distributed by the U.S. Geological Survey, submit the number of such maps required to show all area within at least 1,000 feet of the site boundary.
3. In some instances, a combination of 7 1/2 minute and 15 minute topographic maps will have to be submitted to satisfy the requirements of Part V-B-1 and Part V-B-2 of this form.
4. If two or more topographic maps of the same scale are needed to meet the requirements of Part V-B-1 or Part V-B-2 of this form, the maps should be spliced together.

5. Mark the topographic map to show the boundary of the site and label the boundary appropriately.
 6. Mark the 7 1/2 minute topographic map or, if scale permits, the 15 minute topographic map, to show the approximate boundary of the waste application areas. It is imperative that the boundary of such areas be drawn to conform with the limitations imposed by 25 TAC § 325.463(e), § 325.463(f), and § 325.463(g). Label such areas appropriately.
 7. If scale does not permit marking the boundary of waste application areas on the 15 minute topographic map, submit a line drawing of the site at a scale of 1 inch equals no more than 2,000 feet which, as a minimum, shows the following:
 - a. The boundary of the site (labeled appropriately).
 - b. The approximate boundary of waste application areas (labeled appropriately).
 - c. A north arrow.
 - d. An indication of the scale of the drawing.
- C. Soils Map.** Only one soils map is required to be submitted.
1. If the site area is on a soils map published or intended to be published in a Soil Survey report prepared under the primary leadership of the U.S. Department of Agriculture, Soil Conservation Service, submit the number of such maps required to show all area within at least 1,000 feet of the site boundary.
 2. If two or more soils maps are needed to meet the above requirement, the maps should be spliced together.
 3. Copies of the soils maps are acceptable provided that they are the same size and scale as, and are equal in quality to, the maps as published or intended to be published.
 4. Mark the soils map in red to show the boundary of the site and label the boundary appropriately.
 5. Mark the soils map in red to show the approximate boundary of the waste application areas. It is imperative that the boundary of such areas be drawn to conform with the limitations imposed by 25 TAC § 325.463(e), § 325.463(f), and § 325.463(g). Label such areas appropriately.
 6. Submit a copy of the plate contained within the Soil Survey report which provides the "Soil Legend" and the "Conventional Signs" explanation. Annotate this copy with:

VIII. **WASTEWATER TREATMENT PLANT INFORMATION.** Provide the information indicated on Table 1 of this form for each wastewater treatment plant furnishing sludge to be applied at the site if such data is available when this request for registration is submitted; otherwise, submit such data as soon as it is available but not later than 10 days prior to initial application of the wastewater sludge.

IX. **WASTEWATER SLUDGE CHARACTERISTICS.** Provide the information indicated on Table 1 of this form for each wastewater sludge to be applied at the site if such information is available when this request for registration is submitted; otherwise, submit such information as soon as it is available but not later than 10 days prior to initial application of the wastewater sludge.

X. **SEPTAGE CHARACTERISTICS.** Complete applicable statements regarding characteristics of septage immediately prior to application to the land surface or incorporation into the soil at the site.

A. Septage will be stabilized by a _____ Process to Significantly Reduce Pathogens (PSRP) or by a _____ Process to Further Reduce Pathogens (PFRP) as listed and described in 40 CFR Part 257, Appendix II. Use the terminology in PSRP and PFRP lists to describe the process to be used.*

B. The expected range in solids concentration in the septage will be _____ to _____ percent.

*If the septage will not be stabilized to reduce pathogens using a process in the PSRP or PFRP lists, the site operator/registrant must submit a separate request for an exception to the requirement for stabilization to reduce pathogens in accordance with the instructions contained in 25 TAC § 325.533 (c)(3).

XI. **WATER SUPPLY TREATMENT PLANT INFORMATION AND SLUDGE CHARACTERISTICS.** Provide the following information for each water supply treatment plant furnishing sludge, and for each water supply sludge, to be applied at the site if such information is available when this request for registration is submitted; otherwise, submit the information as soon as it is available but not later than 10 days prior to initial application of the sludge.

A. Treatment Plant Information.

1. Name of Operator: _____.

2. TDH Water System Identification No: _____.

3. Name of Plant: _____.

Appendix A, continued

Name of Site Operator/Registrant _____

- a. The date that the soil names and descriptions were approved or the date that the Soil Survey was issued.
 - b. The approximate date of the aerial photographs serving as a base for the soils maps submitted.
7. Do not submit soil series descriptions, general soil maps, ratings of soils for various purposes, etc. with this request for registration.

VI. TYPE OF WASTE. Check applicable types of waste to be applied.

- A. Wastewater Treatment Plant Sludge _____
- B. Septage* _____
- C. Water Supply Treatment Plant Sludge _____

*Restricted to pumpings from septic tanks receiving sanitary waste from single and multiple residences, schools, hotels, motels, and restaurants, etc. (does not include waste from grease traps or grit traps).

VII. APPLICATION RATES. Complete applicable statements.

A. Wastewater Treatment Plant Sludge and/or Septage.

1. The expected quantity of these types of waste to be applied annually on the _____ acre waste application area (the area given in Part IV-C of this form) will be _____ dry tons.
2. Assuming uniform distribution, the expected application rate for these types of waste on the waste application area will therefore be _____ dry tons per acre per year.*

*The site operator/applicant must submit a separate request for approval of an application rate exceeding 8 dry tons per acre per year in accordance with instructions contained within 25 TAC § 329.465(c).

B. Water Supply Treatment Plant Sludge.

1. The expected quantity of this type of waste to be applied annually on the _____ acre waste application area (the area given in Part IV-C of this form) will be _____ dry tons.
2. Assuming uniform distribution, the expected rate of application of this type of waste on the waste application area will therefore be _____ dry tons per acre per year.

Appendix A, continued

Name of Site Operator/Registrant _____

B. Sludge Characteristics.

1. The expected range in solids concentration of the sludge will be _____ to _____ percent.
2. The expected range of pH of the sludge will be _____ to _____.

XII. METHOD OF TRANSPORTATION. Describe the expected method or methods of transportation of waste to the site:

XIII. METHOD OF APPLICATION/INCORPORATION. Describe the expected method or methods of application of waste to land and/or incorporation of waste into the soil at the site:

Appendix A, continued

Name of Site Operator/Registrant _____

XIV. LANDOWNER AFFIDAVIT. The landowner must complete the following affidavit. The legal description referred to in the following affidavit must describe the boundary of the site as shown on the site map(s) and the area contained within the site boundary as stated in Part IV-B of this request for registration.

LANDOWNER AFFIDAVIT

I, _____, the owner of record of the land described in the attached legal description, have all rights and covenants to lease, rent or assign to _____ (name of site operator/registrant if different from name of landowner) the land described.

I acknowledge and am aware that _____ (name of site operator/registrant) plans to submit a request for registration of a land application for beneficial use site upon such land to the Texas Department of Health and plans to apply _____

_____ (wastewater treatment plant sludge, septage, and/or water supply treatment plant sludge) to such land.

I acknowledge that if such land has received cadmium from sludge and/or septage in excess of the annual or cumulative rate limitations in 40 CFR § 257.3-5, it is my responsibility to file with the county deed records, upon transfer of title to such land, an affidavit to the public advising that the land should not be used to grow food chain crops due to a possible health hazard.

WITNESS MY HAND on this the _____ day of _____, 19____.

(Signature of Landowner)

SWORN TO AND SUBSCRIBED before me on this the _____ day of _____, 19____.

Notary Public in and for
_____ County, Texas

Appendix A, continued

Name of Site Operator/Registrant _____

IV. SITE OPERATOR/REGISTRANT SIGNATURE AND TITLE, AND DATE OF REQUEST.

A. _____
(Signature)

B. _____
(Typed or Printed Name and Title)

C. _____
(Name of Corporation, Government Agency, or other legal entity)*

D. _____
(Date)

*Complete this part if the site operator/registrant is not an individual; must agree with the entry in Part I-A of this form.

**Table 1
WASTEWATER TREATMENT PLANT INFORMATION AND SLUDGE CHARACTERISTICS**

Wastewater Treatment Plant Information				Wastewater Sludge Characteristics (1)			
Name of Operator	Name of Plant	Permit Number		Process to Reduce Pathogens		Expected Range of Values	
		TDWR	NPDES	PSRP (2)	FFRP (3)	% Solids	pH

- (1) Characteristics immediately prior to application to the land surface, or incorporation into the soil.
- (2) Processes to Significantly Reduce Pathogens (PSRP) as listed and described in 40 CFR Part 257, Appendix II. Give the number of the process used from the following list (1) Aerobic Digestion, (2) Air Drying, (3) Anaerobic Digestion, (4) Composting, (5) Lime Stabilization, or (6) Other Methods (describe _____)
- (3) Processes to Further Reduce Pathogens (FFRP) as listed and described in 40 CFR Part 257, Appendix II. Give the number of the process used, if any, from the following list (7) Composting, (8) Heat Drying, (9) Heat Treatment, (10) Thermophilic Aerobic Digestion, (11) Other Methods (describe _____)

Appendix A, continued

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

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

SECTION III - HAZARDOUS WASTE SITES

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

1. List up to four Standard Industrial Classification (SIC) codes which best reflect the principal products or services provided by the facility (Standard Industrial Classification Manual (District of Columbia Executive Office of the President - Office of Management and Budget, 1972)). _____
2. Status of owner (Federal)(State)(Private)(Public)(Other, specify). _____
3. Status of operator (Federal)(State)(Private)(Public)(Other, specify). _____
4. Facility located on Indian lands? Yes _____ No _____
5. On the topographic (or other) map submitted, indicate location of each hazardous waste treatment, storage or disposal facility and any drinking water wells and springs within 1/4 mile
6. Briefly describe the nature of business conducted at the facility (attach supplemental sheet(s) if needed) _____

7. Is this an initial or revised application? Initial _____ Revised _____
8. If an existing facility, submit a scale drawing of the facility (8 1/2" x 11") showing property boundaries, location of all past, present, and future treatment, storage, and disposal areas.
9. If an existing facility, submit photographs of the facility clearly delineating all existing structures, existing treatment, storage, and disposal areas, and sites of future treatment, storage, and disposal areas.
10. Describe the processes (treatment, storage, disposal) (used) (to be used) and the design capacities of each (obtain current process code data from the department). _____

Appendix A, continued

11. List the hazardous waste (to be) treated, stored, disposed annually and general description of processes (to be) used for each waste (obtain current listing of hazardous waste from the department). _____
- _____
- _____

(Attach additional sheets if necessary)

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 13, 1985

TRD-854251

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

Effective date: June 3, 1985

Proposal publication date: February 5, 1985

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

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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 Cosmetology Commission

Saturday, June 1, 1985, 9:30 a.m. The Texas Cosmetology Commission will meet at the Embassy Suites Hotel, 6100 Gateway East, El Paso. According to the agenda, the commission will consider extensions of the time limit on student hours for Sheila Hanshew, Andrew Sanchez, and Kelle Marie Smith; hear a presentation by James E. Conley regarding the sale of Hicks Beauty School; consider proposed rule changes, the prior meeting minutes; old and new business, and agreed orders; and conduct a disciplinary hearing concerning Ron Renee.

Contact: Champ R. Kerr, 1111 Rio Grande Street, Austin, Texas 78701, (512) 475-5460.

Filed: May 15, 1985, 1:59 p.m.
TRD-854327

Sunday, June 2, 1985, 9 a.m. The Texas Cosmetology Commission will meet at the Embassy Suites Hotel, 6100 Gateway East, El Paso. Items on the agenda include an Inspection Oversight Committee meeting with inspection supervisors and the Employment Screening Committee.

Contact: Champ R. Kerr, 1111 Rio Grande, Austin, Texas 78701, (512) 475-5460.

Filed: May 15, 1985, 1:58 p.m.
TRD-854328

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Texas Economic Development Commission

Friday, May 17, 1985, 10:45 a.m. The Texas Small Business Industrial Development Corporation of the Texas Economic Development Commission made emergency additions to the agenda for a meeting held in the executive boardroom, Ramada Hotel, 5701 South Broadway, Tyler. The additions concerned election of officers and discussion and possible action concerning the chang-

ing of application fees. The emergency status was necessary because the former officers' terms expired.

Contact: John H. Kirkley, 410 East Fifth Street, Austin, Texas 78701, (512) 472-5059.

Filed: May 14, 1985, 10:35 a.m.
TRD-854294

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Texas Education Agency

Wednesday, May 29, 1985, 10 a.m. The Committee for Long-Range Planning of the State Board of Education of the Texas Education Agency (TEA) will meet in the Orbit Room, lower level, East Tower, Amfak Hotel, Dallas/Fort Worth Airport. According to the agenda, the committee will consider a presentation by the Educational Productivity Council and discuss goals, objectives, and the format of the long-range plan.

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

Filed: May 15, 1985, 4:24 p.m.
TRD-854347

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Office of the Governor

Thursday and Friday, May 23 and 24, 1985, 8 a.m. and 8:30 a.m. respectively. The State Job Training Coordinating Council of the Office of the Governor will meet at the La Mansion Hotel, IH 35 and U.S. Highway 290 East, Austin. Items on the agenda summary include council review of Title II-A and II-B SDA plans for program year 1985, the Texas Department of Community Affairs' corrective action policy, the establishment of an independent staff to the council, the Wagner-Peyser Plan for program

year 1985, and a state plan to provide re-employment services to dislocated workers.

Contact: Steve Spinner, 201 East 14th Street, Room 412, Austin, Texas 78701, (512) 475-1147.

Filed: May 15, 1985, 4:04 p.m.
TRD-854346

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Texas Health Facilities Commission

Thursday, May 16, 1985, 1:30 p.m. The Texas Health Facilities Commission made an emergency addition to the agenda of a meeting held in Suite 305, Jefferson Building, 1600 West 38th Street, Austin. The addition concerned consideration of an application for a declaratory ruling in Certificate of Need AN85-0409-241 of Ranger Park Hospital and Ranger Park Inn, Inc., of Santa Anna. The emergency status was necessary for an orderly transfer of the facility's operation, thus preventing possible disruption of service to existing patrons.

Contact: John R. Neel, P.O. Box 50049, Austin, Texas 78761.

Filed: May 16, 1985, 9:08 a.m.
TRD-854353

Thursday, May 23, 1985, 1:30 p.m. The Texas Health Facilities Commission will meet in Suite 304, Jefferson Building, 1600 West 38th Street, Austin. According to the agenda summary, the commission will consider the following applications:

- Certificates of Need
- Irving Campus of Care, Irving
AN84-0706-104
- Driscoll Foundation Children's Hospital,
Corpus Christi
AH84-1116-721
- Medical Center of Winnie, Winnie
AH84-1126-739

Lufkin Nursing Center, Lufkin
AN84-0710-452
Angelina Nursing Home, Inc., Lufkin
AN84-0808-518
Irving Community Hospital, Irving
AH85-0206-094
Saint Elizabeth Hospital, Beaumont
AH85-0227-142
Eastway General Hospital, Houston
AN85-0308-154
Lavaca Nursing Center, Port Lavaca
AN85-0201-090
Saint Luke's Episcopal Hospital,
Houston
AH85-0312-166
Saint John Hospital, Nassau Bay
AH85-0305-150

Amendments of Certificate of Need Orders
Methodist General Hospital, Dallas
AH80-0115-015A(041285)
Methodist Central Hospital, Dallas
AH84-0420-248A(041285)
University of Texas Cancer Center, M.D.
Anderson Hospital and Tumor
Institute, Houston
AH83-0208-102A(032685)

Declaratory Rulings
Medical Facilities Development, Inc., on
behalf of a to-be-formed Texas limited
partnership, San Antonio
AO85-0411-246
Winnwood Nursing Home, Winnsboro
AN85-0222-134

Declaratory Ruling/Notice of Intent to
Acquire an Existing Health Care Facility
Ranger Park Hospital and Ranger Park
Inn, Inc., Santa Anna
AN85-0409-241

Contact: John R. Neel, P.O. Box 50049,
Austin, Texas 78761.

Filed: May 15, 1985, 9:14 a.m.
TRD-854316

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State Department of Highways and Public Transportation

Wednesday and Thursday, May 22 and 23,
1985, 9 a.m. daily. The State Highway and
Public Transportation Commission of the
State Department of Highways and Public
Transportation will meet in Room 101-A
and the auditorium, Room 101, respective-
ly, Dewitt C. Greer State Highway Building,
11th and Brazos Streets, Austin. According
to the agenda summary, the commission
will meet on Wednesday to execute contract
awards and routine minute orders, consider
decisions on presentations from public hear-
ing dockets, and review staff reports relative
to planning and construction programs and
projects. On Thursday, the commission will
receive presentations by the public for

various highway, bridge, and FM road re-
quests concerning Jefferson County; Jim
Wells, Live Oak, and Brooks Counties;
Liberty County; Tarrant County; Upshur
and Gregg Counties; Tarrant County; and
Sabine County.

Contact: Lois Jean Turner, Dewitt C. Greer
Building, Room 203, 11th and Brazos
Streets, Austin, Texas 78701, (512) 475-
3525.

Filed: May 14, 1985, 1:57 p.m.
TRD-854300

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Texas Housing Agency

Wednesday, May 22, 1985, 10 a.m. The
Board of Directors of the Texas Housing
Agency (THA) will meet in Suite 700, 411
West 13th Street, Austin. According to the
agenda summary, the board will approve
the minutes; introduce new THA staff and
a resolution honoring Rachel Ortiz; con-
sider quarterly financial reports; consider
and possibly act on recommendations of the
Finance and Audit Committee for budget
revisions; consider a resolution authorizing
and approving the issuance, sale, and
delivery of \$11.72 million multifamily hous-
ing revenue bonds, 1985 Series C (Phoenix
Mutual Life Insurance Company, Mortgage
Loan Guarantor); approve the form and
substance of a trust indenture, a third sup-
plemental trust indenture, owner commit-
ment agreement; and authorize and ratify
other documents.

Contact: Earline Jewett, P.O. Box 13941,
Austin, Texas 78711, (512) 475-0812.

Filed: May 14, 1985, 2:02 p.m.
TRD-854295

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University of Houston System

Tuesday, May 21, 1985, 1:15 p.m. The Sub-
committee for Evaluation of University Of-
ficers of the Board of Regents of the
University of Houston System will meet in
Room 510, Enterprise Bank Building, 4600
Gulf Freeway, Houston. According to the
agenda, the subcommittee will discuss and/
or approve the process for and evaluation
of university officers.

Contact: Michael T. Johnson, 4600 Gulf
Freeway, Suite 500, Houston, Texas 77023,
(713) 749-7545.

Filed: May 16, 1985, 9:11 a.m.
TRD-854355

Tuesday, May 21, 1985, 2 p.m. The Board
of Regents of the University of Houston
System will meet in Room 510, Enterprise

Bank Building, 4600 Gulf Freeway, Hous-
ton. According to the agenda summary, the
board will consider the election of board of-
ficers for fiscal year 1986, banking resolu-
tions concerning new accounts, equipment
donation guidelines for the fiscal year 1986
operating budget development, fall 1985 fee
changes, the awarding of various contracts,
the approval of leases, gift acceptance re-
ports, a promotion in academic rank, role
and scope statements, the faculty dismissal
policy, an institutional plan for televised in-
struction, the KUHT quarterly report, resolu-
tions concerning grants, a faculty emeriti
appointment, the 1985-1986 holiday sched-
ule, personnel recommendations, overseas
programs, gifts, on-line registration, reports,
revision of policies, and the consent docket.

Contact: Michael T. Johnson, 4600 Gulf
Freeway, Suite 500, Houston, Texas 77023,
(713) 749-7545.

Filed: May 16, 1985, 9:11 a.m.
TRD-854354

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Texas Department of Mental Health and Mental Retardation

Committees of the Texas Board of Mental
Health and Mental Retardation of the Texas
Department of Mental Health and Retar-
dation (MHMR) and the full board will
meet in the auditorium, central office, 909
West 45th Street, Austin. Days, times, com-
mittees, and agendas follow.

Friday, May 24, 1985, 10 a.m. The Business
Committee will consider transfers and
reallocations of funds for fiscal year 1985,
transfers of utility funds for fiscal year
1985, and quarterly budget additions and
revisions for fiscal year 1985; and consider
a presentation by Tropical Texas Communi-
ty Center and a telecommunications report.

Friday, May 24, 1985, 11:30 a.m. The Ex-
ecutive Committee will consider a resolu-
tion of appreciation to Rush H. Record and
the establishment of an advisory board to
the Texas Board of MHMR on public in-
formation issues.

Friday and Saturday, May 24 and 25, 1985,
at 1:30 p.m. and 9:30 a.m. respectively. The
board will approve the April 19, 1985, min-
utes; consider the commissioner's calendar,
recommendations for board consideration,
the Executive Committee, the Business
Committee, citizen's comments, and the
status of pending or contemplated litiga-
tion.

Contact: Gary E. Miller, M.D., P.O. Box
12668, Austin, Texas, (512) 465-4588.

Filed: May 14, 1985, 4:29 p.m.
TRD-854310-854312

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State Board of Morticians

Tuesday, May 21, 1985, 8:30 a.m. The State Board of Morticians made emergency revisions to the agenda of a meeting to be held at 1513 IH 35 South, Austin. According to the revised agenda, the board will consider applicants for reinstatement of licenses and apprenticeships and discuss rule clarification and changing guidelines on commercial establishments with a licensee. The emergency status is necessary because all credentials are not received until after the deadline.

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

Filed: May 15, 1985, 9:26 a.m.
TRD-854317

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Texas National Guard Armory Board

Saturday, June 1, 1985, 1 p.m. The Texas National Guard Armory Board will meet in the conference room, Building 64, Camp Mabry, Austin. According to the agenda summary, the board will consider administrative and fiscal matters and facility construction, remodeling, and renovation.

Contact: Donald J. Kerr, P.O. Box 5218, Austin, Texas 78763, (512) 451-6394.

Filed: May 16, 1985, 8:56 a.m.
TRD-854356

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North Texas State University

Tuesday, May 21, 1985, 11:30 a.m. The Board of Regents of the College of Osteopathic Medicine (TCOM) of North Texas State University (NTSU) will meet in the boardroom, NTSU, Denton. According to the agenda, the board will consider faculty development leaves, the fee register for fiscal year 1986, parking lot repairs, and asbestos removal for NTSU. The board also will meet in executive session pursuant to Texas Civil Statutes, Article 6252-17(g), to discuss personnel, the appointment of acting president, and a title change for the vice-president and the dean for academic affairs of TCOM.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2198.

Filed: May 15, 1985, 9:06 a.m.
TRD-854318

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Board of Nurse Examiners

Wednesday-Friday, May 15-17, 1985, 8 a.m. daily. The Board of Nurse Examiners made an emergency addition to the agenda of a meeting held at the Sunrise Motor Hotel, 7622 IH 35 North, Austin. The addition concerned education and Corpus Christi State University. The emergency status was necessary because the item was inadvertently omitted from the agenda and needed action prior to the next regularly scheduled board meeting.

Contact: Margaret Rowland, R.N., 1300 East Anderson Lane, Suite C-225, Austin, Texas 78752, (512) 835-4880.

Filed: May 14, 1985, 1:37 p.m.
TRD-854301

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Public Utility Commission of Texas

Tuesday, May 21, 1985, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet in emergency session in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the division will conduct a prehearing conference in Docket 6277—petition of Texas Utilities Electric Company for review of Ordinance 1985-14 of the City of Waco. The emergency status is necessary because the case must be discussed within the 185-day statutory time limit to avoid violation of due process regulations.

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

Filed: May 15, 1985, 9:27 a.m.
TRD-854319

Wednesday, May 22, 1985, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda summary, the division will consider Dockets 6054, 5798, 6173, 6162, 5860, 5706, 5509, 5625, 6280, 6158, 5830, 5849, 5599, 5593, 4525, 4497, 4674, 5270, 5938, 6104, 5653, and 5736; and 16 TAC §23.66—motion of rehearing and request for statement of reasons. The division 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: May 14, 1985, 2:46 p.m.
TRD-854306

Wednesday, May 22, 1985, 9 a.m. The Hearings Division of the Public Utility Commission of Texas made additions to the agenda of a meeting to be held in Suite

450N, 7800 Shoal Creek Boulevard, Austin. The additions concern Docket 6147—petition of the Office of Public Utility Counsel for emergency relief involving General Telephone Company of the Southwest's rates for FX customers in Rockwall; and Docket 5902—complaint of Mark Smith against Southwestern Bell Telephone Company regarding a billing dispute.

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

Filed: May 14, 1985, 4:17 p.m.
TRD-854309

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

Tuesday, July 16, 1985, 10 a.m. A prehearing conference in Docket 6032—petition of Central Power and Light Company for an amendment to the monthly interim fuel factor.

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

Filed: May 14, 1985, 2:46 p.m.
TRD-854307

Monday, June 10, 1985, 1:30 p.m. A prehearing conference in Docket 6177—application of Kendall County Utility Company for a certificate of convenience and necessity with Kendall County.

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

Filed: May 15, 1985, 2:40 p.m.
TRD-854330

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State Securities Board

Friday, May 24, 1985, 9:30 a.m. The State Securities Board will meet at 1800 San Jacinto Street, Austin. According to the agenda summary, the board will elect a chairman; discuss the previous meeting minutes; discuss a resolution honoring John W. Turner; discuss a previously published proposal to amend 7 TAC §109.3 to create a new exemption under certain conditions for sales of securities to entities with characteristics tending to place them into a class generally regarded as accredited investors; discuss proposals for possible publication for public comment to amend 7 TAC §109.13 to increase uniformity of subsection (k) with the uniform limited offering exemption adopted by the North American Securities Administrators' Association (NASAA) and add new subsection (l) for intrastate offerings sold, in part, to accredited investors;

to amend §109.14 to allow offerings made pursuant to the Act, §5.Q, to use §109.31(l); to repeal §109.4, concerning public solicitation or advertisements; to repeal §109.9, concerning oil and gas offerings; to create new §133.29, a form titled "Form 133.29—Sales under Regulation 109.13(l)"; to repeal existing §133.29, a form titled "Form 133.29—Sales under Regulation 109.4(11)"; to amend §107.2 so that the definition of "business days" would reference new §109.13(l); and to amend §117, the "Administrative Guidelines for Registration of Real Estate Programs," to incorporate amendments made by NASAA; discuss general agency operations, with reports from division directors and the securities commissioner; and, if House Bill 296 is enacted, discuss actions which must be taken to implement the new law on September 1, 1985.

Contact: Russell Oliver, P.O. Box 13167, Austin, Texas 78711, (512) 474-2233.

Filed: May 14, 1985, 3:44 p.m.
TRD-854308

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Advisory Council for Technical-Vocational Education in Texas

Tuesday, May 28, 1985, 10 a.m. The Advisory Council for Technical-Vocational Education in Texas will meet in the Robertson South Room, La Mansion Hotel, 6505 IH 35 North, Austin. Items on the agenda include council responsibilities and internal operation, federal and state laws governing vocational education, and vocational education funding, program, and enrollment levels in Texas.

Contact: Val Blaschke, P.O. Box 1886, Austin, Texas 78767, (512) 475-2046.

Filed: May 15, 1985, 1:59 p.m.
TRD-854329

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Texas Tourist Development Agency

Friday, May 24, 1985, 9 a.m. The Board of the Texas Tourist Development Agency will meet at The Grotto, Aquarena Springs, San Marcos. Items on the agenda include the status of the fiscal year 1985 budget; the status of the 1986-1987 budget request and a reminder of the fiscal year 1986 budget approval at the September meeting; the Marketing Committee report concerning coupon response, public service announcements, the status of the marketing budget, the outdoor campaign update, travel folder

shells, and a synopsis of the tracking study; the advertising agency review of schedule/timetable; a status report on the German travel mission, the Chicago travel mission, and the Canadian film; a research discussion concerning the U.S. Travel Date Center, Pennel Kerr Forster, and Promark; the annual Texas Conference on Tourist Development (TourCon), concerning the program and award; recent Texas Sesquicentennial Commission related events; comments and questions from the Texas Tourist Development Board; and comments by public/private section associates. The board also will meet in executive session to discuss personnel.

Contact: Margaret Younger, Room 513, Employees Retirement System, 15th and Brazos Streets, Austin, (512) 475-4326.

Filed: May 15, 1985, 1:09 a.m.
TRD-854325

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Texas Water Commission

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

Wednesday, May 22, 1985, 9:30 a.m. The commission will consider an application by the City of Beaumont for a resolution by the commission certifying that the city has the necessary water right authorizing it to appropriate and use the surface water to be provided by the project approved by the Texas Water Development Board on April 18, 1985, as required by the Texas Water Code, §17.123, and 31 TAC §313.83(b).

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: May 14, 1985, 2:33 p.m.
TRD-854305

Wednesday, May 29, 1985, 2 p.m. In Room 118, the commission will consider the revocation of Permit 12755-01 held by Military Highway Water Supply Corporation; petition for revocation of Permit 13046-01 held by J. P. Tate and Oakcreek Environmental Management, Inc.; and Waste Discharge Permit 11686-01 for consideration of a petition filed by property owners of Oak Creek Community.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: May 15, 1985, 2:35 p.m.
TRD-854331

Monday, June 3, 1985, 10 a.m. In Room 515, the commission will conduct a hearing on Application 4556 of James A. Burgess for a permit to divert and use 125 acre-feet of water per annum from Martin Creek, tributary of the Sabine River, Sabine River

Basin, for irrigation purposes in Panola River.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: May 15, 1985, 2:36 p.m.
TRD-854332

Monday, June 3, 1985, 10 a.m. In Room 515, the commission will conduct a hearing on Application 4557 of Clifford L. Barlow for a permit to authorize the maintenance of an existing dam and 360 acre-foot capacity reservoir on an unnamed tributary of the Sabine River, Sabine River Basin, for in-place recreational use in Van Zandt County.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: May 15, 1985, 2:36 p.m.
TRD-854333

Friday, June 7, 1985, 10 a.m. In Room 618, the commission will conduct a hearing on the application of Cameron County Fresh Water Supply District 1, seeking to amend Certificate of Adjudication 23-15, Rio Grande Basin, Cameron County.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: May 15, 1985, 2:36 p.m.
TRD-854334

Friday, June 7, 1985, 10 a.m. In Room 618, the commission will conduct a hearing on the application by Cameron County Fresh Water Supply District 1 for an amendment to Certificate of Adjudication 23-64, Cameron County, Rio Grande

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: May 15, 1985, 2:37 p.m.
TRD-854335

Monday, June 10, 1985, 10 a.m. In Room 124A, the commission will conduct a hearing on Application 4558 of Ronald A. Gillis & Associates, Inc., doing business as Mustang Creek Country Club for a permit to authorize the maintenance of an existing dam and 3.58 acre-foot capacity reservoir on McFarland Creek, tributary of Mustang Creek, tributary of the Navidad River, tributary of the Lavaca River, Lavaca River Basin for recreational purposes in Jackson County.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: May 15, 1985, 2:37 p.m.
TRD-854336

Monday, June 10, 1985, 10 a.m. In Room 124A, the commission will conduct a hearing on Application 4559 of Travis Norris Raun, Richard Truitt Raun, and Norris Raun for a permit to divert and use 9,000 acre-feet of water per annum from Sandy Creek, tributary of the Navidad River, tributary of the Lavaca River, Lavaca River

Basin for irrigation purposes in Jackson County.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: May 15, 1985, 2:37 p.m.
TRD-854337

Friday, June 14, 1985, 10 a.m. In Room 119, the commission will conduct a hearing on the application by Sunnydew Water Supply Corporation seeking to amend Certificate of Adjudication 23-32, Rio Grande Basin, Cameron County.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: May 15, 1985, 2:38 p.m.
TRD-854338

Friday, June 14, 1985, 10 a.m. In Room 119, the commission will conduct a hearing on Application 4560 of E. A. Weinheimer, Jr., for a permit to divert and use 272.63 acre-feet of water per annum from West Mustang Creek, tributary of Mustang Creek, tributary of Navidad River, tributary of Lavaca River, Lavaca River Basin to irrigate 184.5 acres of land in Wharton County.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: May 15, 1985, 2:38 p.m.
TRD-854339

Monday, June 17, 1985, 10 a.m. In Room 124A, the commission will conduct a hearing on Application 4561 of Chevron U.S.A., Inc., for a permit to divert and use 525 acre-feet of water per annum from Cibolo Creek, tributary of San Antonio River, San Antonio River Basin to irrigate 350 acres of land in Karnes County.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: May 15, 1985, 2:38 p.m.
TRD-854340

Monday, June 17, 1985, 10 a.m. In Room 124A, the commission will conduct a hearing on the application of Lawrence L. Graham, Camp La Junta, Inc., Leonard G. Granning, and Margaret J. Granning, for an amendment to Certificate of Adjudication 18-1963, as amended, Guadalupe River Basin, Kerr County.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: May 15, 1985, 2:38 p.m.
TRD-854341

Friday, June 28, 1985, 10 a.m. In Room 618, the commission will conduct a hearing on the application by the City of Ennis for a permit to extend the time for commencement of construction for the maintenance and repair of a dam (Old Lake Dam) on an unnamed tributary of Mustang Cree, tributary of Waxahachie Creek, tributary of Richland Creek, tributary of Trinity River, Trinity River Basin in Ellis County, under Permit

3401 from January 27, 1985, to January 27, 1987, and the time completion of the construction from January 28, 1986, to January 27, 1988.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: May 15, 1985, 2:39 p.m.
TRD-854342

Tuesday, July 2, 1985, 9 a.m. The Texas Water Commission will meet in the commission chambers, Canyon City Hall, 301 16th Street, Canyon. According to the agenda, the commission will consider Application 1343A of United States Fish and Wildlife Service for an amendment to Permit 1258, Randall County, Red River Basin.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: May 15, 1985, 2:39 p.m.
TRD-854343

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West Texas State University

Tuesday, May 21, 1985, 9 a.m. The Board of Regents of West Texas State University will meet in Room 211, Virgil Henson Activities Center, West Texas State University, Canyon. Items on the agenda summary include traffic and parking regulations revisions; Code of Student Life revisions; authority to sign a grant award letter from the Welch Foundation; a report of the Property Committee and action thereon; academic tenure for administrators; business and finance items, including budget changes, construction contracts, other contracts, and an account with Merrill Lynch Pierce Fenner & Smith; and faculty and staff and curriculum items, including retirements, resignations, a leave of absence, employment, redesignation of industrial technology to engineering technology, and promotion and tenure. The board also will meet in executive session under Texas Civil Statutes, Article 6252-17, §2(f) and (g).

Contact: Texas Smith, P.O. Box 997, Canyon, Texas 79016, (806) 656-3962.

Filed: May 14, 1985, 1:57 p.m.
TRD-854302

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Regional Agencies Meetings Filed May 14

The Central Counties Center for Mental Health and Mental Retardation Services, Board of Trustees, will meet at 302 South 22nd Street, Temple, on May 21, 1985, at

7:45 p.m. Information may be obtained from Steven B. Schnee, Ph.D., P.O. Box 518, Temple, Texas 76503, (817) 778-4841.

The Central Texas Council of Governments, Central Texas Private Industry Council, will meet at 4312 South 31st, Temple, on May 22, 1985, at 1:30 p.m. Information may be obtained from Walton B. Reedy, P.O. Box 729, Belton, Texas 76513, (817) 939-3771.

The Region XI Education Service Center, Board of Directors, will meet at 3001 North Freeway, Fort Worth, on May 28, 1985, at noon. Information may be obtained from R. P. Campbell, Jr., 3001 North Freeway, Fort Worth, Texas 76106, (817) 625-5311, ext. 102.

The Central Appraisal District of Johnson County, Board of Directors, will meet at 109 North Main, Cleburne, on May 22, 1985, at 7:30 p.m. Information may be obtained from Don Gilmore, 109 North Main, Cleburne, Texas 76031, (817) 645-3986.

The Texas Municipal League, Board of Directors, met at the Del Lago Resort, 15001 Walden Road, Montgomery, on May 19 and 20, 1985, at 2 p.m. and 9 a.m. respectively. Information may be obtained from William I. Martin, Jr., 1020 Southwest Tower, Austin, Texas 78701, (512) 478-6601.

The Northeast Texas Municipal Water District, Board of Directors, met at 1003 Linda Drive, Daingerfield, on May 20, 1985, at 7 p.m. Information may be obtained from Homer Tanner, P.O. Box 680, Daingerfield, Texas 75638, (214) 645-2241.

**The Upper Leon River Municipal Water District, Board of Directors, will meet at the general office of the filter plant, Proctor Lake, on May 23, 1985, at 6:30 p.m. Information may be obtained from Zollie D. Skaggs, P.O. Box 67, Comanche, Texas 76442, (817) 879-2258.
TRD-854303**

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Meetings Filed May 15

The Alamo Area Council of Governments, Executive Committee, will meet in Suite 420, 118 Broadway, San Antonio, on May 22, 1985, at 12:30 p.m. Information may be obtained from Al J. Notzon III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (512) 225-5201.

The Comal County Appraisal District, Board of Directors, met at 644 North Loop 337, New Braunfels, on May 20, 1985, at 7:30 p.m. Information may be obtained from Glenn L. Brucks, P.O. Box 1222, New Braunfels, Texas 78130, (512) 625-8597.

The Dewitt County Appraisal District, Board of Directors, met at 103 Bailey Street, Cuero, on May 20, 1985, at 7:30 p.m. Information may be obtained from Wayne K. Woolsey, RPA, P.O. Box 4, Cuero, Texas 77954, (512) 275-5753.

The Region VIII Education Service Center, Board of Directors, will meet at 100 North Riddle Street, Mount Pleasant, on May 23, 1985, at 7 p.m. Information may be obtained from Scott Ferguson, 100 North Riddle Street, Mount Pleasant, Texas 75455, (214) 572-8552.

The Lamar County Appraisal District, Appraisal Review Board, will meet at 1523 Lamar Avenue, Paris, on May 21, 1985, at 3 p.m. Information may be obtained from Rodney Anderson, 1523 Lamar Avenue, Paris, Texas 75460, (214) 785-7822.

The Lower Neches Valley Authority, Board of Directors, will meet at 7850 Eastex

Freeway, Beaumont, on May 21, 1985, at 10:30 a.m. Information may be obtained from J. D. Nixon, P.O. Drawer 3464, Beaumont, Texas 7704, (409) 892-4011.

The Jim Wells-Kieberg Soil and Water Conservation District, Board of Directors, will meet in Suite 2, 2287 North Texas Boulevard, Alice, on May 21, 1985, at 2 p.m. Information may be obtained from Wilbur F. Erck, Route 2, Box 325, Alice, Texas 78332, (512) 664-1325.

TRD-854320

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Meetings Filed May 16

The Jack County Appraisal District, Board of Directors, will meet at the Los Creek Office Building, 216-D South Main, Jacks-

boro, on May 21, 1985, at 7 p.m. Information may be obtained from Doris G. Ray or Linda Williams, 258 South Main, Jacksboro, Texas 76056, (817) 567-6301.

The Rusk County Appraisal District, Board of Directors, will meet at 107 North Van Buren, Henderson, on May 23, 1985, at 1:30 p.m. Information may be obtained from Melvin R. Cooper, P.O. Box 7, Henderson, Texas 75653-0007, (214) 657-9697.

The Sabine Valley Regional Mental Health and Mental Retardation Center, Board of Trustees, will meet at 1310 Pine Tree Road, Longview, on May 23, 1985, at 7 p.m. Information may be obtained from Ronald R. Cookston, Ed.D., P.O. Box 6800, Longview, Texas 75608, (214) 297-2191.

TRD-854352

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In Addition

The Register is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Texas Air Control Board Applications for Construction Permits

The Texas Air Control Board gives notice of applications for construction permits received during the period of May 6-10, 1985.

Information relative to the following applications, including projected emissions and the opportunity to comment or to request a hearing, may be obtained by contacting the office of the executive director at the central office of the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

A copy of all material submitted by the applicant is available for public inspection at the central office of the Texas Air Control Board at the previously mentioned address, and at the regional office for the air quality control region within which the proposed facility will be located.

Listed are the names of the applicants and the cities in which the facilities are located; type of facilities; location of the facilities (if available); permit numbers; and type of application—new source or modification.

Coronado Feeders Continental Grain Co., Dalhart; feedmill; Dalhart, Dallam County; 805A; modification

Coronado Feeders Continental Grain Co., Dalhart; feedlot; Dalhart, Dallam County; 806A; modification

Cen-Tex Ready Mix Concrete Co., Inc., Lake Victor; rock crushing plant; Lake Victor, Burnet County; 7791B; modification

Dalhart Grain Company, Dalhart; grain elevator; Highway 87 North; 3034A; modification

J. Lee Milligan, Washburn; hot mix asphalt plant; Washburn, Armstrong County; 9714; new source

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

TRD-864303 Paul M. Shinkawa
Director of Hearings
Texas Air Control Board

Filed: May 14, 1985
For further information, please call (512) 451-5711, ext. 354.

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Court Reporters Certification Board Certification of Court Reporters

Following examination of applicants on April 19, 1985, the Court Reporters Certification Board has certified to

the Supreme Court that the following persons are qualified in the method indicated to practice reporting pursuant to Texas Civil Statutes, Article 2324b, §12(e).

Oral Stenography

June J. Barnett - Longview
Dellette Z. Lysek - Cedar Park

Stenotype Machine

Benjie Dianne Adler - Haltom City
Kayla J. Allen - Rock Falls, Illinois
Daria R. Billeaud - Groves
Dena Booker - Mesquite
Becky K. Castloo - Mesquite
Lora Lee Chivers - Houston
Deane Lynn Coward - Abilene
Raquel G. Dominguez - Abilene
Claudia Dozier - Dickinson
Jo Ann Farrar - Dallas
Lisa Finley - Austin
Ellaine Marie Forester - Austin
Lori Ellen Hargett-Fyock - Arlington
Sara Gandy - Dallas
Gina Garcia - Robstown
Tamara Gelbart - Metairie
Mariann D. Heber - Friendswood
Alesia Lanell Henderson - Alvin
Christine M. Hobble - Plano
Cynthia K. Honza - Ennis
Gina Houghton - Houston
Laurel Rae Housenga - Houston
Connie Marie Johnston - Houston
Tracie Lynn Johnston - Grandview
Caroline E. Kreidler - Abilene
Jeff Krier - Oklahoma City, Oklahoma
Richard Looney - Amarillo
Mary Lopez - Gregory
Holly G. Maddox - Orange
Lynn Marie Marrs - Houston
Barbara Ann Mirabal - San Antonio
Thurman J. Moody - Wichita, Kansas
Cathy A. Peterson - Phoenix, Arizona
Melinda Raine - Colleyville
Cheryl L. Roberson - Lancaster
Loretta Martinez Segovia - San Antonio
Dianna L. Sexton - Houston
Debra H. Smith - Sherman
Malcolm Fredrick Smith - Beaumont
Karen Sue Snyder - Austin
Carol Stautner - Dallas
Margie Liles Stocks - Abilene
Katherine Yvonne Taylor - Fort Worth
Laura Ann Taylor - Richardson
Mary V. Thompson - Lafayette, Louisiana
Diana D. Thrash - Mesquite
Mary Frances Ulanowski - Beaumont
Kathleen Wilemon - Corpus Christi
Serena Winslow - Dallas

Stephanie J. Wisdom - Houston
Marilyn Jane Woodard - Carrollton

Issued in Austin, Texas, on May 10, 1985.

TRD-854304 Jim Hutcheson
General Counsel
Court Reporters Certification Board

Filed: May 14, 1985
For further information, please call (512) 475-3404.

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East Texas Council of Governments Consultant Proposal Request

Pursuant to Texas Civil Statutes, Article 6252-11c, the East Texas Council of Governments (ETCOG) is in the process of selecting a certified public accountant firm to perform a fiscal year audit of federal, state, and local grants and contracts administered by the ETCOG for the period of October 1, 1984-September 30, 1985.

The certified public accountant firm selected will be expected to meet the requirements set forth in Office of Management and Budget (OMB) Circular A-102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments, Attachment P, audit requirements as published in the October 22, 1979, issue of the *Federal Register*, Volume 44, #205.

Those firms interested in receiving a request for proposals (RFP) package should contact Peggy Carlson, Director of Finance, East Texas Council of Governments, 3800 Stone Road, Kilgore, Texas 75662, (214) 984-8641. The deadline for requesting an RFP package is June 15, 1985.

The contract will be awarded based on the applicant's abilities, experience, and qualifications. Selection will be made by the ETCOG Executive Committee.

Issued in Kilgore, Texas, on May 13, 1985.

TRD-854321 Glynn J. Knight
Executive Director
East Texas Council of Governments

Filed: May 15, 1985
For further information, please call (512) 984-8641.

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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 May 6-10, 1985.

Total allocated principal amount of private activity bonds authorized to be allocated by MW-27B through May 10, 1985:

\$118,206,667.88

Comprehensive listing of bond issues which have received a reservation date as per MW-27B during the week of May 6-10, 1985:

Issuer	User	Amount
City of El Paso Industrial Development Authority	Hochberg-Schan Fixture Corporation	\$5 million
City of Houston Health Facility	Texas Kidney Health Services of Houston	\$1.028 million
Jefferson County Health Facilities Development Corporation	The Outpatient Diagnostic Center, Ltd.	\$4.25 million

Comprehensive listing of bonds issued as per MW-27B during the week of May 6-10, 1985:

Issuer	User	Amount
Cedar Hill Industrial Development Corporation	Minyard Properties, Inc., and Minyard Food Stores	\$8 million
Mid-Hidalgo County Industrial Authority, Inc.	Phoenix Frozen Foods, Inc.	\$2.5 million
Harris County Industrial Development Corporation	National Components, Inc.	\$2.5 million

Issued in Austin, Texas, on May 15, 1985.

TRD-854357 Harden H. Wiedemann
Executive Director
Texas Economic Development Commission

Filed: May 14, 1985
For further information, please call (512) 472-5050.

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Texas Education Agency Request for Applications

The Division of Adult and Community Education of the Texas Education Agency (TEA) is now accepting applications for special projects and teacher training projects in the State of Texas under Adult Education Public Law 91-230 and the Texas Education Code, §11.18, concerning adult education. Priority areas are described as follows.

Specific information on each request for application (RFA) and format of applications may be obtained from the Division of Adult and Community Education, TEA, 201 East 11th Street, Austin, Texas 78701.

Only public education systems are eligible applicants. Applications should be submitted to Document Control Center, TEA, 201 East 11th Street, Austin, Texas 78701, by 5 p.m. on May 29, 1985. It is anticipated that applicants will be given notification of approval or nonap-

approval of applications by June 28, 1985. For additional information, contact Dr. Ralph Mock or Dr. Pavlos Rousos at (512) 834-4266.

Applications are requested in the following areas.

RFA-1 English as a Second Language (ESL) Teacher Training. To conduct a one-week institute June 23-28, 1985, to train 50 local adult educators so that they can serve as trainers for adult education ESL teachers (June 3-30, 1985). The amount is not to exceed \$25,000.

RFA-2 Workshop on Counseling and Referral Techniques. To conduct a one-week workshop July 29-August 2, 1985, to provide training to 50 adult educators on counseling and referral techniques so that they can serve as trainers for local teachers, and to update the *Model Referral Guide* (July 1-December 31, 1985). The amount is not to exceed \$30,000.

RFA-3 Teacher Training in Using Microcomputers and Integrating Computer Literacy in the Adult Education Curriculum (Continuation). To provide a five-day orientation and training August 5-9, 1985, to 50 adult educators in the use of microcomputers for teaching basic skills to undereducated adults; and to provide technical assistance, disseminate information, and conduct training in implementing models, developed in fiscal year 1985 by the Region XX Education Service Center, for integrating computer literacy in the adult education curriculum (July 1, 1985-June 30, 1986). The amount is not exceed \$45,000.

RFA-4 Implementation of Modifications for the Texas Adult Education Competency-Based High School Diploma Program (Continuation). To provide training and technical assistance to adult education programs in implementing competency-based high school diploma program modifications developed in fiscal year 1985 (July 1, 1985-June 30, 1986). The amount is not to exceed \$30,000.

RFA-5 Continuation of a Statewide Dissemination Project. To continue the operation of Project TRENDS to identify, collect, evaluate, and disseminate resources in adult education; publish a newsletter and resource abstracts; conduct workshops in the use of resources; develop a model and handbook on instructional leadership; and operate a free loan service (July 1, 1985-June 30, 1986). The amount is not to exceed \$68,000.

RFA-6 Adult Literacy Councils. To fund four projects to develop a complementary local system for mobilizing a private sector capacity to assist the public adult education system to locate, counsel, and teach the least education and most in need (July 1, 1985-June 30, 1986). The amount is not to exceed \$20,000 for each project.

RFA-7 Innovative Use of Live Interactive Television for Delivery of Adult Education Instruction. To develop and test a system for use of live interactive television as a means of delivering GED and ESL instruction to a large geographic area (July 1, 1985-June 30, 1986). The amount is not to exceed \$42,000.

RFA-8 Mini Grants for Implementing Innovations in Adult Basic Education. To fund 10 projects not to exceed \$6,000 each to refine locally developed exemplary programs or adopt exemplary programs for serving undereducated adults (July 1, 1985-June 30, 1986).

RFA-9 Library-Centered Adult Learning Center. To develop a model for a library-centered adult basic and secondary education center supporting a coordinated approach for providing assessment and counseling, volunteer literacy tutoring, guided group instruction, and self-

directed secondary study using library resources (July 1, 1985-June 30, 1986). The amount is not to exceed \$35,000.

RFA-10 Development of a Model System for Teaching the Hearing Impaired Undereducated Adult. To develop a model system for teaching the hearing impaired and undereducated adult, develop a teacher's handbook, and provide teacher training (July 1, 1985-June 30, 1986). The amount is not to exceed \$40,000.

RFA-11 Regional/Labor Market Area High Tech Adult Basic Skills Delivery System Planning Grant. To support a cooperative and planning process among public education systems, industries, economic development organizations, libraries, private community-based organizations, and manpower planning agencies in the design of a system for delivering basic skills education to out-of-school youth and adults in a labor market area or state planning region using electronic transmission systems (July 1, 1985-June 30, 1986). The amount is not to exceed \$75,000.

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

TRD-854288

W. N. Kirby
Commissioner of Education

Filed: May 13, 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.

Uvalde County Clinic, Inc., Uvalde
AO85-0502-295

DR—Request for a declaratory ruling that a certificate of need is not required for Uvalde County Clinic, Inc., to relocate the clinic to a 3,200-square-foot building located approximately 100 yards away from the present location. The proposed building will be renovated and the clinic will occupy 2,100 square feet. The applicant will provide the same services within the same medical service area as it is presently providing. The total project cost is \$89,265.

Graystan Construction, Inc., a Texas corporation,
Austin

AN85-0502-296

NIEH—Request for a declaratory ruling that a certificate of need is not required for Graystan Construction, Inc., a Texas corporation, to acquire by purchase Pebble Creek Convalescent Center, an approved but not yet constructed 120-bed nursing facility with 30 ICF and 90 skilled beds located in San Antonio, from Pebble Creek Convalescent Centers, Inc.

City of Seguin and County of Guadalupe for
Guadalupe Valley Hospital, Seguin

AH80-0605-035A(050285)

CN/AMD—Request for an extension of the completion deadline from February 28, 1985, to May 1, 1985, in Certificate of Need AH80-0605-035, as amended by AH80-0605-035A(102783), which authorized the certificate holder to construct an addition totaling 32,150 gross square feet for the addition of eight new ICU/CCU beds, two additional OB beds, and 11 additional medical/surgical beds, for a total licensed capacity of 86 beds; and to expand the ancillary and supporting areas of the hospital.

Issued in Austin, Texas, on May 15, 1985.

TRD-854322

John R. Neel
General Counsel
Texas Health Facilities
Commission

Filed: May 15, 1985

For further information, please call (512) 475-6940.

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State Board of Insurance Company Licensing

The following applications have been filed with the State Board of Insurance and are under consideration.

(1) Application for admission to do business in Texas of First Assurance Life of America, a foreign life insurance company. The home office is in Baton Rouge, Louisiana.

(2) Application for a name change by PWM Life Insurance Company, a domestic life insurance company. The home office is in Dallas. The proposed new name is Independent Security Life Insurance Company.

(3) Application for a name change by Seguros Monterrey Serfin, S.A., a foreign casualty insurance com-

pany. The home office is in Nuevo Leon, Mexico. The proposed new name is Seguros Monterrey, S.A.

(4) Application for admission to do business in Texas of Countrywide Insurance Company, a foreign fire and casualty insurance company. The home office is in Los Angeles, California.

(5) Application for admission to do business in Texas of The Factory Mutual Insurance Company, a foreign fire insurance company. The home office is in Seven Hills, Ohio.

(6) Application for a name change by NAP Life Insurance Company, a domestic life insurance company. The home office is in Waco. The proposed new name is Financial Planners Life Insurance Company.

(7) Application for admission to do business in Texas of The Equitable of Colorado, Inc., a foreign life insurance company. The home office is in Colorado Springs, Colorado.

(8) Application for admission to do business in Texas of Patriot Life Insurance Company, a foreign life insurance company. The home office is in Tampa, Florida.

(9) Application for admission to do business in Texas of Atlantic & Pacific Life Insurance Company of America, a foreign life insurance company. The home office is in Atlanta, Georgia.

(10) Application for admission to do business in Texas of Iowa Kemper Insurance Company, a foreign fire and casualty insurance company. The home office is in Mason City, Iowa.

(11) Application for admission to do business in Texas of Life and Health Insurance Company of America, a foreign life insurance company. The home office is in Philadelphia, Pennsylvania.

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

TRD-854323

James W. Norman
Chief Clerk
State Board of Insurance

Filed: May 15, 1985

For further information, please call (512) 475-2960.

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The Prosecutor Council Consultant Contract Award

Pursuant to Texas Civil Statutes, Article 6252-11c, The Prosecutor Council furnishes this notice of consultant contract award. The consultant proposal request appeared in the March 22, 1985, issue of the *Texas Register* (10 TexReg 1006).

Description of Services. The consultant will provide a basic prosecution course for prosecutors. The course will be presented June 23-27, 1985, in Austin.

Name and Address of Consultant. The consultant is the Texas District and County Attorneys Association, 1210 Nueces Street, Suite 200, Austin, Texas 78701.

Contract Value and Period. The total value of the contract is \$34,500. The beginning date of the contract is May 7, 1985, and the ending date is three years after payment or until all questions arising from this contract are resolved.

Due Dates of Documents. All documents, films, recordings, or reports of the intangible results of the services

performed by the consultant shall be available to The Prosecutor Council on or before August 1, 1985.

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

TRD-854253 Andy Shuval
Executive Director
The Prosecutor Council

Filed: May 13, 1985
For further information, please call (512) 475-6825.

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Public Utility Commission of Texas Telecommunication Submarkets

In accordance with 16 TAC §21.25, the Public Utility Commission of Texas (PUC) gives notice of the pendency before the PUC of a proceeding to establish telecommunication submarkets.

On May 1, 1985, the commission's general counsel filed a petition requesting the commission to initiate an evidentiary proceeding to establish telecommunication submarkets. Such a proceeding has been initiated and assigned Docket 6264. Docket 6264 will consider defining by January 1, 1986, separate telecommunication submarkets of less than a statewide nature, based on geography, type of service, or a combination of both; delineating specific standards for determining when a submarket should be deregulated; and establishing safeguards for phasing in deregulation.

The ultimate effect of this matter could be the future deregulation of all long distance telecommunications service within the submarkets defined, if any, in Docket 6264.

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 PUC Consumer Affairs Division at (512) 458-0223 or (512) 458-0227, or (512) 458-0221 teletypewriter for the deaf.

Issued in Austin, Texas, on May 14, 1985.

TRD-854324 Rhonda Colbert Ryan
Secretary of the Commission
Public Utility Commission of Texas

Filed: May 15, 1985
For further information, please call (512) 458-0100.

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Texas Savings and Loan Department Application for Change of Control of an Association

Texas Civil Statutes, Article 852a, §11.20, require any person who intends to acquire control of a state-chartered

savings and loan association to file an application with the savings and loan commissioner for approval of the transaction. A hearing may be held if the application is denied by the commissioner.

On May 10, 1985, the savings and loan commissioner received an application for approval of the acquisition of control of Permian Savings and Loan Association, Kermit, by Caruth C. Byrd, Allan T. Gregory, and Don Averitt, all of Dallas; and Donald D. Grantges and William A. Whittle, both of Arlington.

Any inquiries may be directed to the Texas Savings and Loan Department, 1004 Lavaca Street, Austin, Texas 78701, (512) 475-7991.

Issued in Austin, Texas, on May 14, 1985.

TRD-854313 Russell R. Oliver
General Counsel
Texas Savings and Loan
Department

Filed: May 15, 1985
For further information, please call (512) 475-7991.

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Office of the Secretary of State Texas Register Schedule Variation

Due to the Memorial Day holiday, the publication deadline for rules to be published in the May 31, 1985, issue of the *Texas Register* has been changed. Rules for the May 31 issue must be filed by 10 a.m. on Friday, May 24. The deadline for Open Meetings remains the same; Open Meetings still must be filed by 10 a.m. on Tuesday, May 28. This variation will not affect the mailing date of the issue.

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 May 6-10, 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 May 6-10, 1985

Homer Treadway, Jr., doing business as Waukegan Estates, Conroe; wastewater treatment plant; approximately 1,750 feet south of the intersection of State Highway 105 and Waukegan Road, approximately 6,500 feet southeast of the intersection of State Highway 105 and Old 105 Road in Montgomery County; 12985-01; new permit

Diamond Shamrock Refining and Marketing Company, Amarillo; brine well; 2,500 feet from the north line and 1,000 feet from the west line of the Houston and Texas Central Railroad Survey, §399, Block 44, in Moore County; BR50057; new permit

Uranium Resources, Inc., Bruni; uranium mine; approximately 3.5 miles east of Bruni along the Arroyo de los Angeles in §21 and §22 of the Santa Madrid de los Angeles de Arriba, Mariano Arrispe Grant in Duval County; UR02312; amendment

Uranium Resources, Inc., Bruni; uranium mine; approximately eight miles northwest of Hebbroville and 5.5 miles southeast of Bruni along State Highway 359 in Surveys 169, 170, 172, and 173 in Duval County; UR02222; amendment

Harris County Municipal Utility District (MUD) 266, Houston; wastewater treatment facility; approximately 5,000 feet west of Lee Road and 700 feet south of

Beltway 8 in Houston, Harris County; 13117-01; new permit

City of Atlanta; wastewater treatment facility; just south of State Highway 77 and just west of the Missouri Pacific Railroad in the southern portion of the City of Atlanta in Cass County; 10338-01; renewal

Northwest Harris County MUD 10, Houston; wastewater treatment plant; approximately 1,300 feet north of the Spring-Cypress Road crossing of Dry Creek in Harris County; 11912-01; renewal

Marathon Letourneau Company-Longview Division, Longview; integrated heavy equipment manufacturing facility; approximately 0.5 mile west-southwest of the intersection of Farm Road 1845 and State Highway 149 (Estes Parkway), southwest of the City of Longview in Gregg County; 01603; renewal

Harris County MUD 23, Houston; wastewater treatment facility; at 7214 Woodland West Drive on the north bank of White Oak Bayou in Harris County; 11485-01; renewal

City of Weatherford; wastewater treatment facility; immediately north of the terminus of a street named Hickory Lake which terminates adjacent to the Texas and Pacific Railroad tracks in the City of Weatherford in Parker County; 10380-01; renewal

Issued in Austin, Texas, on May 10, 1985.

TRD-854274

Mary Ann Hefner
Chief Clerk
Texas Water Commission

Filed: May 13, 1985

For further information, please call (512) 475-4514.

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