

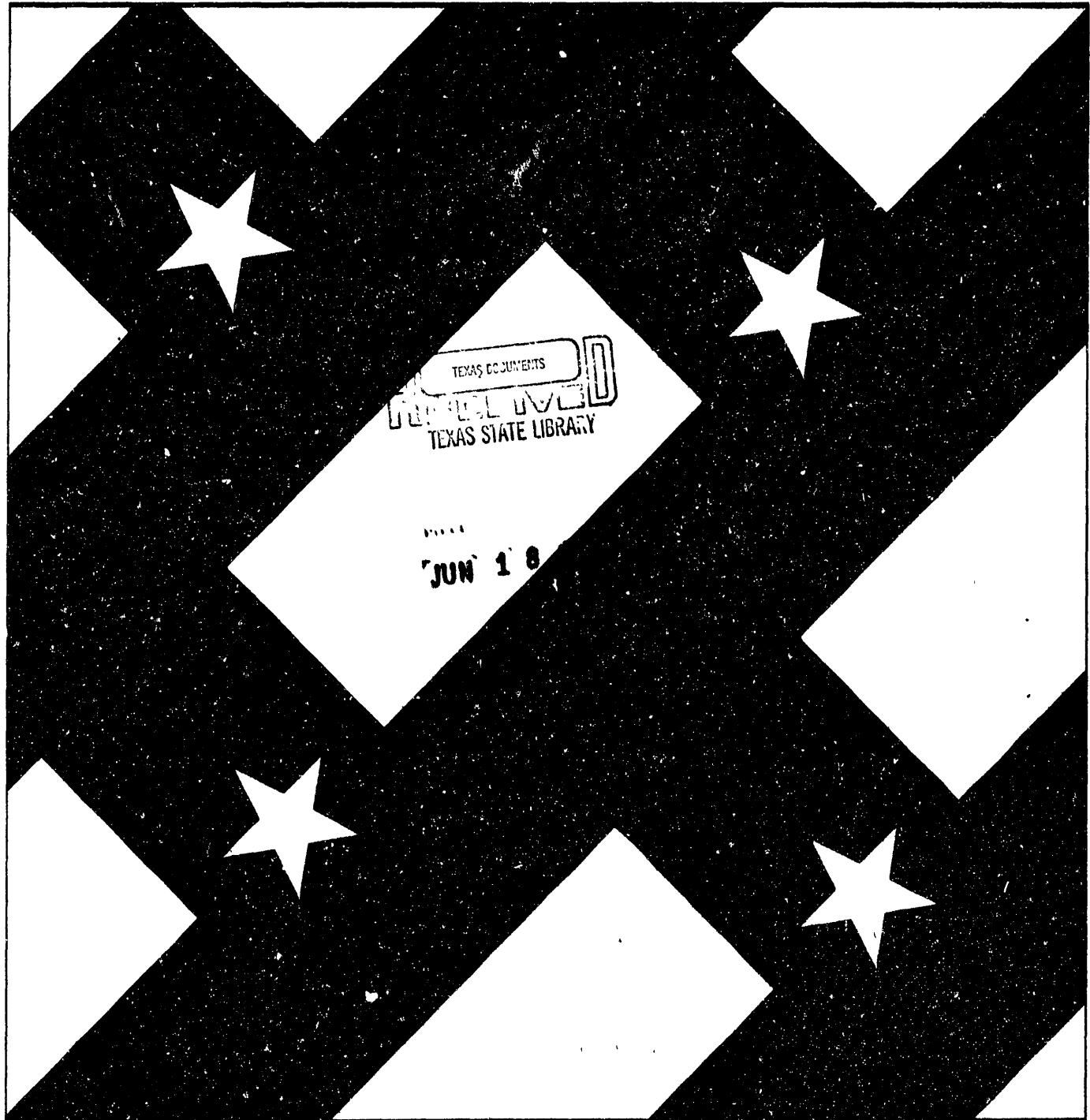
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Texas Register

Volume 10, Number 47, June 18, 1985

Pages 2005 - 2050



Highlights

The Texas Water Development Board proposes a new section concerning excess water permits on the Rio Grande below the Brownsville gage. Earliest possible date of adoption - July 19. page 2011

The Texas Department of Human Resources proposes amendments concerning Medicaid Eligibility. Earliest possible date of adoption - July 15. page 2022

The Texas Education Agency adopts amendments in a chapter concerning curriculum. Effective date - July 1. page 2030

Office of
the Secretary
of State

Texas Register

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- Emergency Rules—rules adopted by state agencies on an emergency basis
- Proposed Rules—rules proposed for adoption
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In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2, in the lower left-hand corner of the page, would be written: "10 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 10 TexReg 3."

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

TAC stands for the *Texas Administrative Code*;

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



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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 22. EXAMINING BOARDS

Part XVI. Texas State Board of Physical Therapy Examiners

Chapter 321. Definitions

★ 22 TAC §321.1

The Texas State Board of Physical Therapy Examiners proposes amendments to §321.1, concerning definitions. To clarify what evidence is acceptable to the board regarding education affidavits when school records have been destroyed, the members of the board passed a motion to define "evidence satisfactory to the board."

Lois M. Smith, 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.

Ms. Smith also has determined that for each year of the first five years the rule is in effect there is no public benefit anticipated as a result of enforcing the rule. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Lois M. Smith, 1300 East Anderson Lane, Building C, Suite 260, Austin, Texas 78752

The amendments are proposed under Texas Civil Statutes, Article 4512e, §3(e), which provide the Texas State Board of Physical Therapy Examiners with the authority to adopt rules consistent with the Texas Physical Therapy Practice Act to carry out its duties in administering the Act.

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

Evidence satisfactory to the board—Interpreted to mean that should all school records have been destroyed, sworn affidavits satisfactory to the board must be received from three persons who have per-

sonal knowledge of the applicant's physical therapy education and successful completion thereof. These affidavits shall not be used when records are available.

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 June 11, 1985.

TRD-855300

Lois M. Smith
Executive Director
Texas State Board of
Physical Therapy
Examiners

Earliest possible date of adoption:

July 19, 1985

For further information, please call
(512) 835-1846.

★ ★ ★

Chapter 329. Physical Therapist License

★ 22 TAC §329.1

The Texas State Board of Physical Therapy Examiners proposes amendments to §329.1, concerning applications. The board will require temporary license and issuance fees to be submitted prior to the examination to avoid excess mailing costs and to expedite the issuance of the permanent license. Exams will be offered three times annually instead of two. The minimum passing score will be raised to become licensed in Texas.

Lois M. Smith, 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.

Ms. Smith also has determined that for each year of the first five years the rule is in effect there is no public benefit anticipated as a result of enforcing the rule. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Lois M. Smith, 1300 East Ander-

son Lane, Building C, Suite 260, Austin, Texas 78752.

The amendments are proposed under Texas Civil Statutes, Article 4512e, §3(e), which provide the Texas State Board of Physical Therapy Examiners with the authority to adopt rules consistent with the Texas Physical Therapy Practice Act to carry out its duties in administering the Act.

§329.1. *Physical Therapist License.*

(a) Applications.

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

(3) Applicants who file for exam-

ination are charged an issuance fee and temporary license fee prior to the examination. When the scores are sent to the applicant, if the applicant passes, the permanent license will be sent. If the applicant fails the examination, he will be asked to file another examination fee to take the examination a second time. When the applicant passes the examination after the second time, the permanent license will be sent with the scores.

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

(d) Examinations. The board will administer three annual examinations on the Saturdays closest to the Professional Examination Service (PES) scheduled uniform national testing dates [an examination biannually]. Applicants may contact the board office for scheduled exam dates in Texas. There will be two proctors for every 25 candidates taking the examination and at least one additional proctor for each additional 25 candidates. Use of dictionaries, translators, or any other supportive information of any kind will not be permitted during the examination.

(e) Exam results evaluation. Physical therapist and physical therapist assistant examinations are prepared by the Professional Examination Service. Any score 1.0 [1.5] deviations below the nationwide mean or higher on each part will be considered passing. If an applicant fails one or more parts, he will be required to repeat each part failed. This must be done at the next scheduled examination. The applicant will be sent a letter stating his scores on each part of the examination. His status (pass or fail) will be indicated. Upon receipt of notification of failure, the applicant is ineligible to prac-

tice until a new temporary license has been issued.

(f)-(j) (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 June 11, 1985.

TRD-855301

Lois M. Smith
Executive Director
Texas State Board of
Physical Therapy
Examiners

Earliest possible date of adoption:

July 19, 1985

For further information, please call
(512) 835-1846.

★ ★ ★

Chapter 331. Endorsement Licensure

★ 22 TAC §331.1

The Texas State Board of Physical Therapy Examiners proposes amendments to §331.1, concerning license by endorsement. To clarify the intent of the Texas Physical Therapy Practice Act, the board proposes this amendment relating to persons who have taken the examination in another state and are licensed in another state.

Lois M. Smith, 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.

Ms. Smith also has determined that for each year of the first five years the rule is in effect there is no public benefit anticipated as a result of enforcing the rule. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Lois M. Smith, 1300 East Anderson Lane, Building C, Suite 260, Austin, Texas 78752.

The amendments are proposed under Texas Civil Statutes, Article 4512e, §3(e), which provide the Texas State Board of Physical Therapy Examiners with the authority to adopt rules consistent with the Texas Physical Therapy Practice Act to carry out its duties in administering the Act.

§331.1. Endorsement License [License by Endorsement].

(a) Interstate Reporting Service. Professional Examination Service (PES) scores must be reported through the Interstate Reporting Service. If the scores meet the

criteria of 1.0 [1.5] standard deviations below the nationwide mean or higher on all parts, the individual will be licensed by endorsement. If the applicant fails to meet the standards in one or more parts, he will repeat the parts failed. He will then be licensed according to §§8, or 9, and 11 of this Act.

(b) License by endorsement. Persons licensed in another state applying for a Texas license whose PES exam scores meet Texas standards must apply to be licensed in Texas by endorsement.

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 June 11, 1985.

TRD-855299

Lois M. Smith
Executive Director
Texas State Board of
Physical Therapy
Examiners

Earliest possible date of adoption:

July 19, 1985

For further information, please call
(512) 835-1846.

★ ★ ★

Chapter 333. Temporary License

★ 22 TAC §333.1

The Texas State Board of Physical Therapy Examiners proposes amendments to §333.1, concerning a second temporary license. The amendment better protects the Texas public citizen by not issuing a second temporary license to the exam candidate who has failed the first take of the examination, if his total score falls more than nine raw points below the minimum score acceptable for licensure in Texas.

Lois M. Smith, 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.

Ms. Smith also has determined that for each year of the first five years the rule is in effect there is no public benefit anticipated as a result of enforcing the rule. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Lois M. Smith, 1300 East Anderson Lane, Building C, Suite 260, Austin, Texas 78752.

The amendments are proposed under Texas Civil Statutes, Article 4512e, §3(e), which provide the Texas State Board of

Physical Therapy Examiners with the authority to adopt rules consistent with the Texas Physical Therapy Practice Act to carry out its duties in administering the Act.

§333.1. Second Temporary License. The examination is not considered complete until the scores have been reported to the candidate. In the event of failure of a part or parts on the first examination, a physical therapist candidate or a physical therapist assistant candidate may be issued a second temporary license, at the discretion of the board, if the candidate has not more than a combined total of nine raw points score deficit on the part or parts of the [will be issued in the event of failure on the first] examination failed. A candidate who fails any part of the examination for the second time or falls below minimum standards as set out under this section (Rule VII), will not be issued a second [notified of failure by certified mail, return receipt requested, and no] temporary license [will be issued at this time]. The candidate will be notified of failure by certified mail, return receipt requested.

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 June 11, 1985.

TRD-855298

Lois M. Smith
Executive Director
Texas State Board of
Physical Therapy
Examiners

Earliest possible date of adoption:

July 19, 1985

For further information, please call
(512) 835-1846.

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Part XXI. Texas State Board of Examiners of Dietitians

Chapter 711. Dietitians

Licensure

★ 22 TAC §711.2

The Texas State Board of Examiners of Dietitians proposes amendments to §711.2, concerning the board's operations. The amendments reduce the license, renewal, late renewal, and license renewal penalty fees established by the board.

Stephen Seale, chief accountant III, has determined that for the first five-year period the rule will be in effect there will be fiscal implications as a result of enforcing or administering the rule. The anticipated effect on state government is an

estimated loss in revenue of \$67,600 each year in 1986-1990. There is no anticipated effect on local government or small businesses.

Mr. Seale also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule is the return to the licensees who have paid the fees credited to the Licensed Dietitian Act fund of the benefits of any surplus which might accrue if fees are not reduced. The anticipated economic cost to individuals who are required to comply with the rule as proposed is a reduction of \$24 of the renewal fee for licensed dietitians each year in 1986-1990 and a reduction of \$18 of the renewal fee for provisional licensed dietitians for each year in 1986-1990.

Comments on the proposal may be submitted to Donna S. Hardin, Executive Secretary, 1100 West 49th Street, Austin, Texas 78756-3183. Comments will be received for 30 days from the date of publication of the proposed rule.

The amendments are proposed under Texas Civil Statutes, Article 4512h, §6 and §8, which provide the Texas State Board of Examiners of Dietitians, subject to final approval of the Texas Board of Health, with the authority to adopt rules consistent with the Licensed Dietitian Act and to set fees imposed by the Act without accumulating an unnecessary surplus in the Licensed Dietitian Act fund.

§711.2. *The Board's Operations.*

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

(u) Fees.

(1) (No change.)

(2) Schedule of fees for licensure as a dietitian:

(A) (No change.)

(B) License fee—\$24 [\$48] (prorated at \$2.00 [\$4.00] per month);

(C) Renewal fee—\$24 [\$48];

(D) Late renewal fee—\$36 [\$72] (when renewed within 90 days of expiration date);

(E) License renewal penalty fee—\$24 [\$48] plus all unpaid renewal fees (when license is renewed after 90 days of expiration, but less than two years);

(F)-(I) (No change.)

(3) Schedule of fees for licensure as a provisional dietitian:

(A) (No change.)

(B) License fee—\$24 [\$42] (prorated at \$2.00 [\$3.50] per month);

(C) Renewal fee—\$24 [\$42];

(D) Late renewal fee—\$36 [\$63] (when renewed within 90 days of expiration date);

(E) License renewal penalty fee—\$24 [\$42] plus all unpaid renewal fees (when license is renewed after 90 days of expiration but less than two years);

(F)-(H) (No change.)

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

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

Issued in Austin, Texas, on June 6, 1985.

TRD-855304

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

Proposed date of adoption:

September 14, 1985

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

★ ★ ★

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part X. Texas Water Development Board

Chapter 303. Appropriation of Water

Classes of Water Rights Permits

★31 TAC §303.9

The Texas Water Development Board proposes new §303.9, concerning excess water permits on the Rio Grande below the Brownsville gage. This new section defines the limits on excess water permits on the Rio Grande.

Mike Hodges, Fiscal Services Section chief, 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. Hodges 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 greater protection for existing water rights holders by limiting excess water permits to well defined situations. 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 Nancy Matchus, Staff Attorney, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711, (512) 463-8070. Public hearings to gather written and oral comments on this rule will be held at 10 a.m. on Monday, June 24, 1985, in the Hohlitzelle Auditorium, Texas A&M Research Center, 2401 East High-

way 83, Westlaco; at 10 a.m. on Wednesday, June 26, 1985, in the Multipurpose Center, 480 South Adams, Eagle Pass; and at 1 p.m. on Thursday, June 27, 1985, in the American Legion Hall, South O'Reilly, Presidio.

The new section is proposed under the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make rules necessary to carry out the powers and duties in the Water Code.

§303.9. Excess Flow Permit. An excess flow permit authorizes the use of the Texas share of the Rio Grande below the U.S.G.S. Gaging Station 08475000 near Brownsville, Texas, for irrigation purposes when there is unanticipated flow which would pass unused to the Gulf. The permit holder does not have a call on storage from Amistad or Falcon Reservoirs nor shall priority be attached to such flows on any water availability analysis for any possible future reservoirs on the Rio Grande. Permittee must contact the watermaster prior to diversion to obtain a certification and to determine whether water is available at the authorized point of diversion excluding releases made by the watermaster for water rights holders below permittee's diversion point. Application requirements are the same as those required for the Texas Water Code, §11.121, permits. As between holders of this type of water right, the priority will be first in time, first in right. Permits previously authorized as surplus water permits will be considered henceforth as excess flow permits.

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 June 10, 1985.

TRD-855230

Susan Plattman
General Counsel
Texas Department of
Water Resources

Earliest possible date of adoption:
July 19, 1985

For further information, please call
(512) 463-8093.

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Temporary Water Rights

★31 TAC §303.94

The Texas Water Development Board proposes new §303.94, concerning temporary permits on the mainstem of the Lower and Middle Rio Grande. This section is designed to allow greater flexibility in the use of water in the Amistad-Falcon Reservoir system while still complying with the law of appropriation. If a water right holder in this segment desires to use water in excess of the annual

amount authorized in his certificate of adjudication, he must apply for a temporary permit. The permit will be issued by the commission only upon a showing that the individual has purchased additional water under a water contract or has water in his account in excess of his yearly authorization. Other limitations are placed in this section.

Mike Hodges, Fiscal Services Section chief, 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. Hodges also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is that more Texas water will be put to beneficial use in the Rio Grande Basin. Additionally, since each request for appropriation will be reviewed by the commission, the public will be given better notice of proposed additional uses of state water. 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 Nancy Matchus, Staff Attorney, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711, (512) 463-8070. Public hearings to gather written and oral comments on this section will be held at 10 a.m. on Monday, June 24, 1985, in the Hobilitzelle Auditorium, Texas A&M Research Center, 2401 East Highway 83, Westlaco; at 10 a.m. on Wednesday, June 26, 1985, in the Multipurpose Center, 480 South Adams, Eagle Pass; and at 1 p.m. on Thursday, June 27, 1985, in the American Legion Hall, South O'Reilly, Presidio.

The new section is proposed under the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make rules necessary to carry out the powers and duties in the Code.

§303.94. Temporary Permits on the Mainstem of the Lower and Middle Rio Grande.

(a) Water rights holders on the mainstem of the Middle and Lower Rio Grande who anticipate the need for water in excess of their yearly authorized amount under a specific water right may apply for a temporary permit when they have purchased additional water from water control and improvement districts or irrigation districts or when they have sufficient water in an irrigation or mining right account. Such temporary permits shall expire on December 31 of the year the temporary permit was issued. At no time may a temporary permit for use be issued for an amount of water greater than the amount of storage available

in the purchaser's account at the time the application is submitted to the department. The amount of water which can be recognized in a temporary permit for municipal or industrial rights is determined by the actual amount of water purchased. Temporary permits, if issued, grant no storage rights. Temporary permits can only be issued on a showing that the additional water will be put to beneficial use without waste. Use of any water under a temporary permit is limited to the applicant's authorized diversion point(s) and tract(s) under their certificate of adjudication.

(b) Application forms are available upon request from the executive director or the watermaster. In addition to the general requirements for permit applications, applicant shall include a copy, if appropriate, or the water supply contract which complies with §345.53 of this title (relating to Documents Needed to File) and a statement as to why additional water is needed and how the water will be put to beneficial use. A vicinity map is not required since the applicant is diverting water at his authorized diversion point for use on his authorized tract.

(c) Statutory fees must accompany an application in accordance with §303.136 of this title (relating to One-Time Use Fees) and §303.137 of this title (relating to Maximum Fees). There is no charge for storage of state water under these permits.

(d) Any temporary application under this section shall be submitted to the commission for setting of a hearing and shall not require mailed or published notice, unless the commission so orders such notice.

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 June 10, 1985.

TRD-865229

Susan Plettman
General Counsel
Texas Department of
Water Resources

Earliest possible date of adoption:
July 19, 1985
For further information, please call
(512) 463-8093.

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The Texas Water Development Board proposes amendments to §345.1 and §345.2, the repeal of §§345.11, 345.12, 345.21, 345.22, 345.31, 347.1-347.5, 347.11, 347.21-347.27, 349.1-349.4, 349.11-349.14, and new §§345.11-345.17, 345.21-345.23, 345.31-345.34, 345.41-345.44, 345.51-345.55, and 345.61.

The proposed amendments, new sections, and the repeal of certain of the old sections are designed to establish a sin-

gle set of operational rules for the Rio Grande watermaster. The new sections and amendments are designed to expand, clarify, and improve the operations of the watermaster based upon the experience of the Texas Department of Water Resources (TDWR) and the watermaster since the sections were originally adopted in 1973. These modifications strengthen the sections by clarifying and expanding the operations of the watermaster, which will enhance the management and distribution of surface water in the Rio Grande Basin. These sections are also designed to assist the watermaster's drought management by providing clear guidelines to protect senior and superior rights.

Since certificates of adjudication have been issued on the Upper Rio Grande below Fort Quitman, except for the Pecos and Devils Rivers Watershed, and on the Middle Rio Grande and its tributaries, the watermaster operation on the Lower Rio Grande will be expanded to regulate the diversion of state water in these segments under Texas Water Code §§11.328-11.333. Additionally, these new sections will recognize that water diverted from the Rio Grande is used in the portion of the Nueces-Rio Grande Coastal Basin in Cameron, Hidalgo, and Willacy Counties and that the watermaster jurisdiction covers that use of the water.

In essence, two different types of water rights must be managed and protected by the watermaster. Water rights holders on the mainstem of the Lower and Middle Rio Grande rely on releases made by the watermaster from Amistad and/or Falcon Reservoirs. Based on the Lower Rio Grande Valley water suit, water rights claimants in both the Lower and Middle Rio Grande were awarded water rights under a unique priority system. Instead of a time priority, two priorities were devised based on type of use—municipal being the highest priority, and irrigation being further divided into Class A and Class B priority. The watermaster controls the nonflood releases of the Texas share of water from these reservoirs and, therefore, regulates the flow and diversion by Texas permittees from Amistad to the Gulf of Mexico. Water rights holders on the Upper Rio Grande and on all adjudicated tributaries of the Rio Grande rely on the run of the river flow exclusively to meet their annual water right since releases from storage are not available to the watermaster. The priority system for these water rights claimants is based on the filing date of the original permit, certified filing, or the date of first use under a riparian claim. As between these appropriators, the first in time is the first in right. The watermaster, in these segments, does not control the flow of the watercourse. These sections, and not the watermaster, are therefore devised to secure the best protection for both types of water rights while affording the most

economical, practical, and consistent supervision on the part of the state.

The primary service of the watermaster is to allocate the available supply to authorized water users. Any water rights holder who wishes to divert and use state water must request a certification from the watermaster in advance of the use. Sections 345.11-345.17 specify how authorized water users will request the use of water. Certification will be based on the base water right's authorization, specifically the authorized point of diversion, diversion rate, authorized tract if for irrigation, and the amount of water authorized to be used. Each diverter will have to specify the water right under which each certification is requested. Certifications are limited to a maximum time period of one month for water rights on the mainstem of the Rio Grande below Amistad and one year for run of the river water rights. Certifications must be posted by the diverter at the authorized diversion point prior to any diversion, unless verbal watermaster approval has been obtained. Under §345.12, each diverter is responsible for requesting a certification in advance to allow the appropriate number of days for travel time to be met. The amount of water requested by a diverter is presumed to be picked up after its release; if not diverted, the diverter will still be charged with 90% of the full amount.

Section 345.11 states that every diverter is responsible for installing and maintaining an accurate measuring device which can be conveniently and safely checked by the watermaster. Every diverter, and not the watermaster, is responsible for insuring that his or her diversion facilities are capable of diverting the amount of water requested even in low and high water levels. At the end of every certification period, the diverter must submit to the watermaster a pump operations report (part of the certification) with the beginning and ending meter readings or the number of hours spent pumping. The watermaster has the authority to check the measuring devices to make sure accurate diversion rate and use quantities are being recorded.

Certification can be denied for a variety of reasons, including failure to send in complete pump operation reports, failure to provide complete water right ownership information to the department, and failure to install or maintain an accurate measuring device. Without certification, the water right holder is not authorized to divert and use state water and will be in violation of the Water Code, §§11.081, 11.082, and 12.141.

Important changes in the certification program include requiring that certification request be made to specific certificates of adjudication for accounting purposes, making the certification period variable, requiring pump operation re-

ports to be submitted within five days instead of one week, and expanding the watermaster's powers to refuse or modify requests for certification or to cancel certifications. The need for complete and up-to-date ownership information is aided by new requirements clearly placing on the person claiming water right ownership, rather than on the watermaster, the burden to establish such ownership with the TDWR. Failure to submit complete water right ownership or transfer records is grounds for refusing certification. Additionally, under §345.15, each water right owner is responsible for submitting documentation to prove that a third party is authorized to act as an agent for the water right owner.

Section 345.12 pertains to special procedures for certification on the mainstem of the Middle and Lower Rio Grande. Since storage accounts are set up for these water right holders (allottees), and since releases are made by the watermaster, additional rules are necessary to explain storage and allocation procedure. In particular, the watermaster will keep an accurate inventory of the amount of water in Amistad and Falcon Reservoirs as well as accurate accounts for every water right holder. Each month the watermaster will mail a monthly report to allottees showing the current status of each water use account.

Section 345.13 relates to the records of diversions in the Upper Rio Grande and all adjudicated tributaries. Since releases are not made by the watermaster, no storage account will be established. Instead, each diverter must report the actual diversions on a periodic basis and cannot exceed the yearly authorization defined by the specific water right. The watermaster will protect senior and superior water rights by a variety of procedures, including ordering diversions to cease, alternating pumping time of days, and imposing streamflow restrictions. Under §345.23, distribution of water will be based on the annual authorized amount and priority date.

Under §345.21, the accounting system on the mainstem of the Middle and Lower Rio Grande is based on the United States' share of water in the Amistad-Falcon system. Separate accounts will be maintained for each certificate of adjudication and not for each diverter. All accounts will be measured in acre-feet. No longer will the word "acres" be used in designating water rights in the accounting system, and the term "acre rights" will be converted to "acre-feet." The U.S. share of water will be distributed monthly to storage accounts with domestic, municipal, and industrial uses having the highest storage priority. Section 345.21 increases the domestic, municipal, and industrial reserve from a monthly total of 125,000 acre-feet to 225,000 acre-feet. This change reflects

the trend of conversion of irrigation rights to municipal rights, with the 225,000 acre-feet reserve designed to meet the total domestic, municipal, and industrial rights for a one year period. The operational reserve was increased from 375,000 and 380,000 acre-feet. Irrigation accounts, which include all other uses, will be maintained with the remaining water.

Since the Lower Class A and Middle Class A water rights have the same priority right, they will be labeled simply as Class A. The same holds true for Lower Class B and Middle Class B water rights. Class A allottees will receive 17 times as much water as Class B allottees per allocation. Neither class priority right will be allowed to accumulate in storage more than 1.41 times the annual authorization in acre-feet. This irrigation storage limit was increased to minimize the amount of unallocated water when the system is full (i.e., at conservation level in both reservoirs).

Several other important changes have been made to the accounting system. First, storage accounts will be reduced to zero if there has been no use of two consecutive years. Allottees in this situation must request water and thereafter will receive water only when new allocations are made. Second, floating water rights (place of use not specified) will receive no allocations until the Texas Water Commission authorizes use on a particular tract. Third, a system of pro-rata was established to comply with special conditions in four certificates of adjudication. Fourth, the rules will allow for deductions for reservoir losses from irrigation accounts when the watermaster has a more sophisticated computing system. Finally, a method of protecting municipal or higher priority rights during drought conditions is set up in §345.22(e) through a negative allocation system.

The enforcement rules in §345.31 and §345.32 are designed to broaden and strengthen the watermaster's authority. The watermaster may take a wide variety of enforcement actions to protect senior and superior water rights as quickly and efficiently as possible.

Sections 345.41-345.44 are the expanded and clarified sections dealing with amendments to and sales of water rights. They remove the prohibition of the sale of certificates of adjudication between the Middle and Lower Rio Grande, thus allowing water rights to be moved up and down the entire mainstem of the Rio Grande below Amistad Reservoir. Instead of an absolute prohibition on sales of water, the board proposes new rules dealing with contractual sales of water in §345.51 and §345.52. These changes are designed to allow for greater beneficial use of state water held in storage.

Ownership changes have continually posed a problem to the TDWR, so proposed §345.41 and §345.44 make it clear that the owner or alleged owner is the party responsible for informing the TDWR of ownership changes. The watermaster will not certify or approve ownership changes if correct ownership documentation is not presented to the TDWR within a certain time period, the alleged owner will not be allowed to divert.

Notice requirements for amendments to certificates of adjudication have been significantly lessened to reduce the expenses of publication and mailed notice. While mailed and published notices have been eliminated in many cases, water rights holders will be notified of these changes in the watermaster's monthly report.

Under §345.43, conversion of irrigation to municipal priority rights will be on an acre-feet to acre-feet basis, instead of acres to acre-feet, to achieve consistency among the Middle and Lower Rio Grande water rights.

Sections 345.51-345.55 limit the scope of sales of water in the Lower and Middle Rio Grande. Only irrigation, districts or water control and improvement districts are allowed to sell water in excess of their needs to other allottees. These sections provide that the use of purchased water will only perfect the buyer's water right since the buyer is the party putting the water to beneficial use. These rules allow for greater beneficial use of water while still complying with the Texas Water Code, §51.188 and §51.184, which allows irrigation districts and water control and improvement districts to sell surplus district water.

Section 345.61 defines how the watermaster operation is financed by water rights holders through annual assessments. Failure to pay assessment fees will result in the watermaster curtailing the use of the holder's water.

Mike Hodges, Fiscal Services Section chief, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications for local government or small businesses as a result of enforcing or administering the rules. However, the anticipated effect on state government is an estimated additional cost of \$7,000 each year in 1985-1989.

Mr. Hodges also has determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules is the more efficient regulation of one of the major watercourses in the State of Texas by making one watermaster responsible for protecting all water rights that have been adjudicated in the Rio Grande Basin, especially in periods of drought. By geographically expanding the section regarding present water-

master operations, the state can utilize more extensively the experience, knowledge, and staff presently in existence. The sections also give the public, at least the water rights holder in the Rio Grande Basin, a clear picture of the watermaster's responsibilities as well as their own, resulting in a more effective regulatory program to manage the use of Texas water in the Rio Grande Basin.

The anticipated economic cost to individuals who are required to comply with the rules as proposed includes a one-time charge for meter installation of \$66,000 (\$600 times 110 individuals), as well as fees for annual assessments (including Maverick Company, WCID 1) which are anticipated to be \$27,400 each year in 1985-1989.

Comments on the proposal may be submitted in writing to Nancy Matchus, Staff Attorney, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711. Public hearings to gather written and oral comments on these sections will be held at 10 a.m. on Monday, June 24, 1985, in the Hoblitzelle Auditorium, Texas A&M Research Center, 2401 East Highway 83, Weslaco, at 10 a.m. Wednesday, June 26, 1985, in the Multipurpose Center, 480 South Adams, Eagle Pass; and Thursday, at 1 p.m. on June 27, 1985, in the American Legion Hall, South O'Reilly, Presidio.



Chapter 345. Operation of Rio Grande

Introductory Provisions

★ 31 TAC §345.1, §345.2

The amendments are proposed under the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make rules necessary to carry out the powers and duties in the Water Code.

§345.1. General. All rules, regulations, or orders promulgated or issued by the board are applicable to water rights in [on] the Rio Grande Basin below Fort Quitman, excluding the Pecos and Devils Watersheds, and that portion of the Nueces-Rio Grande Coastal Basin in Hidalgo, Willacy, and Cameron Counties unless in conflict with this chapter [Chapter 30, 31, and 32], in which event this chapter [Chapters 30, 31, and 32] shall govern.

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

Account—The record of municipal and operating reserves; or the record of an allottee's water in storage in the Amistad-Falcon system, and the diversion of such water.

Accounting period—From the last Saturday of a month at midnight to the last Saturday of the following month at midnight.

Agent—A person designated by a water right holder to have the authority to request certification to divert, make diversions, and pay assessment charges.

Allocation—The distribution of the United States' share of water stored in the Amistad-Falcon system to the various accounts.

Allottee—A water right holder [Any person] who has an account and who has the right to call on releases of water from the associated accounts [been found to have a water right by final judgment in the Lower Rio Grande Valley water case or by subsequent commission action].

Assessment—The authorized charges against water rights holders levied by the department to finance watermaster operations.

Certification—Written authorization issued by the watermaster to divert water from the Rio Grande or its tributaries for a specific period of time.

Diversion facility—Any pump, canal system, or other device [with attendant powerplants (electric, combustion, or other)] used to divert water.

Diverter—A water right holder, an agent or an exempt domestic and livestock user who takes water from the Rio Grande or its tributaries [A water user with a right to divert water].

Hydroelectric rights—A water right that authorizes the use of available flow for hydroelectric power generation. No account will be established for the holders of hydroelectric rights.

Lower Rio Grande Valley—Include, the portions of Starr, Hidalgo, Willacy, and Cameron Counties, Texas, which are along the Rio Grande and in the adjacent area of the Nueces-Rio Grande coastal basin receiving water from the Rio Grande or its tributaries downstream from Falcon Dam in Starr County to its mouth in Cameron County, at the Gulf of Mexico.

Measuring device—A device designed to indicate flow rate and amount, with instantaneous readout in CFS or GPM and a flow totalizer, to be accurate within 5.0%, said device to be approved by the watermaster. Any device operated and maintained by the International Boundary and Water Commission is considered satisfactory. On tributaries, a weir or other watermaster-approved method is sufficient.

Middle Rio Grande—That portion of the Rio Grande Basin, including tributaries, in Texas upstream from Falcon Dam to Amistad Dam.

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

(C) **Reach III** is that portion of the Middle Rio Grande between the international bridge at Eagle Pass and the San Antonio Crossing.

(D)-(F) (No change.)

No charge water—Storm and flood water in the Rio Grande downstream from Amistad Dam that is designated by the watermaster, in accordance with the Texas Water Code, §11.0671, and with Texas Water Commission order dated August 4, 1981, and any subsequent orders, as being available for diversion and use by water rights holders.

Nondiverter—An agent or a water right holder who has water delivered to him by a diverter [A water user with a right to use Rio Grande water delivered to him by a diverter or a carrier].

[Normal operations—The making of releases of available Texas water from Falcon and Amistad Reservoirs to maintain adequate water delivery downstream for authorized diversions from the Upper Rio Grande and tributaries of the Rio Grande.]

Proration period—The period determined on a monthly basis, when the United States' share of water in storage in the Amistad-Falcon system is less than 1.3 million acre-feet.

Pump operation report—That part of the certification which the diverter returns to the watermaster after recording the amount of water actually diverted during the certification period [The form for recording daily diversions submitted weekly to the watermaster].

Travel time—The time for released water to travel downstream to designated reaches in the Middle or Lower Rio Grande.

Tributary diverter—A water right holder, an agent, or an exempt domestic and livestock user on the Rio Grande below Fort Quitman and above Amistad Reservoir or on a tributary of the Rio Grande with no right to call for releases from Amistad or Falcon Reservoirs.

Usable balance—The quantity of water an allottee is authorized to use, and is based upon whichever is less:

(A) the allottee's annual authorized amount of water minus actual use for the year to date; or

(B) the amount in the allottee's storage account.

Water right—A right acquired under the laws of the state to impose, divert, and/or use water.

Water right holder—One who owns a water right.

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 June 10, 1985.

TRD-855228

Susan Plattman
General Counsel
Texas Department of
Water Resources

Earliest possible date of adoption:

July 19, 1985

For further information, please call
(512) 463-8093.

★ ★ ★

Watermaster—Regulatory Functions

★ 31 TAC §345.11, §345.12

(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Water Development Board, Room 511, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The repeal is proposed under the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make rules necessary to carry out the powers and duties in the Water Code.

§345.11. *Records—Falcon and Amistad Reservoirs.*

§345.12. *Records of Diversion and Allocation.*

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

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Susan Plattman
General Counsel
Texas Department of
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Watermaster-Regulatory Functional

★ 31 TAC §§345.11-345.17

The new sections are proposed under the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make rules necessary to carry out the powers and duties in the Water Code.

§345.11. Records of Diversions—General.

(a) The watermaster shall locate, number by river mile or other method, and rate as to capacity all authorized diversion facilities on the Texas bank along the Rio Grande and tributaries, and the owner or operator thereof shall be advised in writing of these facts. When a permanent diversion facility is replaced at the same location or when any changes in rating are made, the diverter shall so immediately inform the watermaster. Any change in the location of the diversion facilities and place of use on the Middle or Lower Rio Grande shall be made pursuant to §307.11 and §307.12 of this title (relating to Amending Water Rights) and on the Upper Rio Grande and tributaries to the Rio Grande shall be made pursuant to §307.11 and §307.12 of this title (relating to Amending Water Rights) or §307.21 and §307.22 of this title (relating to Amendments to Water Rights Requiring Mailed and Published Notice).

(b) Each diverter shall request written certification from the watermaster prior to diverting water by identifying the specific certificate of adjudication to be used and the pump number of the pump to be used. Certifications will be granted only for diversion from authorized diversion points associated with that water right. Certifications for irrigation water rights will be granted only for delivery of water to the authorized tract(s) covered by the water right. Certifications are limited to a maximum diversion period of one month on the main-stream of the Lower and Middle Rio Grande and to one year on the Upper Rio Grande and all tributaries of the Rio Grande.

(c) No certification will be issued which exceeds the maximum annual authorization, in combination with any other certifications issued for that certificate of adjudication in any one year. For good cause, the watermaster is authorized to refuse or to modify a request for the diversion of water or to cancel a certification. Except as provided in §345.44 (relating to the Administration by Watermaster), the watermaster will refuse a request of a diverter if the water rights holder whose water is to be diverted who does not have complete ownership records on file with the executive director. The watermaster will maintain a list of all water rights holders with incomplete ownership records and will remove names from that list after the executive director notifies the watermaster that the ownership record has been completed.

(d) Each diverter shall post at or near his or her diversion facility the watermaster certification authorizing the diversion of water. In the event the certification has been granted but is not received by the time diversion is authorized, the diverter shall post a written note at or near the diversion facility in lieu of the watermaster certification,

stating the pump number and the dates and hours of the request and that verbal authority was given by the watermaster. It is the responsibility of the diverter to make certain that the written note conforms to the time and conditions shown on the watermaster certification. The watermaster certification, upon receipt, shall replace the written note.

(e) Each diverter shall install and maintain measuring devices at the authorized point of diversion which will provide for accurate measurement and accounting of the quantities of water diverted. The installation, maintenance, and operation of measuring devices by the diverter shall be subject to approval of the watermaster. The diverter must ensure the accessibility of the measuring device, so it can be conveniently and safely located and checked by the watermaster. The diverter shall be liable for all expenses incurred in the acquisition, installation, maintenance, and operation of measuring devices.

(f) Each diverter whose diversions are not measured and reported by the International Boundary and Water Commission shall maintain accurate records of water diverted. All pumps used during the reporting period, including borrowed and rented pumps, shall be shown by number on the pump operation report with metered reading or with the number of hours operated for each reporting period. The watermaster will accept as timely all pump operation reports for each diversion pump received within five days or postmarked within three days from the termination of the certification period. If the pump operation report is incomplete or not timely filed, the watermaster will refuse to issue a new certification until the complete report is filed. Pump operation reports, other than International Boundary and Water Commission diversion reports, received in the watermaster's office are unacceptable:

- (1) if unsigned;
- (2) if the measuring device reading is not shown; or
- (3) if any day of nonoperation is not shown.

(g) Each diverter shall divert water in accordance with the watermaster certification.

(h) Each water right holder or his designated agent shall submit to the executive director a written report of the amount of water actually diverted and used during the preceding calendar year under a specific water right in accordance with §305.11 of this title (relating to Annual Reports) and §305.12 of this title (relating to Reports by Temporary Permit Holders). The water right holder is responsible for reporting actual use based on the records kept by the water right holder or diverter. The watermaster will not fill out annual surface water use reports.

§345.12. Records—Mainstem Middle and Lower Rio Grande.

(a) The watermaster shall maintain an accurate inventory of water in Falcon and Amistad Reservoirs and shall maintain records and institute necessary procedures with the International Boundary and Water Commission as may be appropriate to perform this function.

(b) The watermaster shall submit a monthly report to each allottee, or his or her designated agent, showing the current status of each allottee's account. The period of time covered by each report shall be from the last Saturday of a month at midnight to the last Saturday of the following month at midnight. The report shall designate the date for the end of the watermaster's next reporting period. Each allottee shall apply in writing to the watermaster for correction of any alleged errors in the report within 20 consecutive days following distribution of the monthly report.

(c) A diverter shall request written certification in advance to allow travel time for the released water to reach the river diversion point as scheduled. Each reach of the river shall constitute one day of travel time from Amistad Dam downstream. Whenever there is a flow of water in the Rio Grande in excess of downstream requirements, the watermaster may waive travel time requirements to allow immediate diversions; provided, that the diverter shall post the certification at or near his or her diversion facility.

(d) Nondiverters who have water diverted and transported for them from the Rio Grande by an authorized diverter or carrier shall have the diverter place the order with the watermaster for the amount of water desired. Each diverter or carrier furnishing water to a nondiverter is required to furnish a report to the watermaster showing the amount of water in acre-feet delivered to the nondiverter during the preceding month, including transportation losses. If a nondiverter uses in excess of the amount to which he or she is entitled the excess amount shall be charged against the account of the diverter.

(e) Diversions shall be charged against the appropriate accounts as follows.

(1) A diverter shall be charged with the actual amount diverted, without being penalized, if the total diversion is within plus or minus 10% of the amount requested pursuant to certification.

(2) A diverter shall be charged with 90% of the certification amount if the total diversion is less than 90% of the amount requested pursuant to certification.

(3) If the quantity of water diverted is more than 110% of the amount requested pursuant to certification, then the diverter will be charged with the actual amount of water diverted and the provisions of §345.31 of this title (relating to General) will apply.

(4) In accordance with Texas General Law, §2, Chapter 35, 1981, at page 75, water diverted by Maverick County Water Control and Improvement District 1 through its gravity irrigation diversion system that is returned to the stream from which it was taken at specific metered points or places operated by the International Boundary and Water Commission is surplus water as defined in said law and is not appropriated water. For water accounting and reporting purposes, surplus water shall not be counted as part of the total amount of water authorized to be diverted for beneficial use under the district's water rights. Surplus water does not include water flowing into the Rio Grande from tributaries which flow in the Maverick system.

(f) The burden shall be upon the diverter on the Middle and Lower Rio Grande to satisfy the watermaster that the diverter could not receive his or her total requested amount of water during the certification period because of the acts of other diverters or because of other clearly shown extenuating circumstances, and if such is shown, appropriate adjustments may be made by the watermaster.

(g) If an allottee on the Middle or Lower Rio Grande has to terminate pumping before the end of the certification period, the allottee shall notify the watermaster as soon as possible. The effect of the termination in pumping is a termination in the certification. A new certification must be issued before the diverter may renew pumping.

(h) Use of no charge water shall not be charged against the allottee's annual surface water use limit or against the allottee's account. The total amount of no charge water diverted must be stated separately in the annual surface water use report sent to the executive director.

§345.13. Records—Upper Rio Grande and All Rio Grande Tributaries.

(a) Diversers from the Upper Rio Grande and all Rio Grande tributaries must comply with the requirements of §345.11 of this title (relating to Records of Diversions—General).

(b) A request for release from Falcon and Amistad Reservoirs is not applicable. The watermaster will coordinate with the International Boundary and Water Commission regarding water released by Mexico to the Rio Conchos which contributes to the flow of the Rio Grande in the reach from Presidio to Amistad Reservoir.

(c) Diversers shall make reports to the watermaster based on the information recorded on the pump operation report. The watermaster will advise these diversers of the report schedule (monthly, quarterly, yearly) required.

(d) Diversers may be issued a one-year certification by the watermaster for up to the total annual authorized amount of the diverter's water right.

(e) If complaints are received by the watermaster concerning insufficient water to satisfy senior and superior water rights, the watermaster will conduct an investigation and may institute procedures to distribute the available waters, such as:

- (1) order alternate pumping days for specified diverters;
- (2) limit the pumping time;
- (3) impose streamflow restrictions;
- (4) order pumping to cease or pump at a decreased diversion rate until the situation is improved; and/or

(5) any other procedures needed to ensure water use is protected based on the priority system in the Texas Water Code.

§345.14. Appeal of Watermaster Actions. Any person dissatisfied with any action of a watermaster may apply to the executive director for relief under the Texas Water Code, §11.326.

§345.15. Appointment of An Agent. An agent for a water right holder who requests water shall submit to the watermaster a document signed by the water right holder indicating the owner-agent relationship and the duration of the agent authorization. The watermaster will not recognize more than one agent for each water right or independent portion thereof.

§345.16. Amistad/Falcon System. The watermaster will request releases from Amistad and Falcon Reservoirs for authorized domestic, municipal, industrial, irrigation, and other uses in such a manner which promotes the efficient use and optimum yield of the United States's share of water in the Amistad/Falcon system, consistent with the 1944 treaty between the United States and Mexico.

§345.17. Diversion Facilities. It is the responsibility of all diverters to insure that their diversion facilities are capable of diverting the quantity of water authorized pursuant to certification, even under low or high water levels.

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

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Allocation of Waters

★ 31 TAC §§345.21, §345.22

(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Water Development Board, Room 511, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The repeal is proposed under the Texas Water Code, §51.131 and §5.132, which provides the Texas Water Development Board with the authority to make rules necessary to carry out the powers and duties in the Water Code

§345.21. Allocation of Water—Amistad and Falcon Reservoirs.

§345.22. Calculations for Engineering and Accounting Purposes.

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

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Allocation and Distribution of Waters

★ 31 TAC §§345.21-345.23

The new sections are proposed under the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make rules necessary to carry out the powers and duties in the Water Code.

§345.21. Accounts—Amistad/Falcon Reservoirs.

(a) For the purpose of establishing accounts in Amistad and Falcon Reservoirs, the two reservoirs shall be considered as a single storage system. Accounts in the Lower and Middle Rio Grande shall be based upon water rights. Water rights for purposes other than domestic, municipal, and industrial will be considered as having irrigation priority rights and therefore are included in the irrigation accounting system.

(b) When there is adequate water to do so, the following accounts will be maintained:

(1) a reserve of 225,000 acre-feet of water for domestic, municipal, and industrial uses;

(2) an operating reserve of not to exceed 380,000 acre-feet of water to provide for: loss of water by seepage, evaporation, and conveyance; emergency requirements; and adjustments of amounts in storage as may be necessary by finalization of provisional computations by the International Boundary and Water Commission; and

(3) the accounts for irrigation uses and all other uses.

§345.22. Allocations to Accounts.

(a) Allocations shall be based on water in the usable storage of Falcon and Amistad Reservoirs. Such storage shall be computed as the total storage in Amistad and Falcon Reservoirs as reported by the International Boundary and Water Commission on the last Saturday of each month less the amount of water in dead storage. To determine the amount of water to be allocated to the various accounts, computations shall be made in the following sequence:

(1) from the amount of water in usable storage, deduct 225,000 acre-feet to re-establish the reserve for municipal, domestic, and industrial uses;

(2) from the remaining storage, deduct the total end-of-month account balances for all Lower and Middle Rio Grande irrigation and mining allottees;

(3) from the remaining storage, deduct 380,000 acre-feet to re-establish the operating reserve;

(4) the remaining storage will be allocated to the irrigation and mining accounts. The allotment for irrigation and mining uses shall be divided into Class A and Class B. Class A rights include all Class A water rights in the Lower and Middle Rio Grande; Class B rights include all Class B water rights in the Lower and Middle Rio Grande. Class A allottees shall receive 1.7 times as much water as that allotted to Class B allottees.

(b) Allottees who do not put any of the water in their account to beneficial use within two consecutive calendar years shall have that account reduced to zero. No subsequent allocations will be made until the allottee advises the watermaster that water is expected to be used.

(c) At no time shall the watermaster allow an allottee to accumulate in storage more than 1.41 times the annual authorized right in acre-feet.

(d) No allocation will be made to a water right holder when the water right or a portion of the right does not identify a specific place or places of use. Only that portion of a water right which authorizes a specific place of use will receive an allocation based upon the number of acre-feet recognized to be used on that tract.

(e) If the amount of usable water is insufficient to carry out all the steps

specified in subsection (a) of this section, the computations will be made in the specified sequence, with the following adjustments.

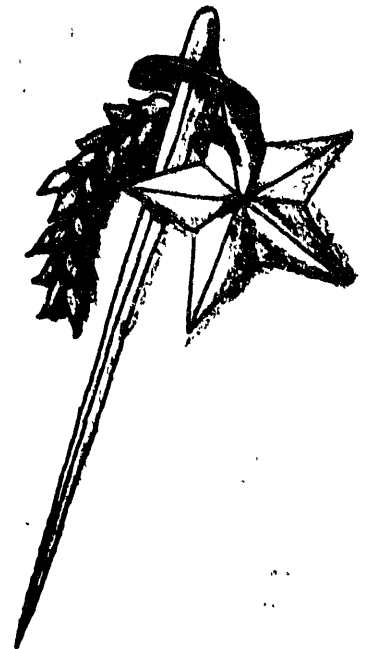
(1) If the watermaster determines there is insufficient water for allocation under subsection (a)(4) of this section, or other valid reason for not allocating the available water, the unallocated storage after subsection (a)(3) of this section will be held for the next allocation period. In general, water will be allocated under subsection (a)(4) of this section when there is at least 50,000 acre-feet available for that purpose.

(2) If the balance available for the operating reserve is less than 380,000 acre-feet, but greater than 150,000 acre-feet, that amount will be the amount allocated to the operating reserve. If it is less than 150,000 acre-feet, the watermaster will deduct from the irrigation and mining accounts, via a negative allocation, the amount necessary to provide 150,000 acre-feet for the operating reserve account. A negative allocation will be made on a pro rata basis, from all irrigation and mining accounts containing water at the time. The watermaster

will keep accurate records of the negative allocations affecting each irrigation and mining account.

(f) Upon approval of the executive director, the watermaster may modify the water use accounting system such that reservoir losses are deducted from irrigation storage accounts on a monthly basis after an automated accounting system is fully operational in the Weslaco office.

(g) For each month of a proration period, the total amount of water authorized to be used for that calendar year by each of the four water rights listed in the following table, or for the appropriate portion of the water right, will be reduced by the indicated amount. During any calendar year for which proration has been in effect, any subsequent allocation for the listed water rights will be based on the unprorated yearly authorization reduced by the cumulative total of the monthly reductions for the duration of the proration period. When conditions are such that it appears that the initiation of a proration period is imminent, the watermaster shall, at least two months in advance, advise the four affected water right holders of the anticipated proration.



| Certificate of Adjudication | Annual Authorization (Acre-feet) | | Proration Reduction (Acre-feet) | |
|--------------------------------|-------------------------------------|-----------|------------------------------------|----------|
| | Unprorated | Prorated | Full Year | Monthly |
| 23-802 | 33,948.85 | 20,000.00 | 13,948.85 | 1,162.40 |
| 23-837 | 4,375.00 | 3,656.00 | 719.00 | 59.90 |
| 23-850 | 3,750.00 | 2,000.00 | 1,750.00 | 145.80 |
| 23-851 | 2,522.50 | 1,642.00 | 880.50 | 73.40 |

(h) The watermaster may take any actions appropriate to alleviate emergencies.

§345.23. Distribution of Available Waters—Upper Rio Grande and All Rio Grande Tributaries.

(a) Distribution of waters in the Upper Rio Grande and all Rio Grande tributaries shall be based on the amount of water authorized per annum and the priority date of the water right. Water rights holders in the Upper Rio Grande and all Rio Grande tributaries are entitled to waters flowing in these watercourses which can be beneficially used and which are used in accordance with §345.11 of this title (relating to Records of Diversions—General) and §345.13 of this title (relating to Records—Upper Rio Grande and All Rio Grande Tributaries). All waters which cannot be so used shall be available to the Lower and Middle Rio Grande system.

(b) Total certifications issued in a year shall be limited to the water rights holder's annual authorization.

(c) In periods of shortage, on the watermaster's initiative or when requested by a water rights holder on the same tributary or on the Upper Rio Grande, the watermaster may impose limitations on the time, rate, and quantity of water diverted.

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

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511, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The repeal is proposed under the Texas Water Code, §51.131 and §51.132, which provides the Texas Water Development Board with the authority to make rules necessary to carry out the powers and duties in the Water Code.

§345.31. Lockout.

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

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Enforcement of Rules

★31 TAC §345.31

(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 Water Development Board, Room

Enforcement Regarding Watermaster Operations

★ 31 TAC §§345.31-345.34

The new sections are proposed under the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make rules necessary to carry out the powers and duties in the Code.

§345.31. General. For a violation of any statutes of the Texas Water Code, or of the terms of a water right, or commission order or department rules, the watermaster or executive director may pursue appropriate enforcement action if voluntary compliance is not promptly achieved.

§345.32. Enforcement Actions.

(a) The watermaster may seek voluntary compliance by ordering that:

(1) a violator cease and desist any unauthorized diversion, taking, impoundment, transfer, or use of state water;

(2) the owner of a lawful dam on a tributary pass inflows sufficient to satisfy the needs of downstream senior and superior rights;

(3) any person in violation of the Texas Water Code, department rules, permit, certificate of adjudication, or commission order take necessary actions to achieve compliance.

(b) In the absence of voluntary compliance in a timely manner, the watermaster may:

(1) lock headgates or pumping facilities or take other necessary actions to effectively cease any unauthorized diversion or impoundment of state water;

(2) refuse to issue a certification;

(3) issue citations under the Texas Water Code, §11.081;

(4) refer the violation to the executive director.

(c) The executive director may:

(1) seek voluntary compliance;

(2) refer a case to the attorney general and for any appropriate legal remedy in a court of competent jurisdiction, which may include a penalty assessment of not more than \$1,000 for each day the violator continues the taking, diversion, or appropriation as set forth in the Texas Water Code, §11.082;

(3) seek an action before the commission culminating with the issuance of an appropriate order, which if subsequently violated, may be referred to the attorney general for appropriate action in a court of competent jurisdiction;

(4) seek any other appropriate actions which are available at law.

§345.33. Appeal. All appeals from actions or decisions of the watermaster shall be in accordance with the Texas Water Code, §11.326(f).

§345.34. Violations.

(a) It shall be a violation for any person to do the following:

(1) divert, impound, or use any water from the Rio Grande or its tributaries, either personally or through another, without proper authorization under the Texas Water Code, these rules and any applicable final judgment rendered by a court of competent jurisdiction;

(2) refuse to allow, or to interfere with, the inspection of any land, natural waterway, artificial waterway, or diversion facility by an agent or employee of the executive director that would assist the department in the discharge of its duties;

(3) interfere with or refuse to comply with the execution of any order of the watermaster, executive director, or Texas Water Commission;

(4) break, tamper with, or mutilate any seal or other device used to enforce orders of the commission, executive director, court, or watermaster;

(5) make or send to the watermaster or executive director any false or misleading statement, or submit any untrue data in any pump operation report or surface water use report;

(6) violate any statute, rule, or order of the commission or the watermaster.

(b) The list of violations in subsection (a) of this section is not exclusive.

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

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Amendments to and Sales of Water Rights

★ 31 TAC §§345.41-345.44

The new sections are proposed under the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make rules necessary to carry out the powers and duties in the Code.

§345.41. Sale of Water Rights. The owner of a water right may convey his or her water right as provided by §305.22 of this title (relating to Change of Ownership of Water Rights) and §305.23 of this title (relating to Recording Change of Owner-

ship of Rights). The purpose and place of use shall not be changed without authorization from the commission. Owners of water rights shall promptly inform both the executive director and the watermaster of any transfers of water rights. The new owner must file with the executive director all required documents as identified in §305.23 of this title (relating to Recording Change of Ownership of Rights). If a tract of land to which a smaller water right acreage is appurtenant is owned by more than one person in divided interests, a water right partition agreement is required among all the owners of said tract of land before they can be authorized to divert water by the watermaster. However, if the owners fail to submit a water right partition agreement within one month after being notified by the executive director that such an agreement is needed, the executive director shall administratively divide the water rights among the owners on a pro rata basis by acreage. The owners involved may request that the executive director grant an extension of the one month deadline not to exceed six months if extenuating circumstances exist. If the executive director does not grant the extension, the division will be made on a pro rata basis. The executive director will recognize the pro rata shares until charges are made by valid partition agreement.

§345.42. Amendments

(a) The commission will consider applications to amend water rights. Transfer of the point of diversion and/or place of use of water rights from the Lower and Middle Rio Grande to above Amistad Reservoir are prohibited; however, transfers may be made between the Lower Rio Grande and the mainstem of the Middle Rio Grande. Applications must meet all of the requirements for an original water permit as set out in Chapter 303 of this title (relating to Appropriation of Water).

(1) An applicant shall submit to the executive director an application prepared to reflect the desired change(s) and executed as provided in these sections.

(2) Determination of the type of notice required will be made by evaluating the applications according to §307.11 of this title (relating to Application for Amendment) and §307.21 of this title (relating to Application to Amend). One exception to this is that changes in the purpose of use, rate of diversion, point of diversion, and place of use for water rights held in and transferred within and between the mainstems of the Lower Rio Grande, Middle Rio Grande, and Amistad Reservoir will not require mailed and published notice.

(3) Water rights holders on the Middle and Lower Rio Grande may apply to the commission for an amendment to their water right(s) to increase the amount of water that may be applied per acre when additional water rights have been acquired.

(b) The executive director will advise the watermaster of all applications to amend water rights under watermaster jurisdiction which do not require mailed and published notice. The watermaster will place a short summary of the proposed amendments in the watermaster's monthly report.

§345.43. Conversion of Water Rights. The purposes of use included in municipal priority rights are domestic, municipal, and industrial. The purposes of use included in the Class A and B priority rights are irrigation and other purposes of use, excluding domestic, municipal, and industrial. Unless otherwise stated in a certificate of adjudication, one acre of irrigation water right in the Lower Rio Grande will be equivalent to 2.5 acre feet per annum. All Class A and B priority rights in the Lower and Middle Rio Grande which have been or will be acquired for domestic, municipal, or industrial use shall be amended to authorize the change in purpose of use and converted to receive a definite quantity of water in acre-feet per annum.

(1) One acre-foot of Class A irrigation water right shall be converted to 0.5 acre-feet of water per annum for either domestic, municipal, or industrial purposes; one acre-foot of Class B irrigation water right shall be converted to 0.4 acre-feet of water per annum for either domestic, municipal, or industrial purposes.

(2) An irrigation or mining water right which has been amended and converted to a municipal priority shall be allocated water on an equal basis with stipulated domestic, municipal, and industrial water rights recognized in the final judgment rendered in the Lower Rio Grande Valley water case and the final judgment in the adjudication of water rights on the Middle Rio Grande.

§345.44. Administration by Watermaster. Owners of water rights shall promptly inform the executive director of any change of ownership of water rights. Thereafter, if the new ownership record is not complete, the executive director shall inform the alleged owner by letter that ownership documents must be filed within 30 days and approved by the executive director. During a 60-day period following the date of the executive director's letter, the watermaster will honor requests by the alleged owner for releases of water and/or for certification in accordance with the water right. No allocations will be made until the executive director notifies the watermaster of the approved change in ownership. Requests for extension of the initial 60-day period must be submitted in writing to the executive director prior to the end of the 60-day period. If the extension is granted, the watermaster may issue certifications and/or order releases for the alleged owner. If the extension is not granted, the watermaster may

not issue a certification, make releases, or make allocations for the alleged owner until the executive director notifies the watermaster that ownership has been changed to include the new owner. If a water right amendment is required for the new owner to use water, the watermaster shall not honor requests by the new owner for water under that water right until the amendment has been granted by the commission.

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

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Contractual Sales

★ 31 TAC §§345.51-345.55

The new sections are proposed under the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make rules necessary to carry out the powers and duties in the Water Code.

§345.51. General Policy. Irrigation districts or water control and improvement districts may sell water held in their storage accounts which is in excess of their needs to other allottees who do not have enough water in their account to meet their annual demand in accordance with §§345.52-345.55 of this title (relating to Contractual Sales). Sales of water by other allottees are prohibited. Transfer or subsequent use of water sold will not perfect a seller's water right.

§345.52. General Filing Requirements.

(a) No contract approval is required for sales of water by a district when the district's distribution facilities are used to deliver the water to the buyer for purposes authorized by the district's water rights.

(b) Contract approval by the executive director is required for sales of water when the district's distribution facilities are not used to deliver the water to the buyer or when the buyer does not have access to the district's distribution facilities.

(c) If the sale of water is for a purpose of use other than that authorized in the seller's and/or buyer's water right, then the seller and/or buyer must file an application with the commission to amend that right and have the right amended before any sale may be approved.

(d) If the change(s) is the point of diversion, place of use, or diversion rate, then the seller or buyer shall file a copy of the executed contract with the watermaster. This section applies only when the diversion point and place of use are located and identified in department records as authorized under the buyer's water right. If a diversion point and/or place of use is not so identified, authorization must be received from the commission through an amendment to the buyer's water right.

(e) All contracts must be filed with and approved by the watermaster as complying with all the rules relating to contractual sales. No deliveries of sold water will be made by the watermaster until all requirements are met.

(f) The watermaster will maintain a file of the original approved contracts and will send a copy of approved contracts to the executive director to be filed in the seller's permanent water right record. If the executive director advises the watermaster that the seller of the water right has not sent in all required documents and/or that an amendment is required, the watermaster will thereafter make no releases to the buyer under the contract until the required information is received by the executive director and/or an amendment is granted by the commission.

(g) Notice of contractual sales of water approved by the watermaster during the month will be published in the watermaster's monthly report. Information about the amount of water sold, the name of the buyer and seller, and the date of sale will be included in the report.

§345.53. Documents Needed to File.

(a) A contract of sale of water by an irrigation district or water control and improvement district shall indicate all of the following:

- (1) the seller's water right;
- (2) the buyer's water rights (water will be transferred to identified accounts only to the extent designated);
- (3) the name and address of the seller and buyer;
- (4) the purpose of use of water being sold and the total quantity of water being purchased in acre-feet;
- (5) the purpose of use or the water for the buyer; and
- (6) the cost of water to the buyer per acre-foot.

(b) The watermaster may require any additional information needed to file the contract, including any agreements with diverters if the buyer is not pumping from his own diversion point.

§345.54. Responsibilities of Buyer and Seller.

(a) Both buyer and seller must comply with all Texas Water Development Board rules and watermaster orders.

(b) The buyer must obtain a certification from the watermaster before pumping.

(c) The seller is responsible for reporting the total amount of water sold under the provisions of §345.52 of this title (relating to General Filing Requirements) on the seller's annual surface water use report. This water shall be reported as having been sold and shall not be included in the amount of water reported as diverted by the seller.

§345.55. Accounting for Purchased Water.

(a) At no time will buyer's irrigation account exceed 1.41 times the buyer's authorized amount of water recognized in buyer's certificate of adjudication.

(b) On the date of contract approval, purchased irrigation water will be added to the buyer's specified irrigation account(s) without maintaining its identity as purchased water.

(c) Authorized use of purchased water may perfect the buyer's water right not to exceed the buyer's annual authorized amount of water recognized in the buyer's certificate of adjudication.

(d) Use of water by the buyer will be limited to the buyer's annual authorized amount of water recognized in the buyer's certificate of adjudication, unless a temporary permit is granted for use in excess of the buyer's annual authorization in accordance with §303.94 of this title (relating to Temporary Permits on the Mainstem of the Lower and Middle Rio Grande).

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 June 10, 1985.

TRD-855214 Susan Plattman
General Counsel
Texas Department of
Water Resources

Earliest possible date of adoption:
July 19, 1985
For further information, please call
(512) 463-8093.

★ ★ ★

Financing Watermaster Operation

★31 TAC §345.61

The new section is proposed under the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make rules necessary to carry out the powers and duties in the Water Code.

§345.61. Financing Watermaster Operation. The executive director shall notify each holder of water rights, or the designated agent, of the estimated expenses which will be required annually for the adminis-

tration of the respective water rights. Following a public hearing, the commission shall issue an order establishing an assessment rate for the annual cost and reinstatement fees. The commission shall hold additional hearings to determine subsequent assessments if necessary. Each order assessing costs shall remain in effect until further order of the commission. The annual cost shall be paid to the executive director in advance of expenditures. The executive director shall specify the dates payment shall be made. The executive director shall transmit all collections to the state treasurer to be held in a special fund to provide for the cost of the Rio Grande watermaster operation. Water shall not be diverted, taken, stored, or used by any diverter or agent while any assessment payment is delinquent, neither shall an allottee be allocated any additional water or delivered any water until all assessments, plus a reinstatement fee for each assessment period of delinquency, is received by the executive director. Once the assessments and reinstatement fee is paid in full, an allottee will be able to make requests for water only to the extent water remained in the storage account before the first date of the delinquency in payments and to the extent water remained in the storage account under §345.22 of this title (relating to Allocations to Accounts). An allottee's storage account will be reduced to zero if the assessment and reinstatement fees are not paid within a one-year period.

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

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TRD-855213 Susan Plattman
General Counsel
Texas Department of
Water Resources

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July 19, 1985
For further information, please call
(512) 463-8093.

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Chapter 347. Lower Rio Grande Introductory Provisions

★31 TAC §§347.1-347.5

(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Water Development Board, Room 511, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The repeal is proposed under the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make rules necessary to carry out the powers and duties in the Water Code.

- §347.1. General.
- §347.2. Appointment of Agents.
- §347.3. Travel Time.
- §347.4. Manner of Diversion.
- §347.5. Certification Duration and Posting.

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 June 10, 1985.

TRD-855223 Susan Plattman
General Counsel
Texas Department of
Water Resources

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(512) 463-8093.

★ ★ ★

Financing Watermaster Operation

★31 TAC §347.11

(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 Water Development Board, Room 511, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The repeal is proposed under the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make rules necessary to carry out the powers and duties in the Water Code.

§347.11. Financing Watermaster Operation—Lower Rio Grande.

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

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TRD-855222 Susan Plattman
General Counsel
Texas Department of
Water Resources

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For further information, please call
(512) 463-8093.

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Amendments to and Sales of Water Rights

★31 TAC §§347.21-347.27

(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Water Development Board, Room 511, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The repeal is proposed under the Texas Water Code, §51.131 and §5.132, which provides the Texas Water Development Board with the authority to make rules necessary to carry out the powers and duties in the Water Code.

- §347.21. General.
- §347.22. Sale of Water Rights.
- §347.23. Sale of Water Allocations.
- §347.24. Amendments.
- §347.25. Allocation of Water after Amendment.
- §347.26. Conversion of Water Rights.
- §347.27. Administration by Watermaster.

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

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TRD-855221 Susan Plattman
General Counsel
Texas Department of
Water Resources

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Chapter 349. Middle Rio Grande Introductory Provisions

★31 TAC §§349.1-349.4

(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Water Development Board, Room 511, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The repeal is proposed under the Texas Water Code, §51.131 and §5.132, which provides the Texas Water Development Board with the authority to make rules necessary to carry out the powers and duties in the Water Code.

- §349.1. General.
- §349.2. Appointments of Agents.

- §349.3. Manner of Diversion.
- §349.4. Certification Duration and Posting.

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

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TRD-855220 Susan Plattman
General Counsel
Texas Department of
Water Resources

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For further information, please call
(512) 463-8093.

★ ★ ★

Amendments to and Sales of Water Rights

★31 TAC §§349.11-349.14

(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Water Development Board, Room 511, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The repeal is proposed under the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make rules necessary to carry out the powers and duties in the Water Code.

- §349.11. General.
- §349.12. Sale of Water Rights.
- §349.13. Sale of Water Allocations.
- §349.14. Amendments.

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 June 10, 1985

TRD-855219 Susan Plattman
General Counsel
Texas Water
Development Board

Earliest possible date of adoption:
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For further information, please call
(512) 463-8093.

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(Editor's note: A notice appeared in the June 14, 1985, issue of the Texas Register indicating that the following proposals by the Texas Department of Human Resources

would be serialized in this issue. The earliest possible date of adoption for the documents is July 15, 1985.)

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Resources Chapter 15. Medicaid Eligibility

The Texas Department of Human Resources proposes amendments to §§15.2001, 15.3001, 15.3303, 15.3403, 15.3404, 15.3408, and 15.5403, and the repeal of and new §§15.3108, 15.3409-15.3412, 15.3416, 15.5205, and 15.5206.

The amendments and new rules address changes in the department's policy for determining initial eligibility of SSI-related medical assistance only (Type Program 14) applicants in Title XIX long-term care facilities. These changes in policy are based on an interpretation of federal regulations received from the Health Care Financing Administration (HCFA). Under the new policy, individuals may become eligible under the Type Program 14 special income limit no earlier than the first day of the first month in which the individual is living in a Title XIX long-term care facility, and the SSI reduced payment standard (\$25) would be applicable for that month.

The amendments to §15.2001 and §15.5403 also delete a reference to individuals in approved Title XIX institutions for treatment of tuberculosis. The Deficit Reduction Act of 1984 eliminated the special provider classification for tuberculosis hospitals. This eliminates the special medical assistance only coverage group for individuals 65 years old or older in these hospitals. Treatment for tuberculosis in these hospitals will now be billed through the department's health insuring agent using regular hospital billing procedures and limitations.

David Hawes, Office of Financial and Data Management administrator, has determined that for the first five-year period the rules will be in effect there will be fiscal implications as a result of enforcing or administering the rules. The estimated savings to the state as a result of changes in Type Program 14 eligibility requirements for each fiscal year are \$129,273 in fiscal year 1985, \$348,263 in fiscal year 1986, \$385,750 in fiscal year 1987, \$421,162 in fiscal year 1988, and \$459,825 in fiscal year 1989. The estimated additional cost to the state as a result of the elimination of the special medical assistance only coverage group in tuberculosis hospitals for each fiscal year is \$5,081 in fiscal year 1985, \$68,568 in fiscal year 1986, \$72,408 in fiscal year 1987, \$76,607 in fiscal year 1988, and \$80,951 in fiscal year 1989. The estimated

loss of revenue to the state in each fiscal year because of this policy change is \$5,201 in fiscal year 1985, \$35,750 in fiscal year 1986, \$58,872 in fiscal year 1987, \$62,286 in fiscal year 1988, and \$65,819 in fiscal year 1989. There is no anticipated economic cost to units of local government or small businesses as a result of these policy changes.

Mr. Hawes also has determined that for each year of the first five years the rules are in effect the anticipated public benefit is compliance with HCFA's interpretation and the Deficit Reduction Act of 1984 to eliminate federal fiscal sanctions because of noncompliance with federal regulations. There are economic costs to individuals who are required to comply with the rules that address the changes in Type Program 14 eligibility requirements. The average cost per individual is \$338.88 in fiscal year 1985, \$358.13 in fiscal year 1986, \$379.15 in fiscal year 1987, \$402.21 in fiscal year 1988, and \$426.20 in fiscal year 1989. Individuals who will incur these costs are those individuals ineligible for SSI-related medical assistance only under the revised policy. There is no anticipated cost to individuals required to comply with the elimination of the special medical assistance only coverage group in tuberculosis hospitals.

Comments may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division—076, Texas Department of Human Resources 153-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in this *Register*.

Subchapter U. Eligible Recipients for Title XIX (Medicaid)

★ 40 TAC §15.2001

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

§15.2001. Categorically Needy. The Texas Medical Assistance Program, under the provision of Title XIX (Medicaid) of the Social Security Act, provides certain benefits to all individuals who meet the department's definition of categorically needy. The categorically needy are defined as:

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

(4) individuals living in a Title XIX approved medical facility who would be eligible for SSI cash benefits if they were living outside the facility except that their incomes exceed the SSI payment standard but are less than a special income limit [within the maximum as] established by the department. An individual must live in one or more institutions through out at least one full calendar month to be eligible under the special income limit.

[(A) Individuals in an approved Title XIX institution (or approved section)

for treatment of tuberculosis must be 65 years old or older.]

(A) [(B)] Individuals in approved sections of Title XIX intermediate care and skilled nursing facilities may be any age as long as they are otherwise eligible.

(B) [(C)] Individuals in approved Title XIX intermediate care facilities or [other] approved Title XIX intermediate care units in institutions for mental retardation may be any age as long as they are otherwise eligible.

(C) [(D)] If the individual leaves the Title XIX facility to enter a Title XIX-approved hospital and upon release from the hospital re-enters a Title XIX facility, his eligibility for Medicaid is continued. If the individual is released from the hospital to a living arrangement other than a Title XIX facility, the department terminates his Medicaid eligibility under this provision.

(5)-(9) (No change.)

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

Issued in Austin, Texas, on June 6, 1985.

TRD-855046

Marlin W. Johnston
Commissioner
Texas Department of
Human Resources

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July 15, 1985

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

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Subchapter EE. Individuals for Whom SSI Eligibility Criteria Are Used

★ 40 TAC §15.3001

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

§15.3001. Types of Applicants. The eligibility criteria of the federal Supplemental Security Income (SSI) Program are used in determining Medicaid eligibility for the following categories of assistance:

(1) SSI-related MAO (Type Program 14). Individuals [residing] in approved Title XIX long-term care facilities, who would be eligible for SSI except for income, may qualify for assistance under Type Program 14. The individual may be determined eligible under a special income limit established by the department beginning with the first month for which the SSI reduced payment standard would apply. [Countable income must fall in a range be-

tween the appropriate SSI payment amount and a maximum established by the department.] Type Program 14 recipients with Rider 49 status who are discharged from a Title XIX facility to the community may continue to have eligibility determined under Type Program 14.

(2)-(4) (No change.)

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

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Marlin W. Johnston
Commissioner
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Human Resources

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

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Subchapter FF. SSI Basic Program Requirements

★ 40 TAC §15.3108

(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 Department of Human Resources, 701 West 51st Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

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

§15.3108. Institutional Residence.

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

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Marlin W. Johnston
Commissioner
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(512) 450-3766.

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

department to administer public assistance programs.

§15.3108. Institutional Residence.

(a) Generally, an individual is not eligible for SSI and/or medical assistance if he is a resident of a public institution throughout the calendar month. The following words and terms, when used in these sections, shall have the following meanings, unless the context clearly indicates otherwise:

(1) **Institution**—An establishment that makes available some treatment or services, besides food and shelter, to four or more persons who are not related to the proprietor.

(2) **Public institution**—An institution, as defined in paragraph (1) of this subsection, that is operated by or controlled by the federal government, a state, or a political subdivision.

(3) **Resident of a public institution**—An individual who can receive substantially all of his food and shelter while living in a public institution. This is regardless of whether he is receiving treatment and services available in the institution and whether he or anyone else pays for all food, shelter, and other services in the institution. An individual is not a resident of a public institution if he is living in a public educational institution and enrolled in or registered for the educational or vocational training provided by the institution.

(4) **Throughout the calendar month**—An individual is living in an institution as of the beginning of a month and stays there the entire month. The department considers that an individual continues to live in an institution if he transfers from one institution to another or is temporarily absent (not discharged). The department does not consider three-day therapeutic home visits to be discharges. An individual is also a resident of an institution throughout a month if he:

(A) is born in the institution and stays there throughout the rest of the month of birth; or

(B) lives in an institution as of the beginning of a month and dies in the institution during the month.

(b) In the following exception situations, an individual may be eligible for SSI and/or medical assistance, although he is a resident of a public institution throughout the calendar month.

(1) The public institution in which the individual lives throughout the calendar month is a medical care facility and Medicaid is making, or can be expected to make, substantial payments for the individual's cost of care in that facility. Substantial payments means that Medicaid is covering more than 50% of the cost of service provided by the facility during the month.

(2) The individual lives for:

(A) a part of the month in a public institution; and

(B) the rest of the month in a public or private medical care facility where Medicaid pays, or is expected to pay, a substantial part of the individual's cost of care.

(3) The individual lives in a publicly operated community residence that serves no more than 16 residents. Community residences for this purpose do not include medical care facilities, educational or vocational training institutions, or jails or other facilities for restraint of prisoners or persons being held pending disposition of legal charges.

(c) SSI uses a reduced standard payment amount of \$25 for individuals and \$50 for couples if:

(1) they live in public or private medical care facilities; and

(2) Medicaid pays, or is expected to pay, more than 50% of the cost of the individuals' or couples' care.

(d) This reduced benefit applies in the following situations.

(1) The individual (or couple) lives in one or more medical care facilities throughout the calendar month. Medicaid pays, or is expected to pay, more than 50% of the cost of care in each facility.

(2) The individual (or couple) lives for:

(A) a part of the month in a public institution; and

(B) the rest of the month in a public or private medical care facility where Medicaid pays, or is expected to pay, more than 50% of the cost of care.

(e) The department may determine an individual's or couple's eligibility for medical assistance only benefits, using a special income limit established by the department if the individual or couple:

(1) enters a Medicaid-certified ICF, SNF, or ICF-MR; and

(2) is ineligible for SSI benefits because of the reduction in the standard payment amount.

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

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TRD-855049

Marlin W. Johnston
Commissioner
Texas Department of
Human Resources

Earliest possible date of adoption:

July 15, 1985

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

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Subchapter HH. Income for Individuals Related to the SSI Program

★ 40 TAC §15.3303

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

§15.3303. Procedures for Deeming Income.

(a) The caseworker applies the following procedures to determine [apply in determining] eligibility for medical coverage of individuals living [residing] in nonvendor situations. [The following procedures also apply in vendor situations during the month the individual separates from his or her ineligible spouse. Deeming ceases in the month after separation.]

(b) (No change.)

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

Issued in Austin, Texas, on June 6, 1985

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Marlin W. Johnston
Commissioner
Texas Department of
Human Resources

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(512) 450-3766.

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Subchapter II. Budgeting for Individuals Related to the SSI Program

★ 40 TAC §§15.3403, 15.3404, 15.3408

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

§15.3403. Nonvendor Living Arrangements.

(a) (No change.)

(b) For nonvendor living arrangements, the department usually determines eligibility for medical assistance [is determined] by measuring countable income against the full [appropriate] SSI payment standard for an individual or couple, as appropriate. For individuals with Rider 49 status, the department measures countable income against the income limit which was used when the individual was living in a Title XIX long-term care facility. If there is a deficit of one cent or more, need is established.

§15.3404. Definitions of Budgeting in Nonvendor Living Arrangements.

(a) (No change.)

(b) The caseworker prepares a budget for an individual [budget is developed] if the individual [client] is a single person, that is, a person who never married, a person who is widowed or divorced, or [is] a married person [individual] who is legally separated.

(1) An individual and spouse are considered to be living apart if:

(A) the applicant is separated from his [his/her] ineligible spouse before [prior to] the month of application;

(B) a recipient has separated from his [his/her] ineligible spouse during the previous month;

(C)-(D) (No change.)

(E) [when] one member of an eligible couple is living as husband or wife with a person other than the legal spouse.

(2) In a nonvendor budget for an individual [budget], the caseworker uses the full SSI payment standard for an individual (or the institutional income limit for a Rider 49 client) [only the needs and income of the individual are considered]. The caseworker considers only the income of the individual.

(c) The caseworker prepares a budget for a companion case [budget is developed] if an eligible individual lives during any part of a calendar month with his ineligible [a] spouse [who is not eligible for assistance]. The caseworker uses the full SSI payment standard for an individual (or the institutional income limit for a Rider 49 client). The income of the ineligible spouse may be deemed available to the individual. [In this situation, only the needs of the eligible individual are budgeted but income is deemed from the ineligible spouse.]

(d) The caseworker prepares a budget for a couple [budget is developed] if an individual is living with his eligible spouse (aged, blind, or disabled) and they are [under the following circumstances].

(1) presenting [they are holding] themselves [out] to the community as husband and wife;

(2) [they are] determined to be husband and wife for purposes of receiving social security benefits; or

(3) [they are] recognized as husband and wife under applicable state law.

(e) The caseworker also prepares a budget for a couple [budget is also developed] if an individual is not [no longer] living with his eligible spouse but they [and]:

(1) [they] were originally determined eligible as a couple; and

(2) [they] have lived apart for less than six months. In a budget for a couple [budget], the caseworker considers the [needs and] income of both spouses against the full SSI payment standard for a couple (or the appropriate institutional income limit for a couple if both spouses are Rider 49 clients) [are included]. If only one

member of an eligible couple enters a Title XIX long-term care [nursing] facility and is entitled to vendor payment, the caseworker does not prepare a budget for [case may no longer be budgeted as] a couple [case]. In this situation, the caseworker must redetermine the eligibility for each person [member of the couple must be redetermined] on an individual basis.

§15.3408. Budget Steps for Nonvendor Living Arrangements. The caseworker uses the following steps [are used] to prepare [construct] a budget for an individual or an eligible couple in a nonvendor living arrangement [arrangements]. The caseworker follows this procedure [must be followed] at [the time of] application and for every redetermination [and the computations recorded].

(1) Determine the appropriate full SSI payment standard or the appropriate institutional income limit if the individual(s) is a Rider 49 client.

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

(6) For Type Program 51 cases with Rider 49 status, deduct the amount of the appropriate benefit increase(s).

(7) [(6)] The remainder is the countable income.

(8) [(7)] Subtract countable income from the appropriate SSI payment standard or income limit. If an unmet need of one cent or more exists, the individual or couple [case] is eligible.

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

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TRD-855051

Marlin W. Johnston
Commissioner
Texas Department of
Human Resources

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

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★40 TAC §§15.3409-15.3412, 15.3416

(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Human Resources, 701 West 51st Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

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

§15.3409. Vendor Living Arrangements.

§15.3410. Definitions of Budgeting in Vendor Living Arrangements.

§15.3411. Budget To Determine Eligibility.

§15.3412. Budget To Determine Applied Income.

§15.3416. Applied Income for SSI Cases.

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

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Marlin W. Johnston
Commissioner
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For further information, please call
(512) 450-3766.

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

§15.3409. Vendor Living Arrangements.

(a) The department considers an individual (or couple) to be living in a vendor living arrangement beginning with the first month in which:

(1) the individual (or couple) lives in a Title XIX-approved ICF, SNF, or ICF-MR facility; and

(2) SSI would use the reduced payment standard to determine eligibility for the month.

(b) The department uses a special income limit to establish the eligibility of individuals and couples living in vendor living arrangements who have countable income in excess of the reduced SSI payment standard. The department continues to determine the individual's or couple's eligibility for medical assistance only using the special income limit until the individual or couple is discharged to a non-Title XIX medical facility. The department does not consider three-day therapeutic home visits to be discharges for this purpose.

(c) The caseworker must prepare two budgets for eligible individuals and couples in vendor living arrangements: one to determine eligibility and one to determine applied income.

§15.3410. Definitions of Budgeting in Vendor Living Arrangements.

(a) There are three possible budgeting situations, that is, individual, companion, and couple, to determine eligibility and the amount of applied income in vendor living arrangements.

(b) The caseworker prepares a budget for an individual if:

(1) the individual has no spouse (never married, widowed, or divorced);

(2) the individual's spouse is receiving assistance under another type program;

(3) the individual's ineligible spouse becomes eligible for assistance in a month after the month of separation; or

(4) an eligible couple has been separated for more than six months. The caseworker uses the special income limit for an individual and considers only the income of the individual.

(c) The caseworker prepares a budget for a companion case if an individual has an ineligible spouse who is not estranged from the individual. The caseworker uses the special income limit for an individual and considers only the income of the individual in determining eligibility. The caseworker does, however, consider the ineligible spouse's income in determining the amount of applied income.

(d) The caseworker prepares a budget for a couple if an individual and eligible spouse:

(1) are both MAO applicants/recipients;

(2) are budgeted under the same type program; and

(3) live in the same room in a Title XIX long-term care facility.

(e) If one member of an eligible couple moves into a different room or a different Title XIX facility, the caseworker continues to budget them as a couple until they have been separated for six months. The caseworker considers the income of both individuals against the special income limit for a couple.

(f) If one member of an eligible couple is discharged from a Title XIX long-term care facility (other than for hospitalization or a therapeutic home visit) and the spouse stays in the facility, the caseworker no longer budgets them as a couple. The caseworker redetermines eligibility on an individual basis. The caseworker adjusts applied income for the individual remaining in the facility effective the first day of the month after the spouse's discharge from the facility.

(g) If a couple becomes ineligible because of an increase in income received by one member of the couple, the spouse with lower income may reapply for assistance as an individual with an ineligible spouse (companion case). This is true even if the couple shares the same room in the facility. Deciding from the ineligible spouse does not apply since the department does not consider the couple to be living in the same household while in a long-term care facility.

§15.3411. Budget to Determine Eligibility.

(a) The department uses a special income limit established by the department to

determine an individual's or couple's eligibility for medical assistance only if the individual or couple:

(1) is living in a vendor living arrangement as defined in §15.3409 of this title (relating to Vendor Living Arrangements); and

(2) has countable income in excess of the reduced SSI payment standard.

(b) Federal regulations establish a standard equal to 300% of the SSI standard payment amount for an individual as the maximum gross income permitted for individuals living in a long-term care setting. The standard is doubled for measuring the gross income of a couple.

(c) The caseworker must compare gross income with this federal maximum for all individuals and couples whose eligibility in a vendor living arrangement is determined under Type Program 03 or 14 criteria. This test is not required, however, for individuals and couples whose eligibility is extended under Type Program 51.

(d) If gross income is less than the federal maximum, the caseworker applies appropriate deductions to the income and compares the resulting countable income with the department's special income limit. If the individual's or couple's income is at least \$.01 less than the department's limit and all other eligibility criteria are met, the individual or couple is eligible for medical assistance only.

(e) The caseworker must use the following procedures for determining need based on both the federal maximum and the department's special income limit at the time of application and redetermination:

(1) determine monthly gross earned and unearned income of the eligible individual(s). Aid-and-attendance benefits and housebound allowances are deducted from VA income before computing monthly gross income. For all types programs except 51, measure gross income against the federal maximum. If gross income equals or exceeds the maximum, the individual(s) is ineligible for medical assistance. If gross income is less than the maximum, proceed to the next step;

(2) determine the amount of all earned and unearned income exclusions, as appropriate;

(3) determine the amount of the appropriate RSDI or other benefit increase exclusion for Type Program 03 and Type Program 51 cases;

(4) subtract the total amount of all exclusions from gross income to determine countable income;

(5) measure countable income against the special income limit for an individual or for a couple. If countable income equals or exceeds the income limit, the individual(s) is ineligible for medical assistance. If countable income is less than the income limit, compute the amount of applied income the individual(s) must pay toward the cost of nursing care.

§15.3412. Budget to Determine Applied Income.

(a) Individuals living in non-ICF-MR facilities. If an individual(s) living in a non-ICF-MR Title XIX long-term care facility is eligible for medical assistance only, the caseworker must determine the amount of personal income or applied income the individual(s) must pay for nursing care. The caseworker must follow the procedure at the time of application and for every redetermination.

(1) The caseworker uses the following budget steps to determine applied income for individuals and couples:

(A) determine the monthly gross earned and unearned income of the eligible individual(s). Add aid-and-attendance benefits and housebound allowances to VA income when computing monthly gross income;

(B) add gross earned and unearned income;

(C) subtract the personal needs allowance of \$25 from available income for an individual budget. The remainder is the applied income;

(D) subtract the personal needs allowance of \$50 from available income for a couple. Divide the remainder by two to determine the applied income for each spouse.

(2) The caseworker uses the following budget steps to determine applied income for a companion case:

(A) determine the gross earned and unearned income of the applicant/recipient and of the spouse;

(B) if the income of the ineligible spouse equals or exceeds the full SSI standard payment amount for an individual, but is equal to or less than the fair standard income level, disregard the income of the spouse. Subtract the personal needs allowance of \$25 from the individual's own income. The remainder is the applied income;

(C) if the income of the ineligible spouse is less than the full SSI standard payment amount for an individual, add the spouse's income to the income of the applicant/recipient. Subtract the personal needs allowance of \$25 for the eligible individual from the combined income. Subtract the full SSI standard payment amount for an individual as an allowance for the ineligible spouse. The remainder is the applied income;

(D) if the income of the spouse exceeds the fair standard income level, the caseworker computes applied income according to the procedures outlined in §15.3413 of this title (relating to Fair Standard Contributions from Ineligible Spouse).

(b) Individuals living in ICF-MR facilities. The caseworker uses the following budget steps to determine the applied income for an applicant/recipient living in an approved public or private ICF-MR facility. The difference in the applied income

calculation for this group is that an additional protected earned income allowance is granted to the individual if the individual has earned income in excess of \$25 per month. The purpose of the additional allowance is to provide the ICF-MR recipient, who has a short-term or long-term objective of semi-independent or independent living, the additional resources to make the transition possible.

(1) The caseworker uses the following steps to determine applied income for individuals:

(A) determine the monthly gross earned and unearned income of the eligible individual(s);

(B) determine the personal needs allowance as follows for an individual:

(i) if the individual has no earned income, the personal needs allowance is \$25;

(ii) if the individual has monthly gross earned income equal to or less than \$25, the personal needs allowance is \$25;

(iii) if the individual has monthly gross earned income greater than \$25, the personal needs allowance is \$25 plus one-half of the earned income in excess of \$25 (rounded to the next highest cent) up to a maximum of an additional \$50. Total maximum personal needs allowance including protected earned income is \$75;

(C) total gross income minus the total personal needs allowance is the applied income.

(2) The caseworker uses the following steps to determine applied income for a couple:

(A) determine the personal needs allowance for a couple as follows:

(i) if neither spouse has earned income, or if the only spouse with earned income does not have an ICF-MR level of care, the personal needs allowance for the couple is \$50;

(ii) if either spouse is an ICF-MR recipient who has monthly earned income, the personal needs allowance for each must be determined separately based on their individual monthly income using the steps outlined in paragraph (1) of this subsection. If one spouse has a level of care other than an ICF-MR level of care, the personal needs allowance for that individual is \$25, regardless of whether the individual has earned income. Combine the individual personal needs allowance for the couple;

(B) subtract the total personal needs allowance from the total gross income of the couple. Divide the remainder by two to determine the applied income for each spouse.

(3) The caseworker uses the following budget steps to determine the applied income for a companion situation:

(A) determine the gross earned and unearned income of both the eligible individual and the spouse;

(B) determine the personal needs allowance, including the protected earned income allowance (if any), of the eligible individual based on his own income;

(C) if the income of the ineligible spouse equals or exceeds the full SSI standard payment amount for an individual, but is equal to or less than the fair standard income level, disregard the income of the spouse. Subtract the individual's personal needs allowance from his income. The remainder is the applied income;

(D) if the income of the ineligible spouse is less than the full SSI standard payment amount for an individual, add the spouse's income to the income of the individual. Subtract the eligible individual's personal needs allowance from the combined income. Subtract the full SSI standard payment amount for an individual as an allowance for the ineligible spouse. The remainder is the applied income;

(E) if the income of the ineligible spouse exceeds the fair standard income level, the caseworker computes applied income according to the procedures outlined in §15.3413 of this title (relating to Fair Standard Contributions from Ineligible Spouse).

§15.3416. Applied Income for SSI Cases.

(a) Individuals living in approved Title XIX long-term care facilities whose countable income does not fully meet the appropriate SSI standard payment amount are eligible for Title XIX benefits as SSI cash recipients. As long as those individuals remain SSI cash recipients, the Social Security Administration (SSA) determines eligibility and state office budgets the applied income.

(b) Because of SSA policy about recoupment of erroneous payments, department staff determines applied income for SSI cases based on what the SSI payment should have been rather than by verification of the actual payment received. Under SSI policy, an individual is eligible for the full standard payment amount in the month of entry to a Title XIX long-term care facility. The individual must have been living in a noninstitutional setting or in a private institution where Medicaid made no substantial payments for any part of that month. For any subsequent month in which the individual lives in the facility throughout the month, the reduced SSI payment standard is used.

(c) An individual is only entitled to the reduced SSI payment standard for the month of entry into a Title XIX long-term care facility if:

(1) the individual was living in a public institution or in a Title XIX medical treatment facility for every day of the month of entry before the date of admission to the long-term care facility; and

(2) Medicaid was making substantial payments toward the individual's cost of care.

(d) The reduced SSI payment standard also applies to all subsequent months if the individual continues to live in the Title XIX long-term care facility throughout the month.

(e) A couple may be eligible under the full SSI payment standard for a couple during the month one or both spouses enter a Title XIX medical treatment facility where Medicaid is expected to make substantial payments. If only one spouse enters a facility and remains there throughout the subsequent month(s), SSA separates the payments for the subsequent month(s) to reflect the living arrangements of each spouse. If both spouses enter the Title XIX medical facility and substantial Medicaid payments will be made for each spouse, SSA lowers the SSI payment standard to the reduced standard for a couple for the months after the month of entry.

(f) Although applied income calculations for SSI recipients are determined in the state office, the Medicaid eligibility caseworker must monitor payment plans for SSI recipients living in Title XIX facilities. The monitoring ensures a correct payment plan and the consideration of an ineligible spouse's income, if appropriate.

(g) The caseworker uses the following steps to determine an SSI recipient's applied income for the month of entry into a Title XIX facility and subsequent months:

(1) determine the total gross income of the eligible individual or couple. Total gross income includes the gross amount of all non-SSI income plus the SSI benefit amount for the month. The SSI benefit amount is calculated by determining countable non-SSI income (gross non-SSI income minus appropriate exclusions) and subtracting that amount from the full or reduced SSI payment standard, whichever is appropriate for the month. If only one member of an eligible SSI couple enters a facility, applied income is determined based only on that individual's income for months after the month of entry;

(2) if the eligible individual has an ineligible spouse:

(A) for any month during which the individual was living with the spouse before entry into the Title XIX facility, determine the spouse's gross income and add it to the eligible individual's income;

(B) for any other months, determine the spouse's gross income. If the income is less than the full SSI standard payment amount for an individual, the spouse's income is added to the eligible individual's income. If the spouse's income equals or exceeds the full SSI standard payment amount for an individual, but is equal to or less than the fair standard income level, the income is disregarded. If the spouse's income exceeds the fair standard income level, applied income is computed according to the procedures outlined in §15.3413 of this title (relating to Fair Standard Contributions from Ineligible Spouse);

(3) deduct \$25 as a personal needs allowance for the individual in the Title XIX facility. Deduct \$50 if both members of an eligible SSI couple live in a Title XIX facility. If only one member of an eligible couple enters a Title XIX facility, for the month of entry only, deduct \$25 for the personal needs allowance of the spouse in the facility and the full SSI payment standard for an individual for the spouse at home.

(4) if the ineligible spouse's income is added to the individual's income, deduct an amount equal to the full SSI standard payment amount for an individual;

(5) the remainder is applied income. If both spouses in an SSI couple case live in a Title XIX facility, divide the remainder by two to determine applied income for each spouse. If there is a \$.01 remainder, include it in the husband's applied income amount.

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 June 6, 1985.

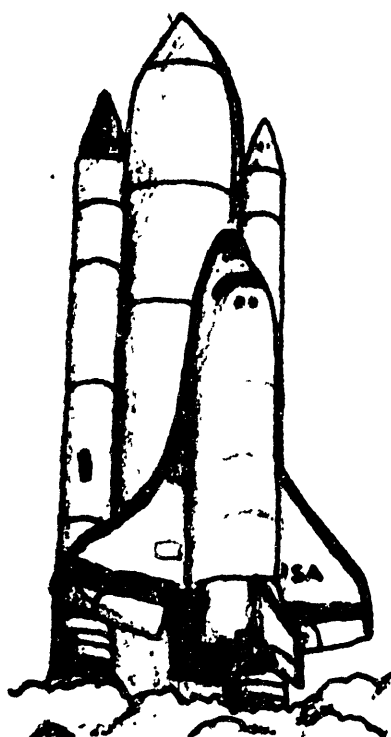
TRD-866053

Marlin W. Johnston
Commissioner
Texas Department of
Human Resources

Earliest possible date of adoption:
July 15, 1985

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

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Subchapter AAA. Procedures for Application for Medical Assistance

★ 40 TAC §15.5205, §15.5206

(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Human Resources, 701 West 51st Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

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

§15.5205. SSI Cash Benefits Denied Due to Entry into a Long-Term Care Facility.

§15.5206. SSI-Related Medical Assistance Only (Type Program 14).

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 June 3, 1985

TRD-866054

Marlin W. Johnston
Commissioner
Texas Department of
Human Resources

Earliest possible date of adoption:
July 15, 1985

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

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

§15.5205. SSI Cash Benefits Denied Due to Entry into a Long-term Care Facility.

(a) The caseworker monitors the initial SSI case. If he determines that the individual's SSI cash benefit will be denied because the individual's income is greater than the reduced payment standard, the caseworker contacts SSA to verify that a denial will occur. This action helps to prevent SSI overpayments to the individual. The caseworker does not have to wait for SSI denial before he initiates an MAO application. Before submitting the input form approving the application, he must check SSI eligibility status. If the SSI case is still active, the medical effective date is the first

day of the month after the month of entry into the facility.

(b) State office is notified via the SDX system that SSI cash benefits have been denied because of income in excess of the reduced SSI standard payment amount. If the SDX denial notice is received before MAO certification, state office denies Medicaid. State office sends a patient status and payment plan notice showing the denial to the Title XIX long-term care facility, the individual, and the caseworker.

(c) If the caseworker has not filed an MAO application and receives a patient status and payment plan notice showing denial, he immediately files a notice of application. He contacts the individual, his spouse, or a responsible party to complete an application for assistance. He determines the individual's financial eligibility for MAO using the special income limit beginning with the first month for which the reduced SSI payment standard is applicable. The caseworker must also determine that the individual has an approved level of care and meets all other eligibility requirements. If the individual has been denied a level of care but remains in the Title XIX facility or if the individual does not remain in a Title XIX medical facility throughout the calendar month, the caseworker denies the MAO application. If appropriate, the caseworker refers the individual back to SSI for reinstatement of full SSI benefits.

(d) If the caseworker determines that the individual is eligible for Type Program 14, he enters the medical effective date on the input form as the day after the date of denial under Type Program 12 or 13. This ensures continuous Title XIX coverage for the individual.

§15.5206. SSI-related Medical Assistance Only (Type Program 14).

(a) The department is responsible for processing Medicaid applications for certain individuals who are residents of skilled nursing facilities, intermediate care facilities, or state institutions certified for Title XIX vendor payments. To qualify for medical assistance only under Type Program 14, an individual must be confined in a Title XIX-approved medical facility, have an approved level of care, and meet financial eligibility criteria. Also, eligibility for Type Program 14 may not begin until the first month in which the reduced SSI payment standard would be applicable if the individual were an SSI recipient. Generally, the reduced SSI payment standard is applicable when an individual lives throughout the calendar month in a public institution and/or a Title XIX facility which receives or is expected to receive Medicaid payments for a substantial portion of the individual's care.

(b) The department processes:

(1) initial applications from individuals whose income is in excess of the reduced SSI payment standard; and

(2) reapplications for Medicaid from individuals who have been denied SSI on the basis of excess income because the SSI payment standard has been reduced after their entry into a long-term care facility.

(c) For initial applications, the individual or his bona fide agent must file an application. The administrator of the facility, however, may assist the individual by completing a medical facility referral form or notice of admission, departure, readmission, or death, as appropriate

(d) If an individual is denied SSI because of a reduction in the payment standard after his entry into a long term care facility, the department must process a re-application for Medicaid if the individual is to continue receiving Medicaid benefits and vendor payments. As this type of re-application is, in essence, a program transfer, the department assumes the responsibility for initiating the application.

(e) The Social Security Administration and the department are responsible for application services. The caseworker ensures that the individual is receiving intake services from the correct agency. When the individual or his bona fide agent contacts the department to initiate an application, the caseworker determines the amount of the individual's income and his current living arrangements. The caseworker refers individuals potentially eligible for SSI to SSA. The caseworker gives individuals potentially eligible for medical assistance only the appropriate form letter and an application for assistance.

(f) The caseworker must explain to MAO applicants that eligibility from the standpoint of need may be determined on the basis of a completed application for assistance. The caseworker must also explain that medical assistance only may not be approved until:

- (1) a level of care is assigned;
- (2) the individual enters a Title XIX long-term care facility; and
- (3) the individual has been living in a public institution and/or one or more Ti-

tle XIX medical treatment facilities throughout the calendar month.

(g) When the caseworker receives a completed and signed application for assistance, he submits a notice of application to state office. If the individual is in a long-term care facility, the caseworker mails the appropriate form letter to the facility administrator.

(h) The caseworker determines the individual's current financial eligibility based on the information provided by the individual (or obtained by the caseworker) and any required verifications. The caseworker also determines the first month in which the individual meets the SSI criteria for a reduced payment standard. This is the first month that the individual may be eligible for Type Program 14 coverage.

(i) If an individual dies before the end of the first full month of institutionalization, the department considers the individual to have been institutionalized throughout the calendar month. The department does not consider three-day therapeutic home visits to be discharges from the institutional setting.

(j) If the individual has unpaid, Title XIX-covered medical expenses for services provided during the three months before application, the caseworker determines the individual's eligibility for three-month prior medical coverage. The caseworker uses the Type Program 14 income limit or the appropriate SSI payment standard based on the individual's living arrangements during the prior months

(k) If the individual is under 65 years old, the caseworker must also determine that the individual's disability determination is complete.

(l) When the eligibility determination is completed, the caseworker submits the input form and notifies the individual of the decision via the appropriate form letter. State office sends a medical care identification card to eligible individuals.

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 June 6, 1985.

TRD-855055

Marlin W. Johnston
Commissioner
Texas Department of
Human Resources

Earliest possible date of adoption:

July 15, 1985

For further information, please call
(512) 450-3786.

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Subchapter CCC. Vendor Payments in Title XIX Long-Term Care Facilities

★ 40 TAC §15.5403

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

§15.5403. *Level of Care.*

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

[(g) The utilization review committee is responsible for determining the need for care of persons in Title XIX approved sections of state chest hospitals. The utilization review committee will determine need for care and notify the worker.]

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

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TRD-855056

Marlin W. Johnston
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Texas Department of
Human Resources

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July 15, 1985

For further information, please call
(512) 450-3786.

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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 19. EDUCATION

Part II. Texas Education

Agency

Chapter 61. School Districts

Subchapter D. School District—

Student Relationship

Special Pupils

★ 19 TAC §61.101

The Texas Education Agency adopts the repeal of §61.101, without changes to the proposal published in the April 23, 1985, issue of the *Texas Register* (10 TexReg 1284).

This section concerned the liaison officer for court-related pupils. It repeats a portion of the Texas Education Code, §21.908. A new section has been adopted which addresses excused absences for court-related students. Section 61.101 is repealed to avoid duplication of statutory language in the rules.

No comments were received regarding adoption of the repeal.

This repeal is adopted under the Texas Education Code, §21.908, which directs each school district to appoint a liaison officer for court-related children; and Texas Civil Statutes, Article 6252-13a, which exclude material which repeats statutes from the definition of a rule.

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 June 10, 1985.

TRD-855253

W. N. Kirby
Commissioner of
Education

Effective date: July 1, 1985

Proposal publication date: April 23, 1985

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

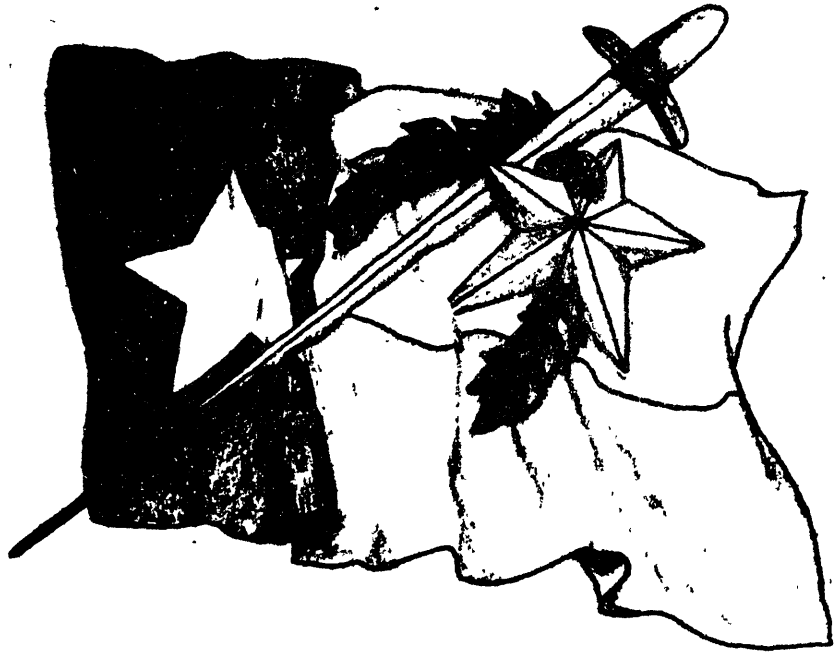
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Chapter 75. Curriculum

Subchapter G. Other Provisions

★ 19 TAC §75.162

The Texas Education Agency adopts amendments to §75.162, without changes



to the proposed text published in the April 26, 1985, issue of the *Texas Register* (10 TexReg 1314).

Section 75.164 requires all school districts that offer Grades 9-12 to offer every year, or at least every other year, specific courses which ensure that students have available a well-balanced curriculum. Because of the lack of availability of certified personnel and/or small numbers of students desiring to take certain of the courses, some districts will have difficulty in offering a well-balanced curriculum required by board rule.

Section 75.162 provides that districts shall use alternative delivery procedures to ensure that the essential elements and courses required to be taught are available to students. The section provides that districts may enter into cooperatives, contract, use technology, make adjustments to the school week, or other procedures that may be identified to be effective. The section requires the commissioner of education to establish guidelines for the approval of technological delivery systems which will be used by more than one district and which are intended to deliver the total instruction in a course or subject listed in 19 TAC Chapter 75. Such systems must address

all of the essential elements for the course or subject. Systems must be submitted to the commissioner of education, who may approve or disapprove them based upon the quality of their content and the degree to which the material addresses all of the essential elements for the subject or area being taught.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Education Code, §21.753, which directs the State Board of Education to establish standards which a school district must satisfy to be accredited.

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.

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TRD-855252

W. N. Kirby
Commissioner of
Education

Effective date: July 1, 1985

Proposal publication date: April 26, 1985

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

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Chapter 77. Comprehensive Instruction

Subchapter C. Curriculum for General Education

★ 19 TAC §77.47

The Texas Education Agency adopts the repeal of §77.47, without changes to the proposal published in the April 23, 1985, issue of the *Texas Register* (10 TexReg 1284).

The section concerned the Advisory Committee for the Fine Arts in Education. This committee was abolished effective September 1, 1984, as a result of the State Board of Education's sunset process for advisory committees. Because the advisory committee has been abolished, the section concerning this committee has been repealed.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Texas Education Code, §11.25(d), which authorizes the State Board of Education to appoint official commissions, composed of citizens of the state, to advise the commissioner of education in the discharge of his duties.

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 June 10, 1985.

TRD-855243

W. N. Kirby
Commissioner of
Education

Effective date: July 1, 1985
Proposal publication date: April 23, 1985
For further information, please call
(512) 475-7077.

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Subchapter S. Good Neighbor Scholarship Program

★ 19 TAC §77.396

The Texas Education Agency adopts amendments to §77.396, without changes to the proposed text published in the April 23, 1985, issue of the *Texas Register* (10 TexReg 1285).

The section concerns student transfers of good neighbor scholarships. The Texas Education Code, §54.207, provides for tuition exemptions at Texas institutions of higher education for selected students from other nations in the American hemisphere. This provision of the Code is implemented through the Good Neighbor Scholarship Program, for which rule-making authority rests with the State Board of Education. The purpose of the current amendment is to provide for student transfers under the program, when

this is part of the student's regular program of study, without making it generally the case that decisions made by one institution regarding whether to nominate a given student are binding on other institutions.

The amended section protects any receiving institution by requiring that it be contacted to conominate the student. The amended section permits the transfer of a good neighbor scholarship from one institution to another, if the student's program of study requires a transfer and if both institutions concur. In this way, the original intention of prohibiting transfers is fulfilled without penalizing a student enrolled in a cooperative program.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Education Code, §54.207, which directs the State Board of Education to formulate a plan for the allocation of tuition exemptions to students from other nations of the American hemisphere in attendance at Texas institutions of higher education; and the Texas Education Code, §11.24(b), which authorizes the State Board of Education to make rules to carry out the duties placed on it by the legislature.

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 June 10, 1985.

TRD-855250

W. N. Kirby
Commissioner of
Education

Effective date: July 1, 1985
Proposal publication date: April 23, 1985
For further information, please call
(512) 475-7077.

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Chapter 78. Occupational Education and Technology

Subchapter C. Advisory Committee

★ 19 TAC §78.41

The Texas Education Agency adopts the repeal of §78.41, without changes to the proposal published in the April 23, 1985, issue of the *Texas Register* (10 TexReg 1285).

The section concerned the Advisory Committee for Marketing and Distributive Education, which was abolished effective September 1, 1984, under the sunset process for advisory committees of the State Board of Education. Because the committee no longer exists, the section concerning its operation has been repealed.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Texas Education Code, §11.25(d), which authorizes the State Board of Education to appoint official commissions composed of citizens of the state to advise the commissioner of education in the discharge of his duties.

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 June 10, 1985.

TRD-855244

W. N. Kirby
Commissioner of
Education

Effective date: July 1, 1985
Proposal publication date: April 23, 1985
For further information, please call
(512) 475-7077.

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Chapter 81. Instructional Resources

Subchapter B. Instructional Television Services Program

★ 19 TAC §81.26

The Texas Education Agency adopts the repeal of §81.26, without changes to the proposal published in the April 23, 1985, issue of the *Texas Register* (10 TexReg 1286).

This section concerned the State Advisory Committee for Instructional Television Services. The Texas Education Code, §21.915, which authorized the establishment of the State Advisory Committee for Instructional Television Services, was repealed by House Bill 72, 68th Legislature, 2nd Called Session, 1984. Since the committee was abolished as of September 1, 1984, the section concerning its operation is repealed.

No comments were received regarding adoption of the repeal.

This repeal is adopted under the Texas Education Code, §11.25(d), which authorizes the State Board of Education to appoint official commissions composed of citizens of the state to advise the commissioner of education in the discharge of his duties; and Acts of the 68th Legis-

lature, 2nd Called Session, 1984, Article II, Chapter 28, §§22(a)(4), page 347, which repealed the Texas Education Code, §21.915, which had mandated the establishment of the committee.

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 June 10, 1985.

TRD-855248 W. N. Kirby
Commissioner of
Education

Effective date: July 1, 1985
Proposal publication date: April 23, 1985
For further information, please call
(512) 475-7077.

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Chapter 93. Instructional Development

Subchapter D. Energy and Environmental Education

★ 19 TAC §93.62

The Texas Education Agency adopts the repeal of §93.62 without changes to the proposal published in the April 23, 1985, issue of the *Texas Register* (10 TexReg 1287).

This section concerned the Texas Advisory Committee on Energy and Environmental Education, which was deleted from the list of official advisory committees by the State Board of Education in March 1985. Since the committee no longer exists, the section concerning its operation is repealed.

No comments were received regarding adoption of the repeal.

This repeal is adopted under the Texas Education Code, §11.25(d), which authorizes the State Board of Education to appoint official commissions composed of citizens of the state to advise the commissioner of education in the discharge of his duties.

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 June 10, 1985.

TRD-855247 W. N. Kirby
Commissioner of
Education

Effective date: July 1, 1985
Proposal publication date: April 23, 1985
For further information, please call
(512) 475-7077.

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Subchapter F. Career Education

★ 19 TAC §93.102

The Texas Education Agency adopts the repeal of §93.102, without changes to the proposal published in the April 23, 1985, issue of the *Texas Register* (10 TexReg 1287).

This section concerned the Career Education Advisory Committee which was abolished, effective September 1, 1985, as a result of the State Board of Education's sunset process for advisory committees. Since the committee has been abolished, the section concerning its operation is repealed.

No comments were received regarding adoption of the repeal.

This repeal is adopted under the Texas Education Code, §11.25(d), which authorizes the State Board of Education to appoint official commissions composed of citizens of the state to advise the commissioner of education in the discharge of his duties.

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 June 10, 1985.

TRD-855245 W. N. Kirby
Commissioner of
Education

Effective date: July 1, 1985
Proposal publication date: April 23, 1985
For further information, please call
(512) 475-7077.

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Chapter 97. Planning and Accreditation

Subchapter C. Accreditation Commission

★ 19 TAC §97.41

The Texas Education Agency adopts the repeal of §97.41, without changes to the proposal published in the April 23, 1985, issue of the *Texas Register* (10 TexReg 1288).

This section concerned the State Commission on School Accreditation. The commission was abolished by the State Board of Education as a result of the board's sunset review of advisory committees. Since the commission no longer exists, the section concerning its operation is repealed.

No comments were received regarding adoption of the repeal.

This repeal is adopted under the Texas Education Code, §11.25(d), which autho-

rizes the State Board of Education to appoint official commissions composed of citizens of the state to advise the commissioner of education in the discharge of his duties; and the Texas Education Code, §11.25(c)(5), which authorizes the State Board of Education to make rules for the accreditation of school districts.

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 June 10, 1985.

TRD-855248 W. N. Kirby
Commissioner of
Education

Effective date: July 1, 1985
Proposal publication date: April 23, 1985
For further information, please call
(512) 475-7077.

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Chapter 129. Student Attendance

Subchapter D. Student Attendance Accounting

★ 19 TAC §129.62

The Texas Education Agency adopts new §129.62, without changes to the proposed text published in the April 26, 1985, issue of the *Texas Register* (10 TexReg 1315). However, in subsection (c) of the published proposed section the word "assure" was used rather than "ensure," and this is corrected in the adopted section.

In January 1985, the State Board of Education Committee for Personnel began a study of the educational needs of children awaiting adjudication in detention and other child shelter facilities. It appears that large number of children who are apprehended by law enforcement authorities, or who are abused and neglected and removed from parental custody, spend considerable time in such centers awaiting court adjudication. During this time, many school age children have no access to meaningful educational services. Furthermore, pursuant to the Texas Education Code, §21.041, students may not have more than five unexcused absences in any semester and still receive credit for any course. If a school district treated the time spent in a detention or child shelter facility as unexcused, the student so affected would be unable to receive credit for that semester.

This new section excuses the absence of a student whose juvenile probation officer or case worker requests or requires the student's participation in activities related to his or her referral to a juvenile

court or to the Texas Department of Human Resources. The section provides that such students shall be excused from classes missed when the juvenile judge, probation officer, or case worker has detained the student or required the student to participate in activities related to the student's referral; the cause of the absence shall be communicated in writing to the school district; and the student shall successfully complete all missed assignments. Each school must appoint a liaison officer for court-related students, in accordance with the Texas Education Code, §21.908. This liaison officer will assist students and teachers to ensure that students are provided the opportunity to complete all missed assignments.

Douglas S. Worthington, executive director, Abilene Girls Home, Inc., in Abilene, suggested that §129.62(a)(3) be amended also to allow social workers from licensed community operated facilities to write letters for students to receive excused absences under the section.

Mr. Worthington's comments address students who are handled by community supported, nonprofit shelters and counseling agencies as well as the Statewide Reception Center, operated by the Texas Youth Commission.

The section deals specifically with court-related students. It excuses the absence of a student whose juvenile probation officer or case worker requests or requires the student's participation in activities related to his or her referral to a juvenile court or the Texas Department of Human Resources. Students served by community supported, nonprofit shelters as the result of juvenile court or Texas Department of Human Resources action would then be covered by the section. The Statewide Reception Center that is referenced is operated by the Texas Youth

Commission, and students are assigned to that facility by a court. Those students are covered by the proposed section. The Texas Department of Human Resources estimates that over 75% of the students to which Mr. Worthington referred would be covered by the proposed section.

There are, finally, those students served by shelters, but who are not placed there by either juvenile court or the Texas Department of Human Resources. This amounts to less than 1,000 students annually. At present, attendance policy for these students is set by each school district. An additional State Board of Education section would be necessary to include these students with court-related students. It is suggested that these community-sponsored, nonprofit entities deal directly with local school districts concerning the absences of students in their care.

This new section is adopted under the Texas Education Code, §21.908, which directs each school district to appoint a liaison officer for court-related children; and the Texas Education Code, §21.041, which provides that a student may not be given credit for a class if the student has more than five days of unexcused absences during a semester.

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 June 10, 1985.

TRD-855251 W N Kirby
Commissioner of
Education

Effective date: July 1, 1985
Proposal publication date: April 26, 1985
For further information, please call
(512) 475-7077.

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Chapter 145. Professional Environment

Subchapter A. Professional Environment in General

★ 19 TAC §145.2

The Texas Education Agency adopts the repeal of §145.2, without changes to the proposal published in the April 23, 1985, issue of the *Texas Register* (10 TexReg 1289).

The section concerned the Advisory Committee for the Importance of Public Education to Society. This committee was deleted from the list of official advisory committees by the State Board of Education. Because the advisory committee no longer exists, the section concerning its operation has been repealed.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Texas Education Code, §11.25(d), which authorizes the State Board of Education to appoint official commissions composed of citizens of the state to advise the commissioner of education in the discharge of his duties.

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 June 10, 1985.

TRD-855249 W. N. Kirby
Commissioner of
Education

Effective date: July 1, 1985
Proposal publication date: April 23, 1985
For further information, please call
(512) 475-7077

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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 Alcoholic Beverage Commission

Monday, June 24, 1985, 1:30 p.m. The Texas Alcoholic Beverage Commission will meet in Suite 210, Jefferson Building, 1600 West 38th Street, Austin. According to the agenda, the commission will approve the April 1985 meeting minutes, hear reports on agency activity from administrators and staffs, and approve affidavits of destruction of tested alcoholic beverages.

Contact: W. S. McBeath, P.O. Box 13127, Austin, Texas 78711, (512) 458-2500.

Filed: June 11, 1985, 1 p.m.
TRD-855272

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Texas Cosmetology Commission

Monday, June 24, 1985, 9:30 a.m. The Texas Cosmetology Commission will meet at the Austin Hilton Inn, 6000 Middle Fiskville Road, Austin. Items on the agenda include discussions by Donny Taylor regarding loss of student hours, Jannette Saenz regarding staff denial of reciprocity, Kelli Keppel regarding a deviation of the 1,500-hour requirement for reciprocity, Andrew Sanchez regarding loss of student hours, and James Rickerson regarding instructor examination procedures; consideration of proposed rule changes; approval of the previous meeting minutes; and consideration of old or new business. The commission also will meet in executive session.

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

Filed: June 11, 1985, 1:43 p.m.
TRD-855278

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Credit Union Department

Friday, June 21, 1985, 10 a.m. The Credit Union Commission of the Credit Union Department will meet via conference call

originating at 914 East Anderson Lane, Austin. Items on the agenda include the reconsideration of 7 TAC §91.506, concerning compensation and bond requirements, and consideration of an administrative request for budget adjustments for the current fiscal year. The commission also will meet in executive session to consider three personnel items.

Contact: Harry L. Elliott, 914 East Anderson Lane, Austin, Texas 78752, (512) 827-9236.

Filed: June 11, 1985, 1:18 p.m.
TRD-855273

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Texas Employment Commission

Thursday, June 13, 1985, 1:30 p.m. The Texas Employment Commission (TEC) revised the agenda for a rescheduled meeting held in Room 644, TEC Building, 15th Street and Congress Avenue, Austin. Items on the revised agenda included prior meeting notes, internal procedures of commission appeals, consideration and action on higher level appeals in unemployment compensation cases on commission Docket 25, and setting the date of the next meeting. The emergency status was necessary because of the need to dispose of the cases in accordance with federal guidelines and the conflicting nature of the commission's calendar.

Contact: Courtenay Browning, TEC Building, Room 608, 15th Street and Congress Avenue, Austin, Texas, (512) 397-4415.

Filed: June 12, 1985, 4 p.m.
TRD-855334

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Texas Department of Health

Sunday, June 30, 1985, 9:30 a.m. The Texas Radiation Advisory Board of the Texas Department of Health will meet in the conference room, 1212 East Anderson Lane, Austin. According to the agenda summary,

the board will approve the minutes; hold a special election for a new secretary; consider an update on site selection for a low-level waste disposal facility; hear reports from the Executive Committee, the Industrial Radiography Task Team, the Sunset Task Team, the Radioactive Waste Task Team, the Public Information Committee, and the Medical Committee; consider a rules and regulatory guide update; consider program activities from General Activity, the Division of Compliance and Inspection, the Division of Environmental Programs, and the Division of Licensing, Registration, and Standards; and determine the next meeting date and location. The board also will meet in executive session.

Contact: David M. Cochran, 1100 West 49th Street, Austin, Texas 78756, (512) 835-7000.

Filed: June 11, 1985, 1:40 p.m.
TRD-855283

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Texas Statewide Health Coordinating Council

Committees of the Texas Statewide Health Coordinating Council and the full council will meet at La Posada Hotel, 100 North Main Street, McAllen. Days, times, rooms, committees, and agenda summaries follow.

Thursday, June 27, 1985, noon. In Boardroom 286, the Special Bylaws Committee will review the council's rules of procedures and bylaws.

Thursday, June 27, 1985, 1:30 p.m. In Boardroom 286, the Health Legislation and Program Funding Review Committee will consider recommendations to the council on project reviews (action to be referred to the full council for ratification), discuss the final legislative report, and discuss implementation strategies between legislative sessions.

Thursday, June 27, 1985, 1:30 p.m. In the Valencia Room, the Data Management and Health Information Systems Committee

will consider a overview and introduction to the health planning data system, health planning data and the 69th Legislature 1985, and future directions.

Friday, June 28, 1985, 9 a.m. In the Valencia Room, the full council will approve the March 22, 1985, meeting minutes; receive a report by the bureau chief; consider a legislative update; receive reports from the State Health Plan Development Committee, the Health Cost Containment Committee, the Special Bylaws Committee, the Data Management and Health Information Systems Committee, the Health Legislation and Program Funding Review Committee, and the Regional Health Planning Coordination Committee; consider a presentation of hospital licensure law changes; discuss current and future health planning functions; and select the next meeting date.

Contact: Mike Ezzell, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7261.

Filed: June 11, 1985, 1:40 p.m.
TRD-855279-855282

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Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids

Friday and Saturday, June 21 and 22, 1985, 8 a.m. and 9 a.m. respectively. The Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids will meet at the Wyndham Hotel Southpark, 4140 Governor's Row, Austin. Items on the agenda include approval of the February 23, 1985, meeting minutes; board action on the examination; appointment of a Nominating Committee; board authorization for signatures; the earlens acoustic device; reports from committees, the executive director, and the president; and a report on the October meeting date.

Contact: Wanda F. Steward, 510 South Congress, Suite 104, Austin, Texas 78704, (512) 475-3429.

Filed: June 12, 1985, 9:10 a.m.
TRD-855308

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Texas Historical Commission

Monday, June 17, 1985, 9 a.m. The State Historic Preservation Officers Committee of the Texas Historical Commission met in emergency session at 108 West 16th Street, Austin. According to the agenda, the committee reviewed and evaluated the Texas historic preservation grant preapplications for fiscal year 1986 and reviewed potential appointees to the State Board of Review. The emergency status was necessary because this was the only possible meeting date for committee members to review and evaluate the state grant preapplications and prepare ranking preceding the open orientation session for all state grant applicants scheduled for June 28, 1985.

Contact: Stan Graves, P.O. Box 12276, Austin, Texas 78711, (512) 475-3094.

Filed: June 11, 1985, 11:59 a.m.
TRD-855271

Friday, June 28, 1985, 10 a.m. The National Register Programs of the Texas Historical Commission will meet in Room 104, John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda, the commission will review fiscal year 1986 Texas historic preservation grant preapplication rankings.

Contact: Stan Graves, P.O. Box 12276, Austin, Texas 78711, (512) 475-3094.

Filed: June 11, 1985, 11:59 a.m.
TRD-855270

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Texas Department of Human Resources

Thursday, June 20, 1985, 10 a.m. The Income Assistance Advisory Committee of the Texas Department of Human Resources will meet in the conference room, third floor, West Tower, 701 West 51st Street, Austin. Items on the agenda include a food stamp issuance update, a legislative update, a volunteer update, the status of quality control, and the Office of Families and Children Service Delivery Project.

Contact: Pam Martin, P.O. Box 2960, Austin, Texas 78769, (512) 450-3399.

Filed: June 11, 1985, 4:13 p.m.
TRD-855297

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State Board of Insurance

Wednesday, June 26, 1985, 9 a.m. The State Board of Insurance will meet in the Hearing Room, DeWitt C. Greer Building, 11th and Brazos Streets, Austin. According to the agenda summary, the board will con-

duct a public hearing to consider revision of the fire and allied lines, commercial multiperil, homeowners and farm and ranch owners rates and manual rules, classification plans, forms, clauses, permits, warranties, classes, rating plans, and amendments to the general basis schedules.

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

Filed: June 12, 1985, 8:50 a.m.
TRD-855302

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Texas Department of Labor and Standards

Wednesday, July 17, 1985, 1 p.m. The Texas Modular Housing Advisory Council of the Texas Department of Labor and Standards will meet in Room 103, E. O. Thompson Building, 920 Colorado Street, Austin. Items on the agenda include reports from the Standing Plumbing Committee and the Contract Committee.

Contact: John P. Steele, P.O. Box 12157, Austin, Texas 78711, (512) 475-5712.

Filed: June 12, 1985, 10:05 a.m.
TRD-855312

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Texas Department of Mental Health and Mental Retardation

Thursday, June 13, 1985, 10 a.m. The Executive Committee of the Texas Board of Mental Health and Mental Retardation (MHMR) of the Texas Department of MHMR submitted an emergency revised agenda for a meeting held at the Fort Worth State School, 5000 Campus Drive, Fort Worth. Items on the revised agenda concerned a resolution of appreciation to Rush H. Record; the nomination of Mexia State School Property for an oil and gas lease; the establishment of an advisory committee to the Texas Board of MHMR on public information issues; a roadway easement at the Waco Center for Youth; and the status of pending of contemplated litigation. The emergency status was necessary because the attorney general's representative was unable to attend the meeting as posted originally.

Contact: Gary E. Miller, M.D., P.O. Box 12668, Austin, Texas 78711, (512) 465-4588.

Filed: June 12, 1985, 12:01 p.m.
TRD-855316

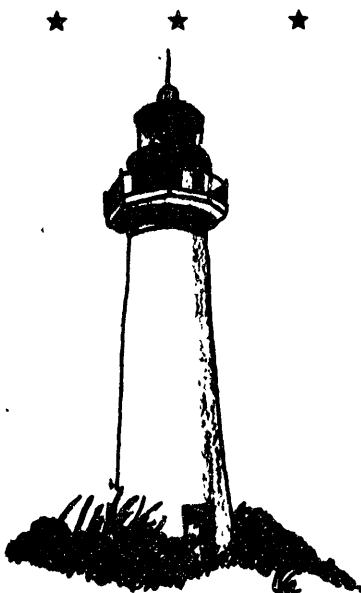
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North Texas State University

Friday, June 14, 1985, 9 a.m. The Board of Regents of the Texas College of Osteopathic Medicine (TCOM) of North Texas State University (NTSU) submitted an emergency revised agenda for a meeting held in the board room, administration building, North Texas State University, Denton. Items on the revised agenda concerning TCOM included approval of the minutes; personnel transactions; promotion and tenure recommendations; the name change of an academic department; a gift report; the acquisition of the integrated library automation system; the election of officers; and an executive session; items concerning NTSU include the approval of the minutes; faculty on modified service, 1984-1985; the end of semester enrollment report, spring 1985; promotion and tenure recommendations, 1985-1986; the holiday schedule, 1985-1986; personnel transactions; a gift report; the fee register for fiscal year 1986; the rental rates for the NTSU apartments and Eagle Arms Apartments; room and board rate increases; the increase in union fee and student service fee; an amendment to the golf course lease agreement; the continued renovation of Terrill Hall (Phase II); the conversion of the lab school to a large classroom; the remodeling of Quad I Building; parking and traffic proposals for 1985-1986; the upgrading of the VAX computer facility; and other business. The emergency status was necessary since the decision for the hiring of provost and vice president for academic affairs was just finalized; and the negotiations for the purchase of computing equipment was just completed.

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

Filed: June 11, 1985, 11:01 a.m.
TRD-855262



Board of Nurse Examiners

Tuesday and Wednesday, June 25 and 26, 1985, 8 a.m. daily. The Board of Nurse Examiners will meet in the Sheraton Crown Hotel and Conference Center, Houston International Airport, 15700 Drummet, Houston. According to the agenda summary, the board will consider disciplinary action, the reinstatement of license requests, consent orders, and other action taken by the hearing officer; hear a report from the executive secretary, an education report including faculty petitions, and a report of the upcoming July examinations; and consider old business and various reports of meetings attended.

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

Filed: June 12, 1985, 3:37 p.m.
TRD-855336

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Texas Parks and Wildlife Department

Thursday, June 13, 1985, 9:30 a.m. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department made emergency additions to the agenda of a meeting held at Building B, Parks and Wildlife Headquarters, 4200 Smith School Road, Austin. The additions concerned the Choke Canyon Reservoir State Park, Live Oak County; the James E. Daughtrey Wildlife Management Area, McMullen County; the request for nomination of a portion of Tyler State Park for oil and gas leasing, Smith County; a resolution supporting House Joint Resolution 6, 69th Legislature, 1984; and a resolution concerning the Texas state park system. The emergency status was necessary because of the urgent necessity to properly notify the public regarding the department's essential programs.

Contact: Charles D. Travis, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4802.

Filed: June 12, 1985, 2:24 p.m.
TRD-855317,855318

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State Property Tax Board

Friday, June 21, 1985, 9 a.m. The State Property Tax Board will meet in the conference room, 9501 IH 35 North, Austin. Items on the agenda include approval of the January 28, 1985, meeting minutes; consideration of proposed revisions to the *General Appraisal Manual* concerning easements; consideration of school district

appeals of hearing panel decisions in the 1984 school district value study; board approval of the 1984 school district value study findings; discussion of the report on new property tax legislation; discussion of the report on appropriations to the board and an overview of its operating budget for fiscal year 1986; discussion of proposed amendments to the operating budget for fiscal year 1985; discussion of proposed amendments to the board model forms; discussion of proposed revisions to the rules of the board; and discussion of overview of 1985 appraisal of transportation intangible property. The board also will meet in executive session to discuss personnel and legal matters.

Contact: Ron Patterson, 9501 IH 35 North, Austin, Texas 78767, (512) 834-4800.

Filed: June 11, 1985, 2:37 p.m.
TRD-855285

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Public Utility Commission of Texas

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

Friday, June 21, 1985, 10 a.m. A rescheduled hearing on the merits in Docket 6317—customer protest in the matter of Public Utility Regulatory Act (PURA), §43(h), rate increase of Parkside Shores Water Company in Henderson County. The hearing originally was scheduled for Friday, June 21, 1985, at 1:30 p.m.

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

Filed: June 11, 1985, 2:49 p.m.
TRD-855286

Friday, June 21, 1985, 1:30 p.m. A prehearing conference in Docket 6149—application of Vacation Village Sewer Company for a tariff change.

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

Filed: June 11, 1985, 2:52 p.m.
TRD-855287

Monday, June 24, 1985, 10 a.m. A second prehearing conference in Docket 6015—application of Southwestern Bell Telephone Company for a tariff change to modify and clarify regulations concerning the provisions of on premises private line service.

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

Filed: June 11, 1985, 2:51 p.m.
TRD-855289

Monday, June 24, 1985, 1:30 p.m. A prehearing conference in Docket 6294—petition of Alexa Enterprises, doing business as Engel Utility Company, for authority to terminate water utility service in Henderson County.

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

Filed: June 11, 1985, 2:51 p.m.
TRD-855288

Tuesday, June 25, 1985, 10:30 a.m. A rate hearing in Docket 6256—customer protests in the matter of a PURA, §43(h), rate increase for Aldine Estates Utility and Sellers Estates Utility.

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

Filed: June 11, 1985, 2:53 p.m.
TRD-855290

Thursday, June 27, 1985, 10 a.m. An informal meeting in Docket 6320—the matter of a PURA, §43(h), rate increase of Taylor Lake Water System.

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

Filed: June 11, 1985, 2:50 p.m.
TRD-855291

Thursday, June 27, 1985, 10 a.m. A prehearing conference in Docket 6143—application of Southwest Rural Electric Association for authority to change rates.

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

Filed: June 12, 1985, 2:49 p.m.
TRD-855325

Friday, June 28, 1985, 10:30 a.m. A hearing on the merits in Docket 6321—application of the Shores Utility Water System for a PURA, §43(h), rate increase within Hood County.

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

Filed: June 12, 1985, 2:48 p.m.
TRD-855326

Tuesday, August 13, 1985, 10 a.m. A hearing on the merits in Docket 6290—application of Domestic Utility Company, Inc., for authority to change rates.

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

Filed: June 11, 1985, 2:49 p.m.
TRD-855292

Thursday, August 15, 1985, 9 a.m. A hearing on the merits in Docket 6308—applica-

tion of Deep East Texas Electric Cooperative, Inc., for authority to change rates.

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

Filed: June 11, 1985, 2:50 p.m.
TRD-855293

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Railroad Commission of Texas

Monday, June 17, 1985, 9 a.m. The LP-Gas Division of the Railroad Commission of Texas submitted an emergency revised agenda for a meeting held in Room 309, 1124 IH 35 South, Austin. Items on the revised agenda include consideration of final orders in Docket 333—Wray's Air Conditioning, Heating, and Electrical, Inc.; Docket 339—Ideal Gas, Inc.; Docket 340—Don McLaren Sporting Goods and Cafe; Docket 341—Armstrong Enterprises; Docket 349—Big Sur RV Manufacturing and Supply; Docket 350—Younger Brothers, Inc.; Docket 351—Pool Plumbing, Inc.; Docket 354—Santiago LPG Plumbing; Docket 355—Home Tech Energy; Docket 356—Denton Trailer Sales and Rental, Inc.; Docket 358—Road Runner Parts and Supply; Docket 359—Texas Camper Corral; and Docket 360—Continental Farm Equipment Company, Inc. The emergency status was necessary because the items carried over from the open meeting held on June 10, 1985, because of a question of potential conflict of laws.

Contact: Thomas D. Petru, P.O. Drawer 12967, Austin, Texas 78711.

Filed: June 11, 1985, 2:03 p.m.
TRD-855284

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Texas Rehabilitation Commission

Monday, June 24, 1985, 9:30 a.m. The Texas Advisory Board of Occupational Therapy of the Texas Rehabilitation Commission will meet in Room 123, 118 East Riverside Drive, Austin. According to the agenda summary, the commission will approve the March 4, 1985, meeting minutes; consider Senate Bill 300 and the first draft of proposed rules; receive reports from the Continuing Education Task Force, the Assistants/Aides Task Force, the Fees Committee, the executive session, and the office; and consider any other business. The board

also will meet in executive session, if required.

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

Filed: June 12, 1985, 3:51 p.m.
TRD-855337

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Boards for Lease of State-Owned Lands

Thursday, June 20, 1985, 10 a.m. The Board for Lease of Adjutant General's Department of the Boards for Lease of State-Owned Lands will meet in Room 833, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board will approve the previous meeting minutes and consider easement applications.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 837, Austin, Texas 78701, (512) 475-5661.

Filed: June 12, 1985, 4:34 p.m.
TRD-855349

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Advisory Council for Technical-Vocational Education in Texas

Tuesday, June 25, 1985, 10 a.m. The Advisory Council for Technical-Vocational Education in Texas will meet in Room 304, Texas Employment Commission Annex Building, 12th and Trinity Streets, Austin. According to the agenda summary, the council will review the fiscal year 1986 budget; discuss and develop a council committee structure; hear comments from Dr. Kenneth Ashworth, commissioner of higher education, Coordinating Board, Texas College and University System, concerning the enactment of recent legislation which transfers the administrative authority for post-secondary vocational-technical education from the State Board of Education to the Coordinating Board; hear comments from Bob Allen, Division of Adult Education director, Texas Education Agency, concerning the council's role as the State Advisory Committee for Adult Education; hear a presentation on the master plan for vocational education in Texas; discuss the Texas Education Agency reorganization; and review the council program of work.

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

Filed: June 12, 1985, 3:36 p.m.
TRD-855335

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Texas A&M University System

Committees of the Board of Regents of the Texas A&M University System (TAMUS) met at the MSC Annex, Texas A&M University, College Station. Days, times, committees, and agendas follow.

Sunday, June 16, 1985, 2 p.m. The Planning and Building Committee considered cancellation of unexpended balances of appropriations, TAMUS; received a report of contract action by the chancellor, TAMUS; received a report of construction project appropriations/authorizations by the chancellor, TAMUS; received a report of contract actions by the deputy chancellor or presidents, TAMUS; considered initiation of construction projects, TAMUS; acted on bids, TAMU; and considered appropriations for preliminary and detailed designed, TAMU and Prairie View A&M University (PVAMU).

Contact: Vickie E. Burt, Texas A&M University System, College Station, Texas 77843, (409) 845-9603.

Filed: June 11, 1985, 11:01 a.m.
TRD-855267

Monday, June 17, 1985, 8:30 a.m. The Committee for Service Units considered an authorization to execute the license agreement with Agricultural Trading and Development, Ltd., Texas Agricultural Experiment Station (TAES).

Contact: Vickie E. Burt, Texas A&M University System, College Station, Texas 77843, (409) 845-9603.

Filed: June 11, 1985, 11:02 a.m.
TRD-855264

Monday, June 17, 1985, 8:45 a.m. The Committee for Academic Campuses considered an amendment to the Charles W. Crawford Fund, TAMU; granting of titles of professor emeritus, TAMU; adoption of a resolution for General Ormond R. Simpson, TAMU; adoption of a standing resolution concerning grants by the Robert A. Welch Foundation, TAMU; establishment of the International Dairy Goat Center, PVAMU; authorization to access health center fee, PVAMU; and establishment of license option student tuition, Texas A&M University at Galveston (TAMUG).

Contact: Vickie E. Burt, Texas A&M University System, College Station, Texas 77843, (409) 845-9603.

Filed: June 11, 1985, 11:02 a.m.
TRD-855265

Monday, June 17, 1985, 9 a.m. The Executive Committee considered adoption of operating budget guidelines for fiscal year 1985-1986, TAMUS; adoption of a holiday schedule, TAMUS; authorization to place the System Student Health and Accident Insurance Program with Keystone Life Insurance Company, TAMUS; adoption of spec-

ifications for health maintenance organizations, TAMUS; adoption of the Early Retirement Program with modified service option, TAMUS; adoption of a revised complaint and appeal procedure for employees other than faculty, TAMUS; authorization to sign the Research Park master form lease and its amendments, TAMUS; sale of permanent university fund constitutional amendment bonds, Series 1985, TAMUS; appointment of director of the Texas Engineering Experiment Station, TAMUS; budget and fiscal changes and personnel actions, TAMUS; recommendations for academic tenure, appointments, promotions, terminations of employment; acceptance of gifts, grants, loans, and bequests, TAMUS; authorization to hire Dr. Travis J. Parker, TAMU; a request for funds to meet commitments made to the dean of engineering, TAMU; a request for funds to purchase teaching equipment for the renovated M. T. Halbouty Geosciences Building, TAMU; appropriation of funds for the purchase of land in Waller County, PVAMU; authorization to purchase land, Texas Agricultural Experiment Station (TAES); establishment of a revolving fund, Texas Veterinary Medical Diagnostic Laboratory (TVMDL); consideration of land matters, TAMUS; consideration of personnel matters, TAMUS; consideration of naming of facilities and roads, TAMUS; consideration of litigation, TAMUS; authorization to advertise and sell an oil, gas, and sulphur lease, Texas A&M University Agricultural Research Station at Angleton, Brazoria.

Contact: Vickie E. Burt, Texas A&M University System, College Station, Texas 77843, (409) 845-9603.

Filed: June 11, 1985, 11:03 a.m.
TRD-855266

Tuesday, June 18, 1985, 8:30 a.m. The Board of Regents will consider contruction for TAMUS; consider adoption of operating budget guidelines for fiscal year 1985-1986, TAMUS; adoption of a holiday schedule, TAMUS; authorization to place the System Student Health and Accident Insurance Program with Keystone Life Insurance Company, TAMUS; adoption of specifications for health maintenance organizations, TAMUS; adoption of the Early Retirement Program with modified service option, TAMUS; adoption of a revised complaint and appeal procedure for employees other than faculty, TAMUS; authorization to sign the Research Park master form lease and its amendments, TAMUS; sale of permanent university fund constitutional amendment bonds, Series 1985, TAMUS; appointment of director of the Texas Engineering Experiment Station, TAMUS; budget and fiscal changes and personnel actions, TAMUS; recommendations for academic tenure, appointments, promotions, terminations of employment, TAMUS; acceptance of gifts, grants, loans, and bequests,

TAMUS; authorization to hire Dr. Travis J. Parker, TAMU; a request for funds to meet commitments made to the dean of engineering, TAMU; a request for funds to purchase teaching equipment for the renovated M. T. Halbouty Geosciences Building, TAMU; appropriation of funds for the purchase of land in Waller County, PVAMU; authorization to purchase land, Texas Agricultural Experiment Station (TAES); establishment of a revolving fund, Texas Veterinary Medical Diagnostic Laboratory (TVMDL); consideration of land matters, TAMUS; consider naming of facilities and roads, TAMUS; consideration of litigation, TAMUS; consideration of personnel matters, TAMUS; amendment to the Charles W. Crawford Fund, TAMU; granting of titles of professor emeritus, TAMU; adoption of a resolution for General Ormond R. Simpson, TAMU; adoption of a standing resolution concerning grants by the Robert A. Welch Foundation, TAMU; establishment of the International Dairy Goat Center, PVAMU; authorization to access health center fee, PVAMU; establishment of license option student tuition, TAMUG; authorization to execute the license agreement with Agricultural Trading and Development, Ltd., TAES; authorization to advertise and the sell oil, gas, and sulphur lease, Texas A&M University Agricultural Research Stations at Angleton, Brazoria County; and adoption of a resolution regarding drill field, TAMUS.

Contact: Vickie E. Burt, Texas A&M University System, College Station, Texas 77843, (409) 845-9603.

Filed: June 11, 1985, 11:03 a.m.
TRD-855263

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Commission on Uniform State Laws

Friday-Friday, August 2-9, 1985, 9 a.m. daily The Commission on Uniform State Laws will meet at the AmFac Hotel, 30 South Seventh Street, Minneapolis, Minnesota. According to the agenda summary, the commission will discuss and revise proposed uniform state laws scheduled for approval by the commission in 1985; and consider which of such laws to propose to the Texas legislature for consideration of enactment.

Contact: Stanley Plettman, 470 Orleans Street, Beaumont, Texas 77701, (409) 838-6412.

Filed: June 12, 1985, 1:56 p.m.
TRD-855324

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University Interscholastic League

Friday, June 14, 1985, 1:15 p.m. The State Executive Committee of the University Interscholastic League met in Room 3.102, Thonipson Conference Center, UT campus, 26th and Red River Streets, Austin. According to the agenda summary, the committee conducted open hearings to consider requests for official interpretations.

Contact: Bonnie Northcutt, P.O. Box 8028, Austin, Texas 78712, (512) 471-5883.

Filed: June 11, 1985, 11:24 a.m.
TRD-855268

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Texas Water Commission

Thursday, July 11, 1985, 10 a.m. The Texas Water Commission will meet in Room 124A, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider the application of the City of Leonard, P.O. Drawer 1, Leonard, Texas 75452, to the Texas Department of Water Resources for a temporary order to authorize the discharge of partially treated domestic wastewater effluent at a volume not to exceed an average flow of 120,000 gallons per day from its wastewater treatment facilities which are located approximately 100 yards west of the intersection of U.S. Highway 69 and the MK&T Railroad southeast of Leonard, Fannin County. The applicant proposes that such a request is necessary during construction of a new wastewater treatment facility as part of a U.S. Environmental Protection Agency construction grants project.

Contact: John Vay, P.O. Box 13087, Austin, Texas 78711, (512) 463-8087.

Filed: June 12, 1985, 2:09 p.m.
TRD-855319

Monday, July 22, 1985, 10 a.m. The Texas Water Commission will meet in Room 124A, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will conduct a hearing on Application 4569 of Robert L. Boothe, and Don B. and Mary W. Morgan, for a permit to divert and use 240 acre-feet of water per annum from the San Marcos River, tributary of the Guadalupe River, Guadalupe River Basin, for irrigation purposes in Caldwell County.

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

Filed: June 12, 1985, 3:39 p.m.
TRD-855328

Tuesday, July 23, 1985, 9:30 a.m. The Texas Water Commission will meet in the city council chambers, 2401 Market Street, Baytown. According to the agenda summary, the commission will consider the ap-

plication of DKB Developers, Inc., P.O. Box 265, Mont Belvieu, Texas 78580, to the Texas Department of Water Resources for proposed Permit 13099-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 5,000 gallons per day from the proposed Cedar Point Wastewater Treatment Plant which is to serve a planned condominium complex.

Contact: Douglas P. Roberts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: June 12, 1985, 2:11 p.m.
TRD-855320

Wednesday, July 24, 1985, 9:30 a.m. The Texas Water Commission will meet in the Leon Valley Room, third floor, Kelly Bank Tower, 6100 Bandera Road, San Antonio. According to the agenda summary, the commission will consider the application of the City of San Antonio, P.O. Box 1771, San Antonio, Texas 78296, to the Texas Department of Water Resources for proposed Permit 10137-38 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 120,000 gallons per day from the proposed Air Force Village II Sewage Treatment Plant which the applicant proposes to construct in phases to serve the needs of a retirement community and nursing care facility.

Contact: Carl X. Forrester, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: June 12, 1985, 2:10 p.m.
TRD-855321

Wednesday, July 24, 1985, 10 a.m. The Texas Water Commission will meet in Room 504C, Tarrant County Administration Building, 100 East Weatherford, Fort Worth. According to the agenda summary, the commission will consider the application of Jack Hudson, P.O. Box 1221, Miami, Oklahoma 74345, to the Texas Department of Water Resources for proposed Permit 13105-01 to authorize the discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 338,000 gallons per day from the proposed Hudson Apartments Wastewater Treatment Plant which is to serve a single and multi-family residential development.

Contact: Christine McKeeman, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: June 12, 1985, 2:11 p.m.
TRD-855322

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

Friday, July 26, 1985, 9 a.m. In Room 119, the commission will conduct a public hearing to receive evidence to determine whether Permit 13046-01, issued to J. P. Tate, P.O.

Box 243, Drippings Springs, Texas 78620, on February 5, 1985, should be affirmed, suspended, revoked, or amended for cause. Permit 13046-01 authorizes subsurface disposal of treated domestic wastewater effluent from mobile home park which is to be served by treatment facilities which the applicant proposes to construct approximately 1.6 miles northwest of the intersection of Ranch Road 150 and Ranch Road 1826, approximately 2½ miles east-southeast of the intersection of Ranch Road 12 and Ranch Road 150 in Hays County.

Contact: William G. Newchurch, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: June 12, 1985, 2:10 p.m.
TRD-855323

Monday, August 5, 1985, 10 a.m. In Room 124A, the commission will conduct a hearing for Port Mansfield Public Utility District to amend Certificate of Adjudication 23-201, Rio Grande Basin, Cameron County.

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

Filed: June 12, 1985, 3:40 p.m.
TRD-855329

Monday, August 5, 1985, 10 a.m. In Room 124A, the commission will conduct a hearing for North Alamo Water Supply Corporation to amend Certificate of Adjudication 23-201, Rio Grande Basin, Cameron County.

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

Filed: June 12, 1985, 3:40 p.m.
TRD-855330

Friday, August 9, 1985, 10 a.m. In Room 618, the commission will conduct a hearing on Application 4571 of Dimension-Unicorn Lake Associates, Ltd., to authorize the maintenance of a dam and 119.5 acre-foot capacity reservoir on an unnamed tributary of Pecan Creek, tributary of Elm Fork Trinity River, Trinity River Basin, for recreational purposes in Denton County.

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

Filed: June 12, 1985, 3:41 p.m.
TRD-855331

Friday, August 9, 1985, 10 a.m. In Room 618, the commission will conduct a hearing on Application 4570 of Delsanter and Associates, Inc., to authorize the construction and maintenance of and the impoundment of water in six dams and reservoirs on three unnamed tributaries of Timber Creek, tributary of Elm Fork Trinity River, tributary of Trinity River, Trinity River Basin, for recreational purposes in Denton County.

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

Filed: June 12, 1985, 3:41 p.m.
TRD-855332

Friday, August 9, 1985, 10 a.m. In Room 618, the commission will conduct a hearing on Application 4572 of Dimension Development Company, Inc., to construct and maintain a dam and 4.4 acre-foot capacity reservoir on an unnamed tributary of Pecan Creek, tributary of Elm Fork Trinity River, tributary of Trinity River, Trinity River Basin, for recreational purposes in Denton County.

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

Filed: June 12, 1985, 3:41 p.m.
TRD-855333

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Texas Department of Water Resources

(Editor's note: The proposed rules to which these hearings refer are published in this issue of the Register beginning at 10 TexReg 2011.)

Monday, June 24, 1985, 10 a.m. The Texas Department of Water Resources will meet in the Hoblitzelle Auditorium, Texas A&M Research Center, 2401 East Highway 83, Weslaco. According to the agenda summary, the department will conduct a public hearing to discuss and receive comments on the proposed rules relating to the Rio Grande watermaster operation and all parts of the Rio Grande and its tributaries below Fort Quitman, excluding the Pecos River watershed and the Devils River watershed.

Contact: Nancy K. Matchus, P.O. Box 13087, Austin, Texas 78711, (512) 463-8070.

Filed: June 13, 1985, 9:43 a.m.
TRD-855353

Wednesday, June 26, 1985, 10 a.m. The Texas Department of Water Resources will meet in the Multipurpose Center, 480 South Adams, Eagle Pass. According to the agenda summary, the department will conduct a public hearing to discuss and receive comments on the proposed rules relating to the Rio Grande watermaster operation and all parts of the Rio Grande and its tributaries below Fort Quitman, excluding the Pecos River watershed and the Devils River watershed.

Contact: Nancy K. Matchus, P.O. Box 13087, Austin, Texas 78711, (512) 463-8070.

Filed: June 13, 1985, 9:43 a.m.
TRD-855352

Thursday, June 27, 1985, 1 p.m. The Texas Department of Water Resources will meet at the American Legion Hall, South O'Reilly, Presidio. According to the agenda summary, the department will conduct a public hearing to discuss and receive comments on

the proposed rules relating to the Rio Grande watermaster operation and all parts of the Rio Grande and its tributaries below Fort Quitman, excluding the Pecos River watershed and the Devils River watershed.

Contact: Nancy K. Matchus, P.O. Box 13087, Austin, Texas 78711, (512) 463-8070.

Filed: June 13, 1985, 9:43 a.m.
TRD-855351

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Regional Agencies Meetings Filed June 11

The Central Counties Center for Mental Health and Mental Retardation Services, Board of Trustees, will meet at 302 South 22nd Street, Temple, on June 18, 1985, at 7:45 p.m. Information may be obtained from Steven B. Schnee, P.O. Box 518, Temple, Texas 76503.

The Dallas Area Rapid Transit Authority, Board of Directors, submitted an emergency revised agenda for a meeting held at 601 Pacific Avenue, Dallas, on June 11, 1985, at 5:30 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 748-3278.

TRD-855277

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Meetings Filed June 12

The Bexar Appraisal District, Board of Directors, met at 535 South Main, San Antonio, on June 17, 1985, at 5 p.m. The Appraisal Review Board will meet at the same location on Monday-Thursday, June 24-27, 1985, at 8:30 a.m. daily. Information may be obtained from Bill Burnette, 535 South Main, San Antonio, Texas 78204, (512) 224-8511.

The Central Texas Council of Governments, Executive Committee, will meet at 302 East Central, Belton, on June 27, 1985, at 11 a.m. Information may be obtained from Walton B. Reedy, P.O. Box 729, Belton, Texas 76513, (817) 939-1803.

The Region XII Education Service Center, Board of Directors, will meet at 401 IH 35, Waco, on June 20, 1985, at 7:30 p.m. Information may be obtained from Weldon O. Mills, P.O. Box 1249, Waco, Texas 76703.

The Lower Neches Valley Authority, Board of Directors, will meet at 7850 Eastex Freeway, Beaumont, on June 18, 1985, at 10:30 a.m. Information may be obtained

from the J. D. Nixon, P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011.

The Mental Health and Mental Retardation Authority of Brazos Valley, Board of Trustees, will meet at the Brazos Center, 3232 Braircrest Drive, Bryan, on June 20, 1985, at 1:30 p.m. Information may be obtained from Ann Pye-Shively, P.O. Box 4588, Bryan, Texas 77805, (409) 695-8585.

The Central Tax Authority of Taylor County, Appraisal Review Board, will meet at 340 Hickory Street, Abilene, on June 19, 1985, at 1:30 p.m. Information may be obtained from Richard Petree, P.O. Box 1800, Abilene, Texas 79604, (915) 676-9381.

The Trinity River Authority of Texas, Utility Services Committee, met at 5300 South Collins Street, Arlington, on June 17, 1985, at 10:30 a.m. The Administration Committee and the Legal Committee will meet at the same location on June 18, 1985, at 10:30 a.m. and 2 p.m. respectively. Information may be obtained from Jack C. Worsham, P.O. Box 60, Arlington, Texas 76004-0060, (817) 467-4343.

The West Texas Council of Governments, Board of Directors, will meet in the conference room, eighth floor, Two Civic Center Plaza, El Paso, on June 21, 1985, at 9:30 a.m. (M.S.T.). Information may be obtained from Cecile C. Gamez, Two Civic Center Plaza, El Paso, Texas 79999.

TRD-855303

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Meetings Filed June 13

The Dewitt County Appraisal District, Board of Directors, will meet at 103 Bailey Street, Cuero, on June 18, 1985, at 7:30 p.m. Information may be obtained from Wayne K. Woolsey, P.O. Box 4, Cuero, Texas 77954, (512) 275-5753.

The Region V Education Service Center, Board of Directors, will meet in the board room 2295, Delaware Street, Beaumont, on June 20, 1985, at 1:15 p.m. Information may be obtained from Fred J. Waddell, 2295 Delaware Street, Beaumont, Texas, (409) 835-5212.

The Houston-Galveston Area Council, Board of Directors, will meet at 3555 Timmons, Houston, on June 18, 1985, at 9:30 a.m. Information may be obtained from Jack Steele, P.O. Box 22777, Houston, Texas 77227, (713) 627-3200.

The Kendall County Appraisal District, Board of Directors, will meet at 207 East San Antonio Street, Boerne, on June 20, 1985, at 7 p.m. Information may be ob-

tained from Sue R. Wiedenfeld, P.O. Box 788, Boerne, Texas 78006, (512) 249-8012.

The Mills County Appraisal District, will meet at the Mills County Courthouse, Goldthwaite, on June 20, 1985, at 7:30 p.m. Information may be obtained from Doran K. Lemke, P.O. Box 565, Goldthwaite, Texas 76844, (915) 648-2253.

The Nueces-Jim Wells-Kleberg Soil and Water Conservation District, Board of Directors, will meet at 2287 North Texas Boulevard, Alice, on June 18, 1985, at 2 p.m. Information may be obtained from

Wilbur F. Erck, Route 2, Box 325, Alice, Texas 78332, (512) 664-1325.

The Rank County Appraisal District, Appraisal Review Board, will meet at 107 North Van Buren, Henderson, on June 25-28, 1985, at 9 a.m. daily. Information may be obtained from Melvin R. Cooper, P.O. Box 7, Henderson, Texas 75653-0007, (214) 657-9697.

The Wise County Appraisal District, Appraisal Review Board, will meet at 206 South State Street, Decatur, on June 19, 1985, at 9:30 a.m. Information may be ob-

tained from Angela Caraway, P.O. Box 509, Decatur, Texas 76234, (817) 627-3081.

The Wood County Appraisal District, Board of Directors, will meet in the conference room, 217 North Main, Quitman, on June 20, 1985, at 1:30 p.m. Information may be obtained from W. Carson Wages or Teresa Poston, P.O. Box 325, Quitman, Texas, (214) 763-4946.

TRD-855350

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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 June 3-7, 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.

Pioneer Concrete of Texas, Houston; concrete batch; 9827 Steelman, Harris County; 1305B; modification

Pioneer Concrete of Texas, Houston; cement silo; 9827 Steelman, Harris County; 1305C; modification

Gulf Oil Products Company, Houston; gasoline and diesel products loading terminal; 17724 Hardy Road, Harris County; 9058A; modification

Interesin Company, Houston; synthetic resin plant; 1/4 mile east of the intersection of Seidon and Wallisville Roads, Harris County; 9758; new source

* City of Center; municipal solid waste incinerator; 1004 Shellyville Street, Shelly County; 9759; new source

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

TRD-855274 Paul M. Shinkawa
Director of Hearings
Texas Air Control Board

Filed: June 11, 1985
For further information, please call (512) 451-5711, ext. 354.

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State Banking Board Public Hearing

The hearing officer of the State Banking Board will conduct a hearing at 9 a.m. on July 24, 1985, at 2601 North Lamar Boulevard, Austin, on the charter application for

the Bank of Floresville. The application is a conversion application from the First City National Bank of Floresville to a state-chartered bank.

Additional information may be obtained from William F. Aldridge, Director of Corporate Activities, State Banking Department, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

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

TRD-855276 Jorge Gutierrez
General Counsel
Banking Department of Texas

Filed: June 11, 1985
For further information, please call (512) 475-4451.

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Cancellation of Hearing

As no opposition has been noted in the application for domicile change by Security State Bank, Stockdale, the hearing previously scheduled for Wednesday, June 12, 1985, was cancelled. This application will be scheduled for State Banking Board action on June 26, 1985.

Issued in Austin, Texas, on June 7, 1985.

TRD-855275 James L. Sexton
Commissioner
State Banking Board

Filed: June 11, 1985
For further information, please call (512) 475-4451.

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Texas Economic Development Commission Consultant Proposal Requests

Pursuant to Texas Civil Statutes, Article 6252-11c, the Texas Small Business Industrial Development Corporation (TSBIDC) of the Texas Economic Development Commission is requesting proposals from Texas trust companies or banks having the powers of trust companies to serve as trustee under a trust indenture (one or more) applicable to a Composite Issue Industrial Development Bond Program scheduled to commence during the third quarter of 1985. The respondent selected as trustee may also be requested by the TSBIDC to serve as trustee for other public or private placement bond programs which may from time to time be approved by the TSBIDC board of directors and the commission.

The TSBIDC is a nonprofit corporation created and implemented under provisions of the Development Corporation Act of 1979, Texas Civil Statutes, Article 5190.6, with authority to issue bonds on behalf of the State of Texas for the public purposes of the Act. The commission serves as the TSBIDC's governing body for purposes of the Act.

Program Description. A complete description of the program is contained in the preliminary program guidelines, a copy of which is available from the commission. Under the terms of the guidelines, the TSBIDC will issue and sell composite issues of multiple series of bonds, each series of bonds representing a loan to a small business concern or a developer for the benefit of one or more small business concerns (the borrower) to finance the eligible costs of a project.

In general, each borrower will be required to provide a letter of credit to secure the payment of principal and interest with respect to the borrower's series of bonds. Further security will be provided by a master credit facility issued by a financial institution having a minimum credit rating assigned to it by a recognized national rating agency. The Texas Commerce Bank National Association (TCB) has committed to issue its master letter of credit in an amount up to \$20 million in connection with the program. Each series of bonds will be marketed as a variable rate demand instrument.

Scope of Services. The trustee will be expected to perform the functions and trust services customarily performed by a trustee in an industrial development revenue bond issue. The trustee will also be required to review certain aspects of program compliance by the borrowers. The trustee appointed by the TSBIDC must have at least \$500 million in assets under trust management and \$75 million in capital and surplus.

Contact Person. Copies of the guidelines, the TCB commitment letter, the latest draft of the trust indenture, complete bid proposals, and other information may be obtained from John Kirkley, Texas Small Business Industrial Development Corporation, in care of the Texas Economic Development Commission, P.O. Box 12728, Austin, Texas 78711, (512) 472-5059.

Closing Date. Two copies of the offer must be received by the TSBIDC by 5 p.m. daylight savings time on July 10, 1985.

Selection. Offers submitted will be evaluated on the basis of demonstrated competence, knowledge, and qualifications of the respondent and on the reasonableness of the proposed fees for services. The TSBIDC is not required to make an award based on low bid and reserves the right to waive any proposal requirement and to reject any or all proposals. The TSBIDC also reserves the right to negotiate fees and services with any respondent and to ask respondents to extend their services to additional bond issues at the option of both parties. All fees for services rendered will be payable only out of funds made available from time to time by the borrowers or from sources other than state appropriated funds.

Issued in Austin, Texas, on June 7, 1985.

TRD-855180

Harden H. Wiedemann
Executive Director
Texas Economic Development
Commission

Filed: June 10, 1985

For further information, please call (512) 472-5059.

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Pursuant to Texas Civil Statutes, Article 6252-11c, the Texas Small Business Industrial Development Corporation (the TSBIDC) is requesting proposals from institutions which are interested in serving as tender agent, paying agent, escrow agent, and registrar (collectively, the agent) in connection with a Composite Issue Industrial Development Bond Program (the program) scheduled to commence during the third quarter of 1985. The respondent selected as agent may also be requested by the TSBIDC to serve as agent for other public or private placement bond programs which may from time to time be approved by the TSBIDC board of directors and the Texas Economic Development Commission.

The TSBIDC is a nonprofit corporation created and implemented under provisions of the Development Corporation Act of 1979, Texas Civil Statutes, Article 5190.6, with authority to issue bonds on behalf of the State of Texas for the public purposes of the Act. The commission serves as the TSBIDC's governing body for purposes of the Act.

Program Description. A complete description of the program is contained in the preliminary program guidelines, a copy of which is available from the commission. Under the terms of the guidelines, the TSBIDC will issue and sell composite issues of multiple series of bonds, each series of bonds representing a loan to a small business concern or a developer for the benefit of one or more small business concerns (the borrower) to finance the eligible costs of a project.

In general, each borrower will be required to provide a letter of credit to secure the payment of principal and interest with respect to the borrower's series of bonds. Further security will be provided by a master credit facility issued by a financial institution having a minimum credit rating assigned to it by a recognized national rating agency. The Texas Commerce Bank National Association (TCB) has committed to issue its master letter of credit in an amount up to \$20 million in connection with the program. Each series of bonds will be marketed as a variable rate demand instrument.

Scope of Services. The agent will be expected to perform the functions and trust services customarily performed by a paying agent, tender agent, escrow agent, and registrar in an industrial development revenue bond financing. The agent appointed by TSBIDC must have at least \$300 million in capital and surplus and must have a New York City office.

A separate request for proposals from Texas trust companies or banks having the powers of trust to serve as trustee for the program has been made concurrently with this request for proposal to serve as agent.

Contact Person. Copies of the guidelines, the TCB commitment letter, the latest draft of the trust indenture, complete bid proposals, and other information may be obtained from John Kirkley, Texas Small Business Industrial Development Corporation, in care of the Texas Economic Development Commission, P.O. Box 12728, Austin, Texas 78711, (512) 472-5059.

Closing Date. Two copies of the offer must be received by the TSBIDC by 5 p.m., daylight savings time, on July 10, 1985.

Selection. Offers submitted will be evaluated on the basis of demonstrated competence, knowledge, and qualifications of the respondent and on the reasonableness of the proposed fees for services. The TSBIDC is not required to make an award based on low bid and reserves the right to waive any proposal requirement and to reject any or all proposals. The TSBIDC also reserves the

right to negotiate fees and services with any respondent and to ask respondents to extend their services to additional bond issues at the option of both parties. All fees for services rendered will be payable only out of funds made available from time to time by the borrowers or from sources other than state-appropriated funds.

Issued in Austin, Texas, on June 7, 1985

TRD-855181

Harden H. Wiedemann
Executive Director
Texas Economic Development
Commission

Filed: June 10, 1985

For further information, please call (512) 475-5059.

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Texas Department of Health Intent to Revoke Certificates of Registration

The Bureau of Radiation Control, Texas Department of Health, is seeking the revocation of Certificate of Registration 3-10708, issued to Blair X-Ray Manufacturing, Inc., for the following reasons.

The agency determined that the registrant is no longer located at 7606 Boeing #G, P.O. Box 26763, El Paso, Texas 79925. The registrant has not notified the agency of a change of address, and no forwarding address is available.

All attempts by the agency to contact the registrant by telephone, by certified mail, and by inspection have been unsuccessful. Therefore, the Texas Department of Health, Bureau of Radiation Control, recommends that the certificate of registration issued to Blair X-Ray Manufacturing, Inc., be revoked immediately.

In accordance with *Texas Regulations for Control of Radiation* (TRCR) Part 13.8, this notice affords the opportunity for a hearing to show cause why the certificate of registration should not be revoked. A written request for a hearing must be received within 30 days from the date of publication of this notice to be valid. Such written request must be filed with David K. Lacker, Director, Radiation Control Program, 1110 West 49th Street, Austin, Texas 78756-3189. Should no request for a hearing be timely filed, the certificate of registration will be revoked 14 days after the end of the 30-day period of notice.

Issued in Austin, Texas, on June 6, 1985.

TRD-855200

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

Filed: June 10, 1985

For further information, please call (512) 456-7236.

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Notice is hereby given that the Bureau of Radiation Control, Texas Department of Health, filed a complaint against Bellaire West Veterinary Clinic, 11107-B Bellaire Boulevard, Houston, Texas 77072, holder of Certificate of Registration 11-01092, pursuant to *Texas Regulations for Control of Radiation* (TRCR) Part 13.8. The agency intends to revoke Certificate of Registration 11-01092, order the registrant to cease and desist use of x-ray

machines and to either disable the machines or divest himself of them, presenting evidence satisfactory to the Bureau of Radiation Control that he has complied with the order and the provisions of Texas Civil Statutes, Article 4590f. The complaint is as shown as follows.

This notice affords the opportunity for a hearing to show cause why the certificate of registration should not be revoked. A written request for a hearing must be received within 30 days from the date of service of the complaint to be valid. Such written request must be filed with David K. Lacker, Director, Radiation Control Program, 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed, the certificate of registration will be revoked at the end of the 30-day period of notice.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Texas, from 8 a.m. to 5 p.m., Monday through Friday (except holidays).

Complaint. Comes now the Division of Compliance and Inspection, Bureau of Radiation Control, Texas Department of Health (the agency), through its division director, and makes the following complaint against Bellaire West Veterinary Clinic, 11107-B Bellaire Boulevard, Houston, Texas 77072 (the registrant), holder of Certificate of Registration 11-01092.

The TRCR Part 42.7(a) requires that application of renewal of registration be made in accordance with the TRCR Part 42.3.

Certificate of Registration 11-01092 expired on July 31, 1983. The holder of the registration had not submitted an application for renewal of the certificate of registration on March 6, 1984. No such application has been received as of the date of this complaint.

The TRCR Part 21.202 require that persons who enter radiation restricted areas and persons who operate radiation producing equipment be provided personnel monitoring devices to determine their exposure to ionizing radiation while in these areas or functions.

On March 6, 1985, personnel monitoring devices were not provided for any of the personnel identified as users of the x-ray equipment, in violation of the referenced section of the regulation.

The TRCR Part 32.3(b)(2) requires that operating and safety procedures be provided to each individual operating x-ray equipment under his control. The TRCR Part 22.11(a) requires that a copy of these procedures be posted in the facility where it can be examined by using employees.

On March 6, 1985, operating and safety procedures were unavailable for inspection or posting, in violation of both TRCR Part 32.3(b)(2) and TRCR Part 22.11(a).

The TRCR Part 22.11(a) requires that a current copy of the certificate of registration be posted. On March 6, 1984, there was no copy of the certificate of registration posted in violation of the referenced section of the regulations.

The TRCR Part 22.11(c) requires that an Agency Form 22-1, notice to employees, be posted notifying the employees of the regulations and their application. On March 6, 1984, no notice of employees was posted, in violation of the referenced section of the regulations. On numerous occasions the agency has, by certified mail, informed the registrant of these items and no response regarding their corrections has been received by the agency.

Therefore, the agency, as provided in the TRCR Part 13.8(c), requests that an order be issued revoking the certificate of registration of the registrant and ordering the registrant to cease and desist use of such machines, and further that the registrant, in order to be in compliance with the TRCR Part 13.8(a), either disable the machines or divest himself of them, presenting evidence satisfactory to the Bureau of Radiation Control that he has complied with this order and the provisions of Texas Civil Statutes, Article 4590f.

Issued in Austin, Texas, on June 6, 1985

TRD-855208 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of Health

Filed: June 10, 1985

For further information, please call (512) 458-7236.

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Texas Department of Human Resources Consultant Proposal Request

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Human Resources furnishes this consultant proposal request (CPR) for consulting services.

Services to be provided are psychological testing, psychological assessment, counseling/therapy (individual, group, and family), and court testimony. These services will be provided in Aransas, Bee, Brooks, Jim Wells, Kenedy, Kleberg, Live Oak, McMullen, Nueces, and San Patricio Counties.

To request a CPR package or additional information, contact Adolfo Reyes, Regional Director for Families and Children, Texas Department of Human Resources, P.O. Box 960, Edinburg, Texas 78540.

Closing date to receive offers is July 19, 1985.

Final selection will be made based on staff qualifications, examples of work, and cost.

Issued in Austin, Texas, on June 12, 1985.

TRD-855310 Marlin W. Johnston
Commissioner
Texas Department of Human
Resources

Filed: June 12, 1985

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

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Request for Proposals

The Texas Department of Human Resources (DHR) furnishes this notice of request for proposals. The DHR will contract with public agencies and private companies for the provision of nonambulance medical transportation services to Medicaid recipients.

Proposals will be accepted from parties interested in providing transportation services in Armstrong, Bailey, Briscoe, Carson, Castro, Cochran, Collingsworth, Crosby, Dallam, Deaf Smith, Dickens, Donley, Floyd, Garza, Gray, Hale, Hall, Hansford, Hartley, Hemphill, Hockley, Hutchinson, King, Lamb, Lipscomb, Lubbock, Lynn, Moore, Motley, Ochiltree, Oldham, Parmer, Pot-

ter, Randall, Roberts, Sherman, Swisher, Terry, Wheeler, and Yoakum Counties.

To obtain an application package, contact Bobby Ebeling, Texas Department of Human Resources, P.O. Box 10528, Lubbock, Texas 79408, (806) 741-0541. Request for application packages should be received by 5 p.m. on July 3, 1985, to assure adequate response time. DHR must receive completed application packages by 5 p.m. on July 31, 1985.

An offeror's conference will be held at 10 a.m. on July 5, 1985, at 2109 Avenue Q, Lubbock.

Issued in Austin, Texas, on June 12, 1985.

TRD-855309 Marlin W. Johnston
Commissioner
Texas Department of Human
Resources

Filed: June 12, 1985

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

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Public Notice

The Texas Department of Human Resources (DHR) has published a report outlining its proposed intended use of federal block grant funds in fiscal year 1986 for Title XX Social Services. The DHR provides assistance and services to needy families and children, and the aged or disabled.

Copies of the report can be obtained at no charge from Special Services Division, 427-W, Texas Department of Human Resources, P.O. Box 2960, Austin, Texas 78769, (512) 450-3284.

The DHR is seeking written comments from the public and private sectors regarding the proposed use of block grant funds. Written comments will be accepted through July 2, 1985. Please send comments to the address listed previously.

Issued in Austin, Texas, on June 12, 1985.

TRD-855311 Marlin W. Johnston
Commissioner
Texas Department of Human
Resources

Filed: June 12, 1985

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

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Railroad Commission of Texas Public Hearing

Notice is given to all interested persons that the Railroad Commission of Texas will hold a public hearing to receive comments concerning the proposed amendments to 16 TAC §3.56, concerning scrubber oil and skim hydrocarbons, published in the May 10, 1985, issue of the *Texas Register* (10 TexReg 1464).

The hearing will be held at 9 a.m. on Tuesday, July 30, 1985, in Room 221, Railroad Commission Building, 1124 IH 35 South, Austin.

At the hearing, comments should be presented in narrative and exhibit form. Witnesses may present testimony orally or in writing. There will be no cross-examination of witnesses other than by the examiners for purposes of ensuring a complete record. The commission's rules regarding contested cases will not be applicable.

The comment period for the proposed amendments to 16 TAC §3.56 has been extended through July 31, 1985.

Questions regarding the proposed amendments to Statewide Rule 56 should be addressed to Kimberly L. Kiplin, Legal Section, Oil and Gas Division, Railroad Commission of Texas, (512) 445-1180.

Issued in Austin, Texas, on June 11, 1985

TRD-855294 Walter Earl Lille
Special Counsel
Railroad Commission of Texas

Filed: June 11, 1985
For further information, please call (512) 445-1188.

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Texas Savings and Loan Department Application to Establish Remote Service Units

Application has been filed with the savings and loan commissioner of Texas by San Antonio Savings Association, for approval to establish and operate remote service unit(s) at the following location(s): (Docket 85-070) Diamond Shamrock 977, 6645 Tezel Road, San Antonio; (Docket 85-091) Diamond Shamrock 978, 12343 West Avenue, San Antonio; (Docket 85-092) Diamond Shamrock 980, 516 South Adams, San Antonio.

The applicant association asserts that security of the association's funds and that of its account holders will be maintained, and the proposed service will be a substantial convenience to the public.

Anyone desiring to protest the application must file a written protest with the commissioner within 10 days following this notice. The commissioner may dispense with a hearing.

This application is filed pursuant to 7 TAC §§53.11-53.16 of the rules and regulations for savings and loan associations. Such rules are on file with the Office of the Secretary of State, Texas Register, or may be seen at the department's offices at 1004 Lavaca, Austin.

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

TRD-855233 L. L. Bowman
Commissioner
Texas Savings and Loan
Department

Filed: June 10, 1985
For further information, please call (512) 475-7991.

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On June 7, 1985, the savings and loan commissioner received an application for approval of the acquisition of control of Guadalupe Savings and Loan Association, Kerrville, by Joaquim A. DeLima, Austin.

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 June 10, 1985.

TRD-855231 Russell R. Oliver
General Counsel
Texas Savings and Loan
Department

Filed: June 10, 1984
For further information, please call (512) 475-7991.

Applications for Change of Control Associations

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 June 3, 1985, the savings and loan commissioner received an application for approval of the acquisition of control of Eagle Savings Association, Richardson, by Robert C. McKay, Joe N. Pratt, and R. Lee Swearingen, Victoria.

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 June 10, 1985.

TRD-855232 Russell R. Oliver
General Counsel
Texas Savings and Loan
Department

Filed: June 10, 1984
For further information, please call (512) 475-7991.

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Texas State Treasury Department Consultant Proposal Request

This request for consulting services is filed under the provisions of Texas Civil Statutes, Article 6252-11c. The consulting service desired is a continuation of a service previously performed by a private consultant. The Texas State Treasury Department (TSTD) intends to award the contract for consulting services to the private consultant who previously performed the services unless a better offer is submitted.

The TSTD is requesting proposals for developing computer software made necessary by changes to the state's unclaimed property statutes made by the 69th Legislature, 1985.

Additional information may be obtained from Paula Smith, Director of Unclaimed Property Division, Texas State Treasury Department, P.O. Box 12608, Austin, Texas 78711.

Proposals are due by 4 p.m. on June 26, 1985.

Selection criteria will include experience and qualifications of consultant in conducting similar projects; con-

sultant's reputation with previous customers; timeliness of proposed work; suitability of work plan; and projected cost.

Issued in Austin, Texas, on June 11, 1985.

TRD-855296

J. Stephen Ravel
General Counsel
Texas State Treasury Department

Filed: June 11, 1985

For further information, please call (512) 463-5971.

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Texas Water Commission Applications for Waste Disposal Permits

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of June 3-7, 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 June 3-7, 1985

Harris County. Municipal Utility District 166, Houston; wastewater treatment plant; 16300 West Little York Road, approximately 3,000 feet west of the intersection of State Highway 6 and West Little York Road in Harris County; 12474-01; amendment

Lowman Ranch, Ltd., San Marcos; residential subdivision; approximately 3,500 feet west of the intersection of Centerpoint Road and FM Road 2439 in Hays County; 13128-01; new permit

Lowman Ranch, Ltd., San Marcos; residential subdivision and commercial development; approximately 1,500 feet northwest of the intersection of Centerpoint Road and IH 35 in Hays County; 13024-01; new permit

Jetco Chemicals, Inc., Corsicana; waste disposal well; on plant property, 2,875 feet southwest of the northeast line and 5,295 feet northwest of the southeast line of the John Peoples Survey, Navarro County; WDW-117; amendment

Harris County WCID 50, Seabrook; wastewater treatment plant; at 1122 Cedar Lane, northeast of its intersection with Hickory Ridge Drive in Harris County; 10243-01; renewal

Montgomery County Utility District 2, Houston; wastewater treatment facility; on the east side of Lake Conroe, immediately south of FM Road 830 and approximately 500 feet east of Kingston Cove Lane in Montgomery County; 11271-01; renewal

City of Mineral Wells; wastewater treatment plant; southwest of the City of Mineral Wells at the crossing of Southwest 26th Street over Pollard Creek in Palo Pinto County; 10585-01; renewal

San Antonio River Authority, San Antonio; sewage treatment plant; approximately ½ mile southeast of the intersection of FM Road 78 and FM Road 1516 in Bexar County; 10749-01; renewal

The City of Pinehurst; wastewater treatment plant; 3000 Gull Street, approximately 0.5 mile south of West Park Street in Pinehurst, Orange County; 10597-01; renewal

Dave Alexander, Austin; wastewater treatment plant; approximately 2.2 miles northeast of the intersection of U.S. Highway 183 and FM Road 973 and approximately 1.5 miles generally west of the community of Elroy in southeast Travis County; 13090-01; new permit

Fort Bend County WCID 2, Stafford; wastewater treatment plant; approximately 3,300 feet southeast of the intersection of Craven Road and U.S. Highway 90 in Fort Bend County; 10086-02; new permit

City of Naples; wastewater treatment facility; approximately 0.5 mile southeast of the intersection of State Highway 77 and State Highway 338 in Morris County; 10230-01; renewal

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

TRD-855198

Mary Ann Hefner
Chief Clerk
Texas Water Commission

Filed: June 10, 1985

For further information, please call (512) 463-7898.

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