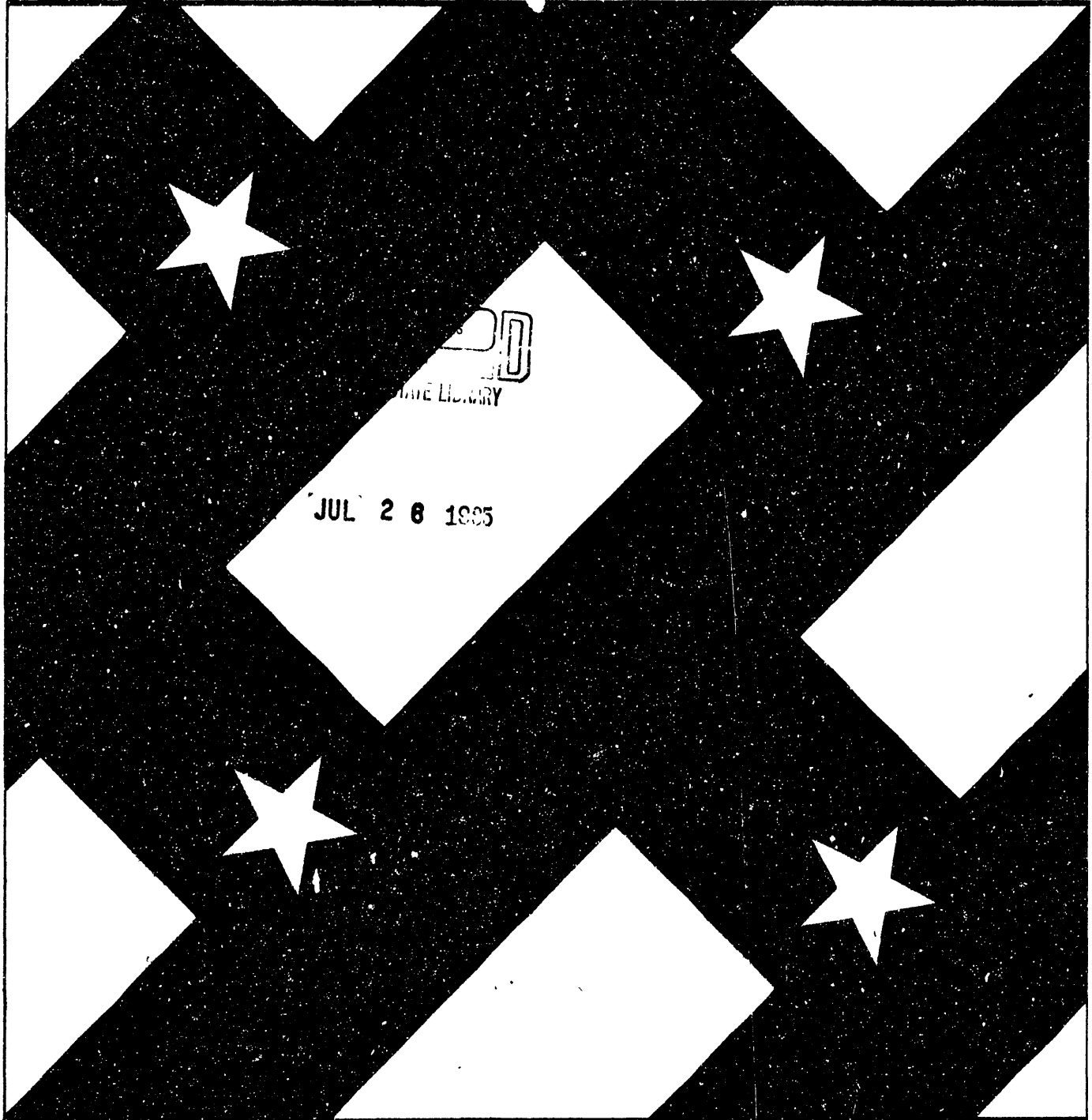


# Texas Register

Volume 10, Number 56, July 26, 1985

Pages 2369 - 2432



### Highlights

The Texas Education Agency adopts on an emergency basis a new section concerning school district annual performance reports. Effective date - July 18.....page 2376

The Texas Education Agency adopts on an emergency basis amendments concerning

kindergarten programs. Effective date - July 18.....page 2380

The Texas Education Agency adopts on an emergency basis a new section concerning duty-free lunches for teachers. Effective date - August 5.....page 2382

**Office of  
the Secretary  
of State**

## Texas Register

The *Texas Register* (ISN 0362-4781) is published twice each week at least 100 times a year. Issues will be published on every Tuesday and Friday in 1985 with the exception of June 25, July 9, August 30, December 3, and December 31, by the Office of the Secretary of State.

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- Attorney General—summaries of requests for opinions, opinions, and open records decisions
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- Proposed Rules—rules proposed for adoption
- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date
- Adopted Rules—rules adopted following a 30-day public comment period
- Open Meetings—notices of open meetings
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1 indicates the title under which the agency appears in the *Texas Administrative Code*;

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# The Governor

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

## Appointment Made July 8

### State Pension Review Board

For a term to expire January 31, 1989:

Frank Eikenburg

Issued in Austin, Texas, on July 17, 1985.

TRD-858408

Mark White  
Governor of Texas

★ ★ ★

## Appointments Made July 16

### Texas 1986 Sesquicentennial Commission

For terms to expire January 31, 1991:

Jim D. Bowmer  
Route Two, Box 120  
Killeen, Texas 76541

Mr. Bowmer is replacing Nancy C. Canion of League City, whose term expired.

Calvin Guest  
P.O. Box 3097  
Bryan, Texas 77805

Mr. Guest is replacing Joe Dealey of Dallas, whose term expired.

Issued in Austin, Texas, on July 16, 1985.

TRD-858408

Mark White  
Governor of Texas

★ ★ ★

## Appointment Made July 17

### 359th Judicial Court

To be judge, Montgomery County, until the next general election and until his successor shall be elected and duly qualified:

James H. Keeshan  
Montgomery County Courthouse  
Conroe, Texas 77301

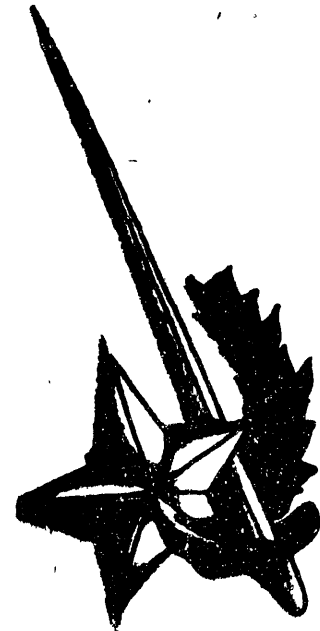
Mr. Keeshan is being appointed pursuant to House Bill 1473, 68th Legislature, 1983.

Issued in Austin, Texas, on July 17, 1985.

TRD-858408

Mark White  
Governor of Texas

★ ★ ★



# Emergency

## Rules

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

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

### TITLE 19. EDUCATION Part II. Texas Education Agency

The following emergency adoptions submitted by the Texas Education Agency will be serialized beginning in the July 30, 1985, issue of the *Texas Register*. The effective date for the documents is July 19, 1985.

Chapter 77. Comprehensive Instruction  
Subchapter R. Bilingual Education and  
Other Special Language Programs  
§§77.351-77.357, 77.361, 77.365,  
77.366  
(new and amendment)

Chapter 78. Occupational Education and  
Technology  
Subchapter D. Secondary School  
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Vocational Program Approval  
§78.63, §78.69  
(amendment)

Vocational Students  
§78.103  
(amendment)

Program Standards  
§78.122  
(amendment)

Chapter 85. Student Services  
Subchapter B. Guidance Services  
§85.22  
(amendment)

Chapter 89. Adaptations for Special  
Populations  
Subchapter G. Special Education  
Funding  
§§89.250-89.253  
(amendment)

Chapter 121. Personnel Accounting for  
State Funding Purposes  
Subchapter B. Personnel Records  
§121.14  
(amendment)



### Chapter 61. School Districts Subchapter A. Operational Basis ★19 TAC §61.2

The Texas Education Agency adopts on an emergency basis new §61.2, concerning school district annual performance report. This new section addresses the 1984-1985 requirements for the school district annual performance report to be prepared by public school districts, as mandated by House Bill 72, 68th Legislature, 1984. This report is to be a comprehensive annual assessment of each school district, which will be prepared, adopted, and published by the local board of trustees.

The section for 1984-1985 directs that the report contain the minimum information required by statute, information on compensatory education programs as required by §89.191(e), and expenditures for bilingual education, as proposed by new §77.362(d). This information would be in the form of both narrative and numerical tables on specific subjects.

Additional information beyond the minimum statutory requirement will be dealt with in future rules for annual reports to be compiled for the 1985-1986 school year and beyond.

This new section is adopted on an emergency basis to enable school districts to have as much notice as possible concerning the contents of the report.

The new section is adopted on an emergency basis under the Texas Education Code, §21.258, which directs the State Board of Education to prescribe the form and content for the annual performance report.

#### §61.2. School District Annual Performance Report.

(a) General rules for the 1984-1985 annual performance report.

(1) The 1984-1985 annual performance report shall be adopted by each school board as the official review of district activities at their regularly scheduled meeting in November.

(2) The purpose of the annual performance report is to comply with the Texas Education Code, §21.258, and to provide each local board of trustees the opportuni-

ty to engage in a structured planning review of 1984-1985 district performance.

(3) Each school board of trustees shall undertake the necessary steps to ensure local availability of the annual performance report to the professional staff of the district and to the residents of the district.

(4) The commissioner shall approve appropriate instructions for the completion of the annual performance reports.

(5) The annual performance report shall be transmitted to the Central Education Agency no later than December 1, 1985.

(b) General information. General information shall contain narrative information concerning district operations for the year. Using local measures as appropriate, each district shall evaluate the school year in terms of student performance, program offerings, staff quality, facility adequacy, financial condition, impact of 1984 educational reform legislation, impact of new curriculum requirements, and impact of other significant changes.

(c) District data.

(1) Each district shall provide basic information for the 1984-1985 school year relating to measures of educational achievement (including assessment instruments used, results for 1984-1985, and comparison to prior years).

(2) Each district shall also provide a count of the number of classrooms, excluding instrumental and choral music classrooms, in which in any class period the number of students exceeds:

(A) 20 for grades kindergarten-8;

(B) 25 for grades nine-12; and

(C) 10 for special education.

(3) Each district shall provide appropriate data for a bilingual education report.

(d) Campus-level data. Data shall be provided by campus for:

(1) pupil/teacher ratio by program;

(2) attendance ratios;

(3) test scores;

(4) dropout rates;

(5) compensatory education report (students served, Foundation School Program funds);

(6) disciplinary activities by action taken;

(7) distribution of 1984-1985



teachers by prior year employment; and  
(8) expenditures from general fund for instruction, instructional support, and campus administration.

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## Chapter 81. Instructional Resources

### Subchapter D. State Textbook Program

#### State Adoption, Acquisition, and Custody of Textbooks.

#### ★ 19 TAC §81.111

The Texas Education Agency adopts on an emergency basis an amendment to §81.111, concerning meetings, compensatory per diem, and expenses of the State Textbook Committee

House Bill 20 (General Appropriation Bill), Acts of the 69th Legislature, Article 5, §4, placed limitations on the expenses and compensatory per diem that may be expended for board, commission, and committee members.

Amended subsection (b) provides for committee members to receive compensatory per diem for each day on which the member is engaged in or conducting scheduled activities related to their responsibilities. Such activities include: attendance at scheduled meetings of the State Textbook Committee, participation in presentations between the authorized dates in the schedule of textbook adoption procedures, and scheduled attendance at State Board of Education meetings or a committee of the board at which textbooks are considered. The total amount of compensatory per diem received by a committee member cannot exceed \$1,500.

These amendments are adopted on an emergency basis to ensure that rules applicable to the committee are in compliance with law.

The amendments are adopted on an emergency basis under the Texas Education Code, §12.11(f), which directs the State Board of Education to make rules to provide for reimbursement of State Textbook Committee members.

§81.111. Meetings, Compensatory Per Diem, and Expenses.

- (a) (No change.)
- (b) Compensatory per diem.

(1) Committee members shall receive a compensatory per diem for each day on which the member is engaged in or conducting scheduled activities related to their responsibilities. Such activities shall include: attendance at scheduled meetings of the state textbook committee, participation in presentations between the authorized dates in the schedule of textbook adoption procedures and scheduled attendance at State Board of Education meetings or a committee of the board at which textbooks are considered. [attends an official meeting or hearing held by the State Textbook Committee and for each day a committee member represents the committee before the State Board of Education or before a committee of the board.]

(2) The total amount of compensatory per diem received by a committee member shall not exceed \$1,500. [The commissioner of education shall establish a per diem rate each year based upon the scheduled meetings of the State Textbook Committee for that year.]

(c) Expenses.

(1) Committee members shall be reimbursed for expenses incurred in attending official meetings of the State Textbook Committee, including hearings held by the committee. Reimbursement for room and board shall be for actual expenses [Reimbursement for travel shall be] in accordance with the same guidelines applicable to reimbursement for State Board of Education members.

(2) Expenses shall be paid for the [those] committee members to attend [selected by the committee to represent the committee at] the textbook hearings before the State Board of Education and at State Board of Education board meetings or board committee meetings at which textbooks are considered.

(3) (No change.)

(d) (No change.)

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## Subchapter F. Library Media Standards

#### ★ 19 TAC §81.241

*(Editor's note: The text of the following rule adopted for repeal will not be published. The rule may be examined in the offices of the Texas Education Agency, 105 East 11th Street, Austin, or in the Texas Register of*

*fice, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas Education Agency adopts on an emergency basis the repeal of §81.241, concerning the adoption by reference of the *Guidelines for Development of Campus Learning Resources Centers, Bulletin 748*. A new Subchapter F concerning library media services, has been proposed to replace the existing Subchapter F, concerning adoptions by reference. The new subchapter contains §81.241, relating to requirements for library media programs, which meets the legislative mandate to establish library media standards. Therefore, the existing §81.241 is repealed.

This repeal is adopted on an emergency basis to ensure that there will be no conflict between this section and new §81.241.

This repeal is adopted on an emergency basis under the Texas Education Code, §11.36, which directs the State Board of Education to establish standards for library services and personnel.

§81.241. *Guidelines for Development of Campus Learning Resources Centers, Bulletin 748.*

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The Texas Education Agency adopts on an emergency basis new §81.241, concerning requirements for library media programs. These standards supersede the standards for library media services which were included in the *Principles, Standards, and Procedures for the Accreditation of School Districts*, and which set staffing patterns in terms of personnel units and are no longer used in the state funding system for school districts. A district must provide the professional services of one or more certified librarians to direct and develop the library media program. Required minimum staffing patterns are established in subsection (b). The district must provide a catalogued and centrally located collection of materials that is available to faculty members and students to support instruction and learning in the essential curriculum elements. Required minimum standards for the collection are set out in subsection (c). Districts are encouraged to work cooperatively with other community institutions that have instructional materials. Subsection (e) sets out

the services the learning resources program must include.

New §81.241 is adopted on an emergency basis because, like the library services standards in the *Principles, Standards, and Procedures for the Accreditation of School Districts*, these standards are effective for the 1985-1986 school year.

The new §81.241 is adopted on an emergency basis under the Texas Education Code, §11.36, which directs the State Board of Education to establish standards for library services and personnel.

**§81.241. Requirements for Library Media Programs.**

(a) Each local district must provide financial support for library media services that is adequate to meet the requirements of this section.

(b) The district shall provide the professional services of one or more certified librarians to direct and develop the library media program. The distribution of the librarians and paraprofessionals shall be balanced among the campuses and grade levels of the district. The minimum staffing patterns are as follows.

(1) A district with 1,000 or fewer in average daily attendance (ADA) may enter into a cooperative agreement to provide the services of a professional librarian.

(2) A district with 500 or more students in ADA must employ a certified librarian on at least a half-time basis.

(3) A district with 375 to 749 students in ADA must employ at least one half-time paraprofessional who is under the direction of a certified librarian.

(4) A district with 750 or more students in ADA must employ at least one full-time paraprofessional who is under the direction of a certified librarian.

(5) A district with over 1,000 students in ADA must provide one full-time equivalent professional librarian per 1,000 ADA.

(c) The district shall provide a cataloged and centrally located collection of materials that is available to faculty members and students to support instruction and learning in the essential curriculum elements and to satisfy individual interests.

(1) A collection of materials in a variety of formats must be centrally organized and housed and made available to students and faculty members at the campus unit level. Single-campus districts may provide one centralized library media center to house the collection and render the services.

(2) Materials shall be selected using standard selection tools, personal examination, or both.

(3) The collection shall meet at least the following minimums:

(A) books—10 books per ADA or 1,500 books total, whichever is greater;

(B) audiovisual items—items including filmstrips, slides, transparencies,

study prints, pictures, sound recording, maps, globes, kits, microforms, games, single-concept films, 16mm films, audio and video tapes, and microcomputer software, in a total of at least two items per ADA; and

(C) equipment—appropriate equipment for use of the materials.

(4) A proration of materials available from education service centers (ESC) may be counted in the minimum number of required audiovisual (AV) items according to the following formula:

$$\frac{\text{Total number of ESC audiovisual items}}{\text{Total number of participating students}} = \frac{\text{student per capita}}{\text{AV items}}$$

(5) Inappropriate, worn, and/or obsolete materials and equipment shall be systematically weeded from the collection.

(6) The library media center shall be open and supervised at least half of the instructional day.

(d) The districts are encouraged to work cooperatively with other community institutions that have instructional materials.

(e) The learning resources program shall include, but need not be limited to, the following services:

(1) an ongoing program is designed to teach and help students and faculty members to use library media materials and services;

(2) students and teachers have access to materials and services to facilitate and extend learning;

(3) students and teachers receive assistance in producing their own instructional materials

(4) reference and bibliographic services help students and teachers to locate information and materials within the local library media center and from other sources; and

(5) faculty members are supplied with consultation and inservice programs concerning use of library media resources.

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**Chapter 85. Student Services**

**Subchapter H. Transportation Services**

**Student Eligibility for Transportation Services**

**★ 19 TAC §85.171**

The Texas Education Agency adopts on an emergency basis amendments to

§85.171, concerning pupil eligibility for school bus service. This amendment implements the provisions of the Texas Education Code, §11.36, for prekindergarten students. This amendment establishes the eligibility of these students for transportation and permits funding of these services under the regular transportation funding formula.

These amendments are adopted on an emergency basis to ensure that school districts have as much notice as possible before the start of the 1985-1986 school year.

These amendments are adopted on an emergency basis under the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for administration of the Foundation School Program; and Texas Education Code, §21.136, which establishes the prekindergarten program and includes funding for prekindergarten transportation as part of the regular school transportation system.

**§85.171. Regular Student Eligibility.**

(a) (No change.)

(b) General Requirements.

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

(4) A public school district operating a prekindergarten and/or a kindergarten program on a one-half day basis may make application for bus service to transport these students to or from school at midday. All such eligible bus students are expected to attend the same half-day session. If the school district is unable to accommodate all eligible prekindergarten and/or kindergarten bus students in the same half-day, special approval must be secured from the commissioner of education.

(5) (No change.)

(c) (No change.)

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**Chapter 105. Foundation School Program**

**Subchapter C. Allocation of Personnel Units**

**★ 19 TAC §105.49**

The Texas Education Agency adopts on an emergency basis the repeal of §105.49, concerning the allocation of personnel units to the Department of Corrections. New §105.49 which is adopted on an emergency basis in this issue incorporates changes as a result of the

**General Appropriations Bill, 69th Legislature, 1985.**

The section is repealed on an emergency basis to ensure that agency rules concerning allocations to Windham Independent School District are in compliance with current law.

This section is repealed on an emergency basis under the authority of the Texas Education Code, §29.05, which directs the State Board of Education to approve the formula for allocations to the Department of Corrections for schools operated under the Texas Education Code, Chapter 29, and the General Appropriations Act, Article III, 69th Legislature, 1985, which directs the State Board of Education to adopt rules to implement the funding provisions in the General Appropriations Act for Windham Independent School District.

**§105.49. Allocation of Personnel Units to the Department of Corrections.**

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The Texas Education Agency adopts on an emergency basis new §105.49, concerning the Windham Independent School District (ISD) allotment. This new section replaces previous rules for the allotment of funds to the school district. The General Appropriations Bill, Article III, 69th Legislature, 1985, indicates a sum certain amount for financing Windham ISD and requires the State Board of Education to adopt necessary rules to implement these provisions and to ensure accountability for the expenditure of these funds.

The section provides that, to be funded, students must attend at least six hours a week. The basic allotment of \$1,350 (or greater amount, if provided by appropriation) will be adjusted by a weight of 1.333 to enable the district to provide a program comparable with that of regular school districts. Windham ISD has no local tax base, and .333 is equal to the percentage of the statewide local share of the total Foundation School Program. In addition, the Windham ISD allocation will be increased by 20% of the formula allocation, because of the 12 month operation of the district.

Allotments for special education, bilingual education, vocational education, and educational improvement and career ladder are also provided for. Funds are to be expended only for academic and vocational education programs approved by the agency.

This new section is adopted on an emergency basis so that the allocation formula for Windham ISD will be in accordance with the current General Appropriation Act.

This section is adopted on an emergency basis under the Texas Education Code, §29.05, and the General Appropriations Act, Article III, 69th Legislature, 1985, which direct the State Board of Education to adopt rules for the funding of Windham ISD.

**§105.49. Windham Independent School District (ISD) Allotment.**

(a) Allocation of funds. Windham ISD shall be entitled to the annual allotment of Foundation School Program funds specified in the General Appropriation Act.

(b) Eligibility of students. To be eligible, a student must be in attendance not less than six hours a week. Only those students who are not graduates of an accredited high school and are able to profit from the program are eligible.

(c) Average daily attendance. Average daily attendance, for the current year, is determined by the best four of eight weeks of attendance according to the Texas Education Code, §16.006. Five hours of attendance is equal to one day of attendance. No student may earn more than six hours of attendance per day.

(d) Basic allotment. For each student in average daily attendance, excluding the time students spend each day in special education or vocational education programs, the Windham ISD is entitled to an allotment of \$1,350 for the 1985-1986 school year and for each school year thereafter, or a greater amount provided by appropriation. This basic allotment shall be adjusted by a price differential adjustment as required by the Texas Education Code, §16.102(a). In addition, the basic allotment shall be increased by a weight of 1.333, for basis allotment purposes only, to enable the district to operate a program comparable with regular school districts.

(e) Special education. State special education funds shall be allocated for eligible handicapped students who are expected to reside in the Windham ISD a minimum of four consecutive weeks, as documented by an appropriate authority. Windham ISD eligible handicapped students shall generate full-time equivalents based on the community class instructional arrangement. For each full-time equivalent student in average daily attendance in the special program, Windham ISD is entitled to an annual allotment equal to the adjusted basic allotment multiplied by the community class instructional arrangement weight stated in §89.253 of this title (relating to School District Serving Out-of-District Handicapped Students Residing in Residential Care and Treatment Facilities).

(f) Bilingual education allotment. For each student in average daily attendance in a bilingual education or special language program under the Texas Education Code, Chapter 21, Subchapter L, Windham ISD is entitled to an annual allotment equal to the adjusted basic allotment multiplied by 0.1. Funds allocated under this section, other than the amount that represents the program's share of general administrative costs as specified in §77.362 of this title (relating to Bilingual Education Allotment), must be used in providing bilingual or special language programs.

(g) Vocational education allotment. For each full-time equivalent student in average daily attendance in an approved vocational education program Windham ISD is entitled to an annual allotment equal to the adjusted basic allotment multiplied by 1.45.

(h) Educational improvement and career ladder allotment. Windham ISD is entitled to an allotment for educational improvement and support of the career ladder equal to its average daily attendance multiplied by \$120 for the 1985-1986 school year and \$140 for the 1986-1987 school year and each school year thereafter.

(i) Twelve month operation of schools. The basic allotment, special education allotment, bilingual education allotment, and vocational education allotment shall be increased by 20% of the formula allocation because of the 12-month operation of the Windham ISD.

(j) Reduction of funds. The commissioner of education shall ratably reduce the allotment as necessary in order not to exceed the sum certain total foundation school program funds appropriated for Windham ISD.

(k) Use of funds. Foundation school program funds are to be expended only for academic and vocational education programs approved by the Central Education Agency.

(l) Report on program expenditures. A year-end report on program expenditures shall be submitted in accordance with guidelines developed by the commissioner of education.

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**Chapter 129. Student Attendance**  
**Subchapter A. Student Attendance Allowed**

**★ 19 TAC §129.2**

The Texas Education Agency adopts on an emergency basis amendments to §129.2, concerning kindergarten. School districts may offer kindergarten for either a half-day or full-day program. To ensure continuity of instruction, the proposed amendment prohibits districts from conducting full-day kindergarten programs on alternate school days or kindergarten programs that operate for one semester only. The amendment allows districts to offer either a full-day or half-day kindergarten program on a full-year basis.

These amendments are adopted on an emergency basis to ensure that school districts have time to plan for the coming school year

These amendments are adopted on an emergency basis under the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for the administration of the Foundation School Program.

**§129.2. Kindergarten.**

(a) All children who are at least five years old but are not eligible for enrollment in the first grade are eligible for free attendance in kindergarten for either full-day or half-day attendance for the entire school year [or for full-day attendance for one half (one semester) of the school year] in the school district in which they reside or are otherwise entitled to attend for Foundation School Program benefits. [Attendance accounting figures for districts which offer full-day half-year kindergarten shall be adjusted in accordance with instructions of the commissioner of education.]

(b) Districts that choose to offer a half-day kindergarten program must offer the program on a full-year basis. This provision precludes:

- (1) full-day programs that operate for one semester only; and
- (2) full-day programs that operate on alternate school days.

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**Subchapter D. Student Attendance Accounting**

**★ 19 TAC §129.61**

The Texas Education Agency adopts on an emergency basis amendments to §129.61, concerning requirements for student attendance accounting for state funding purposes.

The amendment sets the semester dates for taking attendance for state funding purposes for the 1985-1986 school year and alters instructions for providing information on students in special programs.

The fall attendance will be counted beginning with the first Monday in October, as was done for the 1984-1985 school year. The four spring attendance accounting weeks begin with the third Monday in February.

The amendment also deletes specific references to special and vocational education contact registers and provides instead for the commissioner of education to issue specific instructions concerning reporting of students participating in special programs. This change allows the commissioner to implement paperwork reduction measures related to student attendance accounting, including the elimination of the requirement for teachers to maintain vocational education contact hour registers.

These amendments are adopted on an emergency basis to ensure that school districts have adequate time to plan for the 1985-1986 school year.

These amendments are adopted on an emergency basis under the authority of the Texas Education Code, §16.006, which requires the State Board of Education to set the weeks for student attendance accounting and §16.005, which authorizes the board to make rules for administration of the Foundation School Program.

**§129.61. Requirements for Student Attendance Accounting for State Funding Purposes.**

(a) (No change.)  
(b) Average daily attendance shall be determined based on the best four weeks of eight weeks of attendance.

(1) Attendance for the fall semester shall be counted for the four weeks beginning with the first Monday of October. Attendance for the spring semester shall be counted for the four weeks beginning with the third Monday in February [March 4, 1985].

(2) (No change.)  
(3) Districts shall maintain records and make reports concerning student [average daily] attendance and participation in bilingual education, [and] special language programs, vocational education, special education, and gifted and talented education as required by the commissioner of education.

(4) Districts shall maintain contact hour registers to indicate the number of full-time equivalent students in average daily attendance in special education and vocational education programs and shall make such reports concerning full-time equivalent students as may be required by the commissioner of education.

[(A) A student contact hour register shall be maintained by all vocational and special education professional personnel who render instruction or related services.

[(B) Instructions for completing the student contact hour register are printed in the register furnished by the Central Education Agency.]

(4) If a school chooses to use a locally developed record, it must contain the minimum information required by the commissioner of education [on the student contact hour register].

(c)-(k) (No change.)

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**Chapter 141. Teacher Certification**  
**Subchapter B. Certificate Issuance Procedures**

**★ 19 TAC §141.25, §141.26**

The Texas Education Agency adopts on an emergency basis amendments to §141.25 and §141.26, concerning schedule of fees and fees for teacher certification. The Texas Education Code, §13.032(h), was amended by House Bill 1593, 69th Legislature, 1985, extending the State Board of Education's prior authority to fix and require the payment of fees for teacher certification by including authority for a fee to recover the administrative costs of reviewing the credentials of an applicant for a Texas certificate including costs for transcript analysis and other costs associated with out-of-state certificates. This analysis is one of the more complex and costly activities conducted by the Division of Teacher Certification for which a fee could not be assessed previously. This change in the law resulted from a recommendation of the Legislative Budget Board which had reviewed the cost and service effectiveness of the certification function within the agency.

The amendment to §141.25 requires employing school districts to pay the application fee for emergency teaching and special assignment permits, rather than

the individual. Currently, board rules allow districts to employ individuals on a temporary basis when they are unable to employ a full-certified person for a specific assignment. This employment by temporary permit status is accompanied by annual progress requirements toward full certification and is validated by the employing school district through the submission of a permit document and fee to the agency. The permit may only be issued at the request of the district, is retained by the district for the term of its validity, and is not transferable between districts. For these reasons, it is recommended that the district bear the cost of the fee for the permit.

The amendment to §141.26 establishes a new schedule of fees for teacher certification, inclusive of the fee for credential review, in response to the legislative mandate with this agency's biennial appropriations that the cost of certification administration shall be financed entirely from revenues and balances from certification fees. Agency staff has estimated costs for efficient certification services in the future based upon internal studies and recommendations of the Legislative Budget Board. Comparisons of cost-generating fees in the few other states with similar legislative mandates reflect generally higher fees in those states than those for Texas.

These amendments are adopted on an emergency basis so that individuals, school districts, and college/university officials will be aware of the changes in the teacher certification fees prior to the beginning of the 1985-1986 school year.

These amendments are adopted on an emergency basis under the Texas Education Code, §13.032(h), which authorizes the State Board of Education to set fees for teacher certificates which are reasonable and designed to cover the administrative costs of issuing the certificate.

**§141.25. Fees for Teacher Certification.** Fees for certificates, emergency permits, [and] special assignment permits, and review of credentials, shall be established based upon a study conducted periodically by the Central [Texas] Education Agency of the actual costs incurred in their issuance and service. The cost of fees for the issuance and/or renewal of hardship emergency teaching and special assignment permits shall be paid by the requesting school district. Adoption of all [such] fees shall be in accordance with the Administrative Procedure and Texas Register Act.

**§141.26. Schedule of Fees for Teacher Certification.**

(a) An applicant for a certificate or a school district requesting a permit shall pay whichever fee from the following list is applicable for the type of certificate or permit for which application is being made.

(1) Paraprofessional certificate, certificate based on college or university

recommendation, additional endorsement or teaching field or both, change of name on certificate, duplicate of lost or destroyed certificate, extension of certificate, conversion of certificate, and certificate issued without college or university recommendation]—\$15. [\$10.]

(2) Provisional certificate or additional specialization, teaching field, or endorsement/delivery system, based on college/university recommendation, school district recommendation, or Central Education Agency authorization; change of name on certificate, duplicate of lost or destroyed certificate, extension or conversion of certificate—\$20.

(3) Professional certificate based on college/university recommendation, school district recommendation, or Central Education Agency authorization—\$30.

(4)[(2)] Initial emergency teaching permit, initial special assignment permit, initial noncertified instructors permit, [and] reassignment on emergency teaching permit or special assignment permit with a change in level of target certificate, renewal of vocational or hardship emergency teaching permit, and renewal of hardship special assignment permit—\$40. [\$15.]

(5)[(3)] Renewal in the school district of emergency teaching or special assignment permit at the same target certificate level, and initial activation or renewal in the school district of temporary classroom assignment permit—no fee.

(6)[(4)] Initial certificate based on certification from out of state—\$20[\$17].

(7) Review of credentials by the Central Education Agency requiring analysis and research of college transcripts and/or out-of-state certificate programs—\$40.

(b) (No change.)

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## Chapter 143. Assignment of Personnel

### Subchapter A. General Provisions

#### ★ 19 TAC §143.1

The Texas Education Agency adopts on an emergency basis new §143.1, concerning assignment of personnel. This new section implements the provisions of House Bill 72, 68th Legislature, 2nd Called Session, 1984. As a result of House Bill 72 of the Texas Education Code, §13.907, specifies that each teacher, in-

cluding those who direct extracurricular activities, must teach in the classroom at least four hours each day. The section specifies those position titles to which the four-hour requirement applies.

This new section is adopted on an emergency basis to ensure that school districts can plan for the 1985-1986 school year and is simultaneously proposed for permanent adoption in this issue.

The new section is adopted on an emergency basis under the Texas Education Code, §13.907, which requires each teacher to teach not less than four hours each school day, and §16.005, which authorizes the State Board of Education to make rules for implementation of the Foundation School Program.

#### §143.1. Minimum Teaching Duties.

(a) An individual whose assignment as a teacher is reported as any position listed in this subsection shall teach in the classroom four hours each day or meet the requirements of §149.71(b)(4) of this title (relating to Assignment to the Teacher Career Ladder). This requirement shall apply to the following positions:

- (1) teacher, bachelor's degree;
- (2) vocational teacher, bachelor's degree and/or certified in field;
- (3) teacher, master's degree;
- (4) vocational teacher, master's degree;
- (5) teacher, bachelor of laws or doctor of jurisprudence degree;
- (6) teacher, doctor's degree;
- (7) special duty teacher, master's degree.

(b) For individuals who direct extracurricular activities, the following requirements shall apply.

(1) Persons holding one of the positions listed in subsection (a) of this section must meet the requirements of minimum teaching duties in that subsection.

(2) Coaches or athletic directors, whose assignments are reported as non-teaching positions but who instruct students during the regular school day must meet the requirements of minimum teaching duties in subsection (a) of this section or be approved by the commissioner of education under subsection (c) of this section.

(3) Persons assigned to any non-teaching position not listed in subsection (c) of this section must meet the requirements for certification and/or assignment for the position they hold.

(c) An individual, other than a coach or athletic director, whose assignment is reported as a superintendent, principal, assistant principal, part-time principal, counselor, supervisor, or instructional officer I-VIII and who holds appropriate certification or meets assignment requirements may teach one or more classes in accordance with local district needs and goals. Any other full-time employee who teaches at least one class must teach four classes or

receive written approval from the commissioner of education for another assignment plan.

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## Chapter 145. Professional Environment

### Subchapter A. Professional Environment in General

#### ★ 19 TAC §145.2

The Texas Education Agency adopts on an emergency basis new §145.2, concerning paperwork reduction. The 69th Legislature, 1985, passed House Resolution 3 and Senate Resolution 5, both of which required the Central Education Agency and local school districts to make every effort to reduce the paperwork burden on teachers. The rule addresses these requirements, and provides that a review of school district efforts to reduce paperwork will be included in each regular accreditation visit.

This new section is adopted on an emergency basis so that it will be effective for the start of the 1985-1986 school year.

This new section is adopted on an emergency basis under House Resolution 3 and Senate Resolution 5, 69th Legislature, 1985, which directed the State Board of Education to adopt rules to provide for the simplification and reduction of paperwork requirements.

#### §145.2. Paperwork Reduction.

(a) The commissioner of education shall direct and work with the staff of the Central Education Agency to ensure that every effort is made to reduce the amount of paperwork required of local school districts and, in particular, of teachers. Such efforts shall include, but need not be limited to, the following:

(1) a review of existing paperwork requirements in state and federal law and state and federal regulations, with recommendations for simplification and reduction of such requirements to the extent possible;

(2) attention to the paperwork implications of new rules and procedures; and

(3) provision of technical assistance to school districts to help them comply with necessary procedural and reporting requirements in ways which do not require extensive paperwork on the part of teachers.

(b) Local school districts shall make every effort to limit the number and length of written reports that teachers must prepare.

(c) As part of each regular accreditation monitoring visit, the Central Education Agency shall review school district paperwork-reduction efforts.

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

TRD-856419

W. N. Kirby  
Commissioner of  
Education

Effective date: July 18, 1985

Expiration date: November 15, 1985

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

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### Subchapter C. Employment Assurances

#### ★ 19 TAC §145.48

The Texas Education Agency adopts on an emergency basis new §145.48, concerning duty-free lunch. The 69th Legislature, 1985, passed and the governor signed House Bill 505, amending the Texas Education Code, §13.909. This statute establishes a duty-free lunch period for public school teachers actively engaged in instruction and supervision of students and takes effect September 1, 1985.

The new section requires school districts to provide teachers with a duty-free lunch period in accordance with the Texas Education Code, §13.909. The law permits districts to assign teachers one day a week to supervise students during the duty-free lunch period in cases of personnel shortage, extreme economic conditions, or unavoidable or unforeseen circumstances. These three terms are defined in the new section.

The new section is adopted on an emergency basis to ensure that school districts are informed in time to plan for the 1985-1986 school year.

This new section is adopted on an emergency basis under the Texas Education Code, §13.909, which provides for a duty-free lunch for teachers and which directs the State Board of Education to define in rule extreme economic conditions, personnel shortage, and unavoidable or unforeseen circumstances for purposes of implementation of the Texas Education Code, §13.909.

#### §145.48. Duty-Free Lunch.

(a) Districts shall provide teachers with a duty-free lunch period in accordance with the provisions of the Texas Education Code, §13.909.

(b) The following guidelines shall be used in districts for determining what constitutes a personnel shortage, extreme eco-

omic conditions, or an unavoidable or unforeseen circumstances for the purpose of this section.

(1) For the purposes of this subsection, a personnel shortage exists when, despite reasonable efforts of the district to use nonteaching personnel or the assistance of community volunteers to supervise students during lunch, there are no other personnel available.

(2) For the purpose of this subsection, extreme economic conditions exist when the percentage of a local tax increase, including any amounts necessary to implement this section, would place the district in jeopardy with respect to a potential tax roll-back election as provided in the Texas Property Tax Code, §26.08.

(3) For the purposes of this subsection, unavoidable or unforeseen circumstances exist when due to illness, epidemic, or natural or man-made disaster the district is unable to find an individual to supervise students during lunch.

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

TRD-856420

W. N. Kirby  
Commissioner of  
Education

Effective date: July 18, 1985

Expiration date: November 15, 1985

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

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## TITLE 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 115. Home Health Care Agencies

##### Licensing and Regulation

#### ★ 25 TAC §115.14

The Texas Department of Health adopts on an emergency basis new §115.14, concerning licensing fees for home health care agencies. This section is also proposed for permanent adoption in this issue of the *Texas Register*.

The department is adopting the rule on an emergency basis to implement the requirements of Senate Bill 957, 69th Legislature, 1985, which became effective on June 15, 1985. This bill requires that the Texas Board of Health establish, by rule, licensing fees for home health care agencies. Since this law is now in effect, the board has adopted §115.14 on an emergency basis to begin implementing the statutory mandate immediately.

This section is adopted on an emergency basis under Texas Civil Statutes, Arti-

cle 4447u, §8, as amended by Senate Bill 957, 69th Legislature, 1985, effective June 15, 1985, which authorizes the Texas Board of Health to set home health services licensing fees; and §4, which authorizes the board to adopt rules covering home health care agencies; and Texas Civil Statutes, Article 6252-13a, §5(d), which authorizes the agency to adopt rules on an emergency basis.

**§115.14. Licensing Fees.**

(a) The schedule of fees for licensure as a Class A and B home health agency is as follows:

- (1) initial license fee—\$600;
- (2) renewal license fee—\$600;
- (3) initial branch office license fee—\$300;
- (4) renewal branch office license fee—\$300.

(b) The department will not consider an application as officially submitted until the applicant pays the application fee. The fee must accompany the application form.

(c) Fees paid to the department are not refundable.

(d) Any remittance submitted to the department in payment of a required fee must be in the form of a certified check, money order, or personal check made out to the Texas Department of Health.

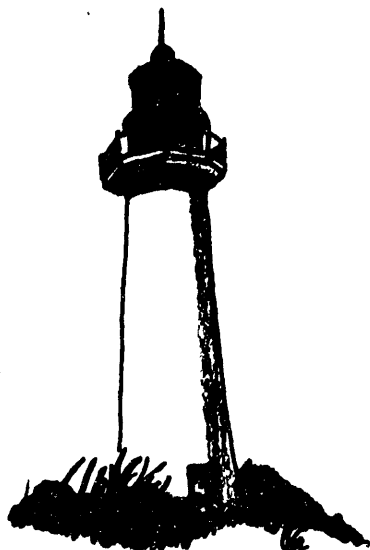
Issued in Austin, Texas, on July 22, 1985.

TRD-858529

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

Effective date: July 22, 1985  
Expiration date: November 19, 1985  
For further information, please call  
(512) 458-7245.

★ ★ ★



**TITLE 43.  
TRANSPORTATION  
Part I. State Department of  
Highways and Public  
Transportation  
Chapter 25. Maintenance  
Division**

**Oversize-Overweight Permits for  
Unladen Lift Equipment Motor  
Vehicles**

**★ 43 TAC §25.201, §25.202**

The State Department of Highways and Public Transportation adopts on an emergency basis new §25.201 and §25.202, concerning the establishment of permit fees, issuance instructions and axle weights. In view of the recent passage of House Bill 2496, 69th Legislature, 1985, which specifically states that the State Department of Highways and Public Transportation Commission must establish permit fees, permit issuance rules, and maximum permit weights for axles and axle groups, there is an immediate need to make provisions for rules to administer this Act.

This emergency rule is adopted under Texas Civil Statutes, Article 6686, and House Bill 2496, 69th Legislature, 1985, which provides the State Highway and Public Transportation Commission with the authority to establish rules for the conduct of the work of the department and specifically as to permits for unladen lift equipment motor vehicles.

**§25.201. Permits for Unladen Lift Equipment Motor Vehicles.** Oversize-overweight permits may be issued to permit the movement of unladen lift equipment motor vehicles under the following.

(1) Only self-propelled unladen mobile cranes constructed as a machine used solely for lifting purposes only, and consisting in general of a boom, an engine for power, and a chassis permanently constructed or assembled for the purpose of lifting shall be considered as unladen lift equipment motor vehicles.

(2) All vehicles of the previously specified classification using the public highways of the State of Texas must be either legally registered in accordance with regular registration procedures for motor vehicles or licensed with a "machinery" license plate before they can obtain the special oversize-overweight permits described in House Bill 2496, 69th Legislature.

(3) The minimum fee per axle for time permits shall be charged in accordance with the rates listed as follows:

- (A) single trip permit—none;
- (B) 30-day permit—\$12 per axle;
- (C) 90-day permit—\$35 per axle.

(4) A vehicle operating under provisions of a permit issued under authority of House Bill 2496, 69th Legislature, must have

the permit in the vehicle, when the vehicle is being moved on the public highways.

(5) Vehicles not exceeding nine feet wide, legal height and/or 55 feet long shall be allowed 24-hour continuous movement but not in excess of the time limited stated on the permit.

(6) When an applicant desires to move an unregistered or unlicensed unladen lift equipment motor vehicle, such vehicle shall be issued a 72-hour temporary registration permit and a single trip permit issued under the provisions of House Bill 2496, 69th Legislature.

(7) Vehicles having a width over 12 feet and/or length over 95 feet shall not be eligible for time permits but shall be permitted to move only on single trip permits issued under the provisions of House Bill 2496, 69th Legislature.

(8) The maximum weight for any single axle or any axle within an axle group shall not exceed 25,000 pounds, and such weight shall not exceed 650 pounds per inch of tire width using low pressure tires.

**§25.202. Fees for Unladen Lift Equipment Motor Vehicles.**

(a) Fees for permits for the previously described vehicles displaying "machinery" license plates or full registration shall provide payment of a base fee of 1½ cent per mile for each 1,000 pounds (or fraction thereof) above legal gross load of 80,000 pounds; \$.06 per mile for each foot (or fraction thereof) above legal width; \$.04 per mile for each foot (or fraction thereof) above legal height, and \$.01 per mile for each foot (or fraction thereof) above legal length of 45 feet on single unit equipment. The base fee per mile for each 1,000 pounds (or fraction thereof) above maximum legal axle weight or maximum legal axle group weight shall be based upon the following chart:

Number of Axles	Weight Range (in pounds)	Fee/1000W Per Mile
Single	20,001—25,000	\$.04
2 Axle Group	34,001—40,000	\$.04
	40,001—45,000	\$.06
	45,001—50,000	\$.10
3 Axle Group	42,001—50,000	\$.04
	50,001—60,000	\$.06
	60,001—70,000	\$.10
	70,001—75,000	\$.16
4 Axle Group	50,001—60,000	\$.04
	60,001—70,000	\$.06
	70,001—80,000	\$.10
	80,001—90,000	\$.16
	90,001—100,000	\$.22

(b) In addition to the base fee for each permit, the issuance fee shall be \$20 for single trip permits, \$40 for 30-day time permits, and \$80 for 90-day permits.

(c) For time permits the mileage upon which fees are computed shall be a percentage of the total mileage of all highway routes selected by the permittee considering the total mileage of the selected routes to the nearest 10 miles. For 30-day and 90-day time permits, this percentage shall be 30%. For single trip permits, the mileage upon which fees are computed

shall be based on the mileage of the permitted movement.

(d) The total permit fee for the 30-day time permits and 90-day time permits shall be the sum of the basic fee plus the issuance fee or the total minimum fee, whichever is the greater amount. The total permit fee for single trip permits shall be the sum of the basic fee plus the issuance fee.

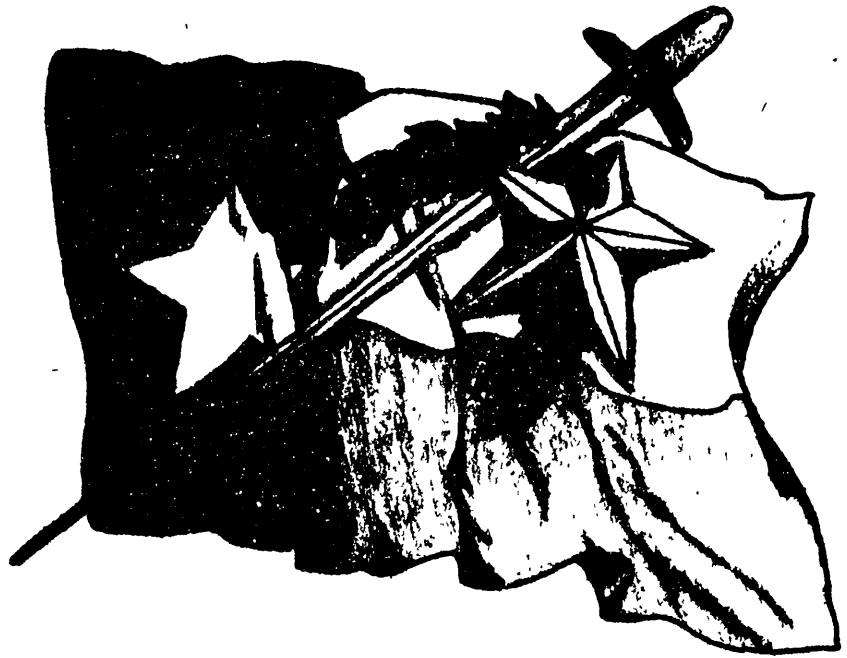
(e) Permit fees for unladen lift equipment motor vehicles displaying full registration shall receive a registration reduction of 25% in the computation of the basic fee. Vehicles displaying a "machinery" license plate do not receive a registration reduction.

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

TRD-856540

Diane L. Northam  
Administrative  
Technician  
State Department of  
Highways and Public  
Transportation

Effective date: July 22, 1985  
Expiration date: November 19, 1985  
For further information, please call  
(512) 475-2141.



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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 7. BANKING AND SECURITIES Part IV. Texas Savings and Loan Department Chapter 51. Charter Applications

### ★ 7 TAC §51.1

The Texas Savings and Loan Department proposes an amendment to §51.1, concerning requirements for capital stock and paid-in surplus or for savings liability and expense fund and payment before opening for business. This section sets the requirements for capital stock or savings liability which must be paid into an association before it opens for business

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

Mr. Bowman also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is the capital requirements for incorporating a savings and loan institution in Texas; these requirements provide for sufficient capital to begin operation of a new state-chartered savings and loan institution. The possible economic cost to individuals who are required to comply with the rule as proposed will be the amount of funds required by the rule, depending upon the area's population.

Comments on the proposal may be submitted to L. L. Bowman III, Savings and Loan Commissioner, Finance Commission Building, 2601 North Lamar, Suite 201, Austin, Texas 78705.

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

§51.1. *Form and Content of [Charter] Application to Incorporate; Requirements for Capital Stock and Paid-In Surplus or*

### *Savings Liability and Expense Fund; Payment Before Opening for Business.*

(a) When articles of incorporation of a new association are presented to the savings and loan commissioner for his approval, such articles shall be accompanied by an application which conforms to the statutory requirements provided in the Texas Savings and Loan Act, §2.01(1), (2), and (3), and states the proposed location of the principal office of the new association and the identity and qualifications of the proposed managing officer. There shall also be submitted with the application a facsimile of each proposed loan instrument and such additional information as may be required by the proposed bylaws of the association together with such statements, exhibits, maps, plans, photographs, and other data, sufficiently detailed and comprehensive to enable the commissioner to pass upon matters set forth in the Texas Savings and Loan Act, §2.08(1), (2), (3), and (4). Such information must show that the proposed association will have and maintain independent quarters with a ground floor location or its equivalent. The articles of incorporation and all statements of fact tendered to the commissioner shall be verified as required by the Texas Savings and Loan Act, §2.01.

(b) No application to incorporate a new association shall be approved unless the application and evidence produced at hearing satisfy the commissioner that the proposed association has received subscriptions for capital stock and paid-in surplus in the case of a capital stock association, or pledges for savings liability and expense fund in the case of a mutual association, in the following amounts:

Population of area	Amount
Under 100,000	\$2 million
100,000 and over	\$3 million

(c) For purposes of this section, "area" shall mean the community proposed to be served by the association, the standard metropolitan statistical area in which the home office of the association will be located, or the county in which the home office will be located, whichever is larger.

(d) No association with an approved charter shall open or do business as a savings and loan association until the commissioner certifies that he has received proof satisfactory to him that the dollar amounts of capital stock and paid-in surplus, or the

savings liability and expense fund, required by subsection (b) of this section, as applicable, have been received by the association in cash, free of encumbrance.

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 July 18, 1985.

TRD-858465

L. L. Bowman III  
Commissioner  
Texas Savings and Loan  
Department

Earliest possible date of adoption:  
August 26, 1985  
For further information, please call  
(512) 479-1250.

★ ★ ★

## Chapter 61. Hearings

### ★ 7 TAC §61.5

The Texas Savings and Loan Department proposes new §61.5, concerning confidentiality of financial information. This section provides for confidential treatment of financial data obtained under charter application and for limited access to such data by hearing participants.

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

Mr. Bowman also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is to allow the commissioner and parties to a contested hearing to obtain financial information pertaining to applicants for charter and to introduce the same at hearing. The information is subject to confidentiality agreements, protecting the rights of the applicants disclosing such information. The possible economic cost to individuals who are required to comply with the rule as proposed will be the costs of compiling or having another party compile the financial information requested. Any such costs are not within the control of the agency



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

TRD-856477

Walter Earl Lille  
Special Counsel  
Railroad Commission of  
Texas

Earliest possible date of adoption:  
August 26, 1985  
For further information, please call  
(512) 445-1186.

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**FILE 16. ECONOMIC  
REGULATION**  
**Part I. Railroad Commission  
of Texas**  
**Chapter 5. Transportation  
Division**  
**Subchapter H. Tariffs and  
Schedules**

★ 16 TAC §5.148

The Railroad Commission of Texas proposes an amendment to §5.148, concerning ratemaking standards. This amendment will clarify the standard by which the Railroad Commission prescribes accessorial rates and charges for motor carriers

Merrily Porter, hearings examiner, 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 Porter also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is clarification to carriers of the standard to be followed by the commission in prescribing accessorial rates and charges. 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 Mike James, Acting Director, Transportation Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711. Comments will be accepted for 30 days after publication in the *Texas Register*

The amendment is proposed under Texas Civil Statutes, §4(a), which authorize the Railroad Commission of Texas to prescribe all rules and regulations necessary for the governance of motor carriers.

§5.148. *Ratemaking Standards.*

- (a) (No change.)
- (b) Accessorial rates and charges. Accessorial rates and charges shall be set at a level that will be reasonably compensatory to the [which will cover the operating cost of] involved carrier or carriers [as a group].
- (c) (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.

**Part IV. Texas Department of  
Labor and Standards**  
**Chapter 75. Air Conditioning  
Contractor License Law**

★ 16 TAC §§75.1, 75.3-75.5, 75.8, 75.9

The Texas Department of Labor and Standards proposes amendments to §§75.1, 75.3-75.5, 75.8, and 75.9, concerning a definition change, exams licenses—exemptions and municipal regulation. The exemption change was mandated by a statutory change, along with definition changes and license renewal necessary for clarification of present rules.

Booker T Morris III, general counsel, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rules.

Mr. Morris 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 clarification of different exemptions for the public and the provision of more efficient administration of the air conditioning contractor licensing issuance. The possible economic cost to individuals who are required to comply with the rules as proposed will be \$2,000 in 1985, and \$3,000 each year from 1986-1989.

Comments on the proposal may be submitted to Steven M. Matthews, Director, Boiler Division, Texas Department of Labor and Standards, 920 Colorado Street, Austin, Texas 78711, or by mail at P.O. Box 12157, Austin, Texas 78711. A public hearing to receive comments from the public will be held at 10:30 a.m. on August 14, 1985, at the John H. Reagan State Office Building, 100 West 15th Street, Austin, Texas 78701.

The amendments are proposed under Texas Civil Statutes, Article 8861, which provides the Texas Department of Labor and Standards with the authority to promulgate rules and regulations necessary to effectuate the purpose of the Act.

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

**Air conditioning contractor**—A person licensed under this Act who designs, installs, constructs, maintains, services, repairs, alters, or modifies any heating, ventilating, or air conditioning product, system, or equipment. The terms designing, installing, constructing, maintaining, servicing, repairing, altering, or modifying, as used in the Act, §2(3), shall not be construed to include those activities regulated by the Texas Engineering Practice Act, Texas Civil Statutes, Article 3271a [Maintaining shall mean those functions routinely required for the continued normal performance of the system. Such functions shall include cleaning and replacement of filters, lubrication of motors and moving parts, adjustment and replacement of belts, inspection and cleaning of condensate pans and drains, checking and maintenance of proper refrigerant charge, checking and adjusting of thermostats and air volume dampers, and general cleaning of housings, cabinets, and coil surfaces.]

**Air conditioning maintenance work**—Repair work and all other work required for the continued normal performance of a heating, ventilating, or air conditioning system. The term does not include the installation of a total replacement of the system or the installation of boilers or pressure vessels that must be installed by licensed persons pursuant to rules and regulations promulgated by the Texas Department of Labor and Standards under the Texas Boiler Inspection Law, Chapter 436, Acts of the 45th Legislature, 1937 (Texas Civil Statutes, Article 5221C).

§75.3. *Fees.*

(a) All fees should be paid by cashier's check or money order made payable to the Texas Department of Labor and Standards.

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

(3) **Lost or revised license.** A \$25 fee shall be required and accompany each request for a revised license or to replace a lost or duplicate license.

(4) **Lost or revised identification card.** A \$10 fee shall be required and accompany each request for a revised or lost identification card.

§75.4. *Exams.*

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

(c) All exams shall be given "open book," and applicants are encouraged to bring reference material only. The exam shall be based on the latest [1982] edition of the Uniform Mechanical Code, published jointly by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials, and herein adopted by reference. Copies may be obtained from the International Conference of Building Officials, 603

West 13th Street, Suite 2-F, Austin, Texas 78701, (512) 479-8278. An applicant will also need to know the Texas Boiler Law and Chapter 65 of this title (relating to Boiler Division) as they apply to air conditioning contracting. The exam is also compatible with the latest edition of the Standard Mechanical Code, published by the Southern Building Code Congress International, Inc., and herein adopted by reference. Copies may be obtained from the Southern Building Code Congress International, Southwest Regional Office, 3355 Bee Cave Road, Suite 404, Austin, Texas 78746, (512) 327-8278.

(d)-(g) (No change.)

(h) An applicant shall be notified by the director of the scheduled examination date within a reasonable amount of time prior to the examination. Applicants who are scheduled for an examination but fail to appear as scheduled and have failed to notify the director not less than 72 hours prior to the scheduled exam must pay the reexamination fee prior to being rescheduled.

#### §75.5. Licenses and Renewals.

(a)-(g) (No change.)

(h) A license holder is required to notify the commissioner in writing within 30 days of any change in mailing address, change of location, [or] business affiliation, or business telephone number. The mailing address on file with the commissioner shall be considered the license holder's [contractor's] primary place of business, and all correspondence, including license expiration notice from the department, will be mailed to such address of record. A license holder wishing a duplicate license or to replace a lost license or to revise a license shall request in writing the revision or replacement and pay the appropriate fee required in §75.3 of this title (relating to Fees) and return the original license. Additionally, a revised insurance certificate must be provided to the department correctly reflecting the requested revisions. A license holder wishing to revise or replace the identification card shall request in writing the revision or replacement and pay the appropriate fee required in §75.3 of this title (relating to Fees) and submit an identification size photograph.

(i)-(l) (No change.)

#### §75.8. Exemptions.

(a) The Act and its rules and regulations do not apply to a person who:

(1) (No change.)

(2) performs air conditioning maintenance work if:

(A) the person is regularly employed as a maintenance man or maintenance engineer who is a regular bona fide employee of the property owner, the property lessee, or the management company managing the property where the air conditioning maintenance work is being performed [or is licensed as a professional

engineer under the Texas Engineering Practice Act, Texas Civil Statutes, Article 3271(a)];

(B) the work is performed in connection with the business in which the person is employed; and

(C) the person and the person's employer referred to in subparagraph (A) of this paragraph do [does] not engage in the occupation of air conditioning contracting for the general public. Maintaining shall mean those functions routinely required for the continued normal performance of the system. Such functions shall include cleaning and replacement of filters, lubrication of motors and moving parts, adjustment and replacement of belts, inspection and cleaning of condensate pans and drains, checking and maintenance of proper refrigerant charge, checking and adjusting of thermostats and air volume dampers, and general cleaning of housings, cabinets, and coil surfaces;

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

(6) is regulated under the Natural Resources Code, Chapter 113;

(7) performs air conditioning maintenance work if the person is licensed as a professional engineer under the Texas Engineering Practice Act, Texas Civil Statutes, Article 3271A, the work is performed in connection with the business in which the person is employed, and the person does not engage in the occupation of air conditioning contracting for the general public; or

(8) performs air conditioning contracting work subject to a license issued by the Texas Department of Labor and Standards pursuant to the Texas Manufactured Housing Standards Act, Texas Civil Statutes, Article 5221F.

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

#### §75 9. Municipal Regulation and Reporting Requirement

(a) A license issued by a municipality of this state is valid under the terms of the license within that municipality. However, a State of Texas license issued under this Act is valid throughout the state, and the holder and people under supervision are [is] not required to hold a municipal license to practice air conditioning contracting in any municipality within this state.

(b)-(c) (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 July 18, 1985.

TRD-856393

Allen Parker, Sr.  
Commissioner  
Texas Department of  
Labor and Standards

Earliest possible date of adoption:

August 28, 1985

For further information, please call  
(512) 475-0155.

## TITLE 19. EDUCATION Part 1. Coordinating Board, Texas College and University System Chapter 25. Administrative Council

### Subchapter C. Administration of Retirement Annuity Programs

#### ★ 19 TAC §25.72

The Administrative Council of the Coordinating Board, Texas College and University System proposes an amendment to §25.72, concerning ORP definitions. This amendment clarifies the meaning of which institutions of higher education are included by adding the words in Texas.

James McWhorter, executive secretary to the administrative council, 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. McWhorter 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 insurance that only public institutions of higher education in Texas are included within the context of this section. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to James McWhorter, Executive Secretary to the Administrative Council, Coordinating Board, Texas College and University System, P.O. Box 12788, Austin, Texas 78711.

The amendment is proposed under the Insurance Code, Article 3.50-3, §4(b)(4)(J), which provides the Administrative Council with the authority to develop policies, practices, and procedures as necessary in accordance with applicable statutes to provide for greater uniformity in the administration of retirement annuity insurance programs available under the Optional Retirement Program.

#### §25.72. ORP Standards

(a) A person is eligible for participation in the Optional Retirement Program (ORP) who is employed by an institution of higher education in Texas on a full-time basis as a member of the faculty or staff and whose duties include teaching, research, administration, including professional librarians, or the performance of professional services, but does not mean a person employed in a position which is in the institution's classified personnel system or a person employed in a similar type of position if the institution does not have a classified personnel system. Employment on



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

TRD-858477

Walter Earl Lillie  
Special Counsel  
Railroad Commission of  
Texas

Earliest possible date of adoption:

August 26, 1985

For further information, please call  
(512) 445-1186.

## TITLE 16. ECONOMIC REGULATION

### Part I. Railroad Commission of Texas

#### Chapter 5. Transportation Division

##### Subchapter H. Tariffs and Schedules

###### ★ 16 TAC §5.148

The Railroad Commission of Texas proposes an amendment to §5.148, concerning ratemaking standards. This amendment will clarify the standard by which the Railroad Commission prescribes accessorial rates and charges for motor carriers.

Merrily Porter, hearings examiner, 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. Porter also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is clarification to carriers of the standard to be followed by the commission in prescribing accessorial rates and charges. 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 Mike James, Acting Director, Transportation Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711. Comments will be accepted for 30 days after publication in the *Texas Register*.

The amendment is proposed under Texas Civil Statutes, §4(a), which authorize the Railroad Commission of Texas to prescribe all rules and regulations necessary for the governance of motor carriers.

###### §5.148. *Ratemaking Standards.*

(a) (No change.)

(b) Accessorial rates and charges. Accessorial rates and charges shall be set at a level that will be reasonably compensatory to the [which will cover the operating cost of] involved carrier or carriers [as a group].

(c) (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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### Part IV. Texas Department of Labor and Standards Chapter 75. Air Conditioning Contractor License Law

#### ★ 16 TAC §§75.1, 75.3-75.5, 75.8, 75.9

The Texas Department of Labor and Standards proposes amendments to §§75.1, 75.3-75.5, 75.8, and 75.9, concerning a definition change, exams licenses—exemptions and municipal regulation. The exemption change was mandated by a statutory change, along with definition changes and license renewal necessary for clarification of present rules.

Booker T. Morris III, general counsel, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rules.

Mr. Morris 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 clarification of different exemptions for the public and the provision of more efficient administration of the air conditioning contractor licensing issuance. The possible economic cost to individuals who are required to comply with the rules as proposed will be \$2,000 in 1985, and \$3,000 each year from 1986-1989.

Comments on the proposal may be submitted to Steven M. Matthews, Director, Boiler Division, Texas Department of Labor and Standards, 920 Colorado Street, Austin, Texas 78711, or by mail at P.O. Box 12157, Austin, Texas 78711. A public hearing to receive comments from the public will be held at 10:30 a.m. on August 14, 1985, at the John H. Reagan State Office Building, 100 West 15th Street, Austin, Texas 78701.

The amendments are proposed under Texas Civil Statutes, Article 8861, which provides the Texas Department of Labor and Standards with the authority to promulgate rules and regulations necessary to effectuate the purpose of the Act.

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

**Air conditioning contractor**—A person licensed under this Act who designs, installs, constructs, maintains, services, repairs, alters, or modifies any heating, ventilating, or air conditioning product, system, or equipment. The terms designing, installing, constructing, maintaining, servicing, repairing, altering, or modifying, as used in the Act, §2(3), shall not be construed to include those activities regulated by the Texas Engineering Practice Act, Texas Civil Statutes, Article 3271a. [Maintaining shall mean those functions routinely required for the continued normal performance of the system. Such functions shall include cleaning and replacement of filters, lubrication of motors and moving parts, adjustment and replacement of belts, inspection and cleaning of condensate pans and drains, checking and maintenance of proper refrigerant charge, checking and adjusting of thermostats and air volume dampers, and general cleaning of housings, cabinets, and coil surfaces.]

**Air conditioning maintenance work**—Repair work and all other work required for the continued normal performance of a heating, ventilating, or air conditioning system. The term does not include the installation of a total replacement of the system or the installation of boilers or pressure vessels that must be installed by licensed persons pursuant to rules and regulations promulgated by the Texas Department of Labor and Standards under the Texas Boiler Inspection Law, Chapter 436, Acts of the 45th Legislature, 1937 (Texas Civil Statutes, Article 5221C).

#### §75.3. *Fees.*

(a) All fees should be paid by cashier's check or money order made payable to the Texas Department of Labor and Standards.

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

(3) Lost or revised license. A \$25 fee shall be required and accompany each request for a revised license or to replace a lost or duplicate license.

(4) Lost or revised identification card. A \$10 fee shall be required and accompany each request for a revised or lost identification card.

#### §75.4. *Exams.*

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

(c) All exams shall be given "open book," and applicants are encouraged to bring reference material only. The exam shall be based on the latest [1982] edition of the Uniform Mechanical Code, published jointly by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials, and herein adopted by reference. Copies may be obtained from the International Conference of Building Officials, 603

a full-time basis may not be defined to mean employment for one-half or more of the standard workload for determining initial eligibility for participation in the ORP.

(b)-(e) (No change.)

(f) An ORP participant who, after at least one year of participation in the ORP, becomes employed in an institution of higher education in Texas in a position not eligible for the ORP shall, nevertheless, continue to participate in the ORP and shall not be eligible for TRS membership.

(g) An ORP participant who, after less than one year of participation in the ORP, becomes employed in an institution of higher education in Texas in a position not eligible for the ORP, shall be required to return to membership in the TRS.

(h) Benefits in the ORP vest after one year of participation in one or more optional retirement plans operating in one or more institutions of higher education in Texas.

(i)-(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 July 15, 1985.

TRD-856385

James McWhorter  
Executive Secretary  
Coordinating Board,  
Texas College and  
University System

Proposed date of adoption:

September 27, 1985

For further information, please call  
(512) 475-2033.

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## Part II. Texas Education Agency

### Chapter 61. School Districts Subchapter A. Operational Basis ★ 19 TAC §61.2

*(Editor's note: The Texas Education Agency proposes for permanent adoption the new section it adopts on an emergency basis in this issue. The text of the new section is published in the Emergency Rules section of this issue.)*

The Texas Education Agency proposes new §61.2, concerning the school district annual performance report. This proposed new section addressed the 1984-1985 requirements for the school district annual performance report to be prepared by public school districts, as mandated by House Bill 72, 88th Legislature, 2nd Called Session, 1984. This report is to be a comprehensive annual assessment of each school district, which will be prepared, adopted, and published by the local board of trustees.

The proposed section for 1984-1985 directs that the report contain the minimum information required by statute, information on compensatory education programs as required by §89.191(e), and expenditures for bilingual education as proposed by new §77.362 (d). This information would be in the form of both narrative and numerical tables on specific subjects

Additional information beyond the minimum statutory requirement will be proposed in future sections for annual reports to be compiled for the 1985-1986 school year and beyond.

This new section is simultaneously adopted on an emergency basis.

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

Dr. Beverly J Bardsley, director for policy development, and Mr. Bennett also have determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is that each school district will report to its citizens concerning the performance of the district. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed

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

These amendments are proposed under the authority of the Texas Education Code, §21.258, which directs the State Board of Education to prescribe the form and content for the annual performance report.

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

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

TRD-856421

W. N. Kirby  
Commissioner of  
Education

Proposed date of adoption:

October 12, 1985

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

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The following proposals submitted by the Texas Education Agency will be serialized beginning in the July 30, 1985, issue of the *Texas Register*. The effective date for the documents is July 19, 1985.

Chapter 77. Comprehensive Instruction  
Subchapter R. Bilingual Education and  
Other Special Language Programs  
§§77.351-77.357, 77.361, 77.365,  
77.366  
(new and amendment)

Chapter 78. Occupational Education and  
Technology  
Subchapter D. Secondary School  
Vocational Education  
Vocational Program Approval  
§78.63, §78.69  
(amendment)

Vocational Students  
§78.103  
(amendment)

Program Standards  
§78.122  
(amendment)

Chapter 85. Student Services  
Subchapter B. Guidance Services  
§85.22  
(amendment)

Chapter 89. Adaptations for Special  
Populations  
Subchapter G. Special Education  
Funding  
§§89.250-89.253  
(amendment)

Chapter 121. Personnel Accounting for  
State Funding Purposes  
Subchapter B. Personnel Records  
§121.14  
(amendment)

### Chapter 81. Instructional Resources Subchapter D. State Textbook Program

★ 19 TAC §81.111

*(Editor's note: The Texas Education Agency proposes for permanent adoption the amendments it adopts on an emergency basis in this issue. The text of the amendments is published in the Emergency Rules section of this issue.)*

The Texas Education Agency proposes amendments to §81.111, concerning meetings, compensatory per diem, and expenses of the State Textbook Committee.

The General Appropriation Bill (House Bill 20), 69th Legislature, 1985, Article 5, §4, placed limitations on the expenses and compensatory per diem that may be expended for board, commission, and committee members.

The proposed amendment to subsection (b) provides for committee members to receive compensatory per diem for each day on which the member is engaged in or conducting scheduled activities related to their responsibilities. Such activities include attendance at scheduled meetings of the State Textbook Committee, participation in presentations between the authorized dates in the schedule of textbook adoption procedures, and scheduled attendance at State Board of Education meetings or a committee of the board at which textbooks are considered. The total amount of compensatory per diem received by a committee member cannot exceed \$1,500.

The amendments are simultaneously adopted on an emergency basis in this issue.

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

Dr. Beverly J. Bardsley, director for policy development, and Mr. Bennett also have determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is the assurance that rules applicable to the State Textbook Committee will be in compliance with current law. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

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

These amendments are proposed under the Texas Education Code, §12.11(f), which directs the State Board of Education to make rules to provide for reimbursement of State Textbook Committee members.

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 July 18, 1985.

TRD-856422      W. N. Kirby  
Commissioner of  
Education

Proposed date of adoption:

October 12, 1985

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

## Subchapter F. Adoptions by Reference

### ★ 19 TAC §81.241

*(Editor's note: The Texas Education Agency proposes for permanent adoption the repeal it adopts on an emergency basis in this issue. The text of the rule proposed for repeal will not be published. The rule may be examined in the offices of the Texas Education Agency, 201 East 11th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas Education Agency proposes the repeal of §81.241, concerning the adoption by reference of the *Guidelines for Development of Campus Learning Resources Centers, Bulletin 748*. A new subchapter F, concerning library media standards, is proposed to replace the existing Subchapter F. The new subchapter meets the legislative mandate to establish library standards. Therefore, the existing subchapter has been proposed for repeal.

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

Dr. Beverly J. Bardsley, director for policy development, and Mr. Bennett also have determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is the deletion of conflicting agency requirements

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

This repeal is proposed under the Texas Education Code, §11.36, which directs the State Board of Education to establish standards for library services and personnel.

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 July 18, 1985.

TRD-856424      W. N. Kirby  
Commissioner of  
Education

Proposed date of adoption:

October 12, 1985

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

## Subchapter F. Library Media Standards

### ★ 19 TAC §81.241

*(Editor's note: The Texas Education Agency proposes for permanent adoption the new section it adopts on an emergency basis in this issue. The text of the new section is published in the Emergency Rules section of this issue).*

The Texas Education Agency proposes new §81.241, concerning requirements for library media programs. These standards supersede the standards for library media services which were included in the principles, standards, and procedures for the accreditation of school districts, and which set staffing patterns in terms of personnel units and are no longer used in the state funding system for school districts. A district must provide the professional services of one or more certified librarians to direct and develop the library media program. Required minimum staffing patterns are established in subsection (b). The district must provide a catalogued and centrally located collection of materials that is available to faculty members and students to support instruction and learning in the essential curriculum elements. Required minimum standards for the collection are set out in subsection (c). Districts are encouraged to work cooperatively with other community institutions that have instructional materials. Subsection (e) sets out the services the learning resources program must include.

New §81.241 is simultaneously adopted on an emergency basis.

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

Dr. Beverly J. Bardsley, director for policy development, and Mr. Bennett also have determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is the implementation of standards for library and learning resources services which reflect the funding system currently used for public school in the state. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

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

more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

These amendments are proposed under the Texas Education Code, §11.36, which directs the State Board of Education to establish standards for library services and personnel.

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 July 18, 1985.

TRD-856423      W. N. Kirby  
Commissioner of  
Education

Proposed date of adoption.

October 12, 1985

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

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## Chapter 85. Student Services Subchapter H. Transportation Services

### ★ 19 TAC §85.171

*(Editor's note: The Texas Education Agency proposes for permanent adoption the amendments it adopts on an emergency basis in this issue. The text of the amendments is published in the Emergency Rules section of this issue.)*

The Texas Education Agency proposes amendments to §85.171, concerning pupil eligibility for school bus service. The proposed amendments implement the provisions of the Texas Education Code, §21.136, for prekindergarten students and establish the eligibility of these students for transportation and permits funding of these services under the regular transportation funding formula. The amendments are simultaneously adopted on an emergency basis in this issue.

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

Dr. Beverly J. Bardsley, director for policy development, and Mr. Bennett also have determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is that school districts which choose to provide transportation for prekindergarten students may receive state funding for this service under the Foundation School Program. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Dr. Beverly J. Bardsley, Direc-

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

These amendments are proposed under the authority of the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for administration of the Foundation School Program; and the Texas Education Code, §21.136, which establishes the prekindergarten program and includes funding for prekindergarten transportation as part of the regular school transportation system.

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

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

TRD-856425      W. N. Kirby  
Commissioner of  
Education

Proposed date of adoption:

October 12, 1985

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

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## Types of Transportation

### ★ 19 TAC §85.184

The Texas Education Agency proposes the repeal of §85.184, concerning contracted transportation. The provisions of this section are now contained in proposed new §85.184, concerning contract with transportation company or system. To avoid duplication in rules, existing §85.184 is proposed for repeal.

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

Dr. Beverly J. Bardsley, director for policy development, and Mr. Bennett also have determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is deletion of an agency rule which is inconsistent with a proposed new 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 Dr. Beverly J. Bardsley, Director for Policy Development, 201 East 11th Street, Austin, Texas 78701, (512) 475-7077. All requests for a public hear-

ing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

This repeal is proposed under the Texas Education Code, §21.181, which permits schools districts to contract for transportation services and directs the State Board of Education to make rules for the administration of this statutory provision.

### §85.184. Contracted Transportation.

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 July 18, 1985.

TRD-856427      W. N. Kirby,  
Commissioner of  
Education  
Texas Education Agency

Proposed date of adoption:

October 12, 1985

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

The Texas Education Agency proposes new §85.184, concerning contract with transportation company or system.

The Texas Education Code, §21.181, states that a school district(s) may contract with a public or commercial transportation firm for all or any part of its school transportation services.

The proposed new section provides the provisions for contract transportation and requires the local board of trustees to certify that the contract cost is equal to or less than the cost to the district for providing equivalent services.

Contracts must be filed annually on or before a date specified by the commissioner of education. If provisions for extracurricular travel are included, they must be stated separately from the regular school transportation program.

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

Dr. Beverly J. Bardsley, director for policy development, and Mr. Bennett also have determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is that school districts will be able to contract for transportation services if this is more cost-effective than the district providing its own transportation services. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

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

This new section is proposed under the Texas Education Code, §21181, which permits school districts to contract for transportation services and directs the State Board of Education to make rules for the administration of this statutory provision.

**§85.184. Contract with Transportation Company or System.**

(a) Contract services are those services provided by a public or private transportation company operating under contract with a county or local board of trustees to provide all or any part of its public school transportation services.

(b) A contract application must be filed with the Central Education Agency in accordance with the following requirements of the State Board of Education.

(1) Contracts shall be filed annually on or before a date specified by the commissioner of education.

(2) All contract applications shall be filed on a form designed and supplied by the agency.

(3) Each contract shall furnish information on previously approved length of each bus route and the estimated number of eligible students to be transported for the next school year.

(4) If a contract is to include provisions for the transportation to and from approved school programs or activities, such provisions must be stated separately and apart from the regular school transportation program.

(c) The State Board of Education shall approve the proposed contract for transportation services only if the contract is economically advantageous. A contract is considered economically advantageous if the board of trustees certifies that the contract cost is equal to or less than the total cost to the district for providing the services for which the district intends to contract. In the evaluation of the cost to the school district, the previous year's costs and the proposed contract costs shall be compared by operational cost categories, including, but not limited to, those categories in §109.61 of this title (relating to Financial Accounting Manual).

(d) Contract services shall be subject to examination by the Central Education Agency before a recommendation is made by the commissioner of education.

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

TRD-856426

W. N. Kirby  
Commissioner of  
Education  
Texas Education Agency

Effective date: July 18, 1985  
Expiration date: November 15, 1985  
For further information, please call  
(512) 475-7077

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**Chapter 105. Foundation  
School Program  
Subchapter C. Allocation of  
Personnel Units**

**★ 19 TAC §105.49**

*(Editor's note: The Texas Education Agency proposes for permanent adoption the repeal it adopts on an emergency basis in this issue. The text of the rule proposed for repeal will not be published. The rule may be examined in the offices of the Texas Education Agency, 201 East 11th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas Education Agency proposes the repeal of §105.49, concerning allocation of personnel units to the Texas Department of Corrections. New §105.49 which incorporates changes as a result of the General Appropriation Bill, 69th Legislature, 1985, is simultaneously proposed in this issue. Therefore, existing §105.49 is proposed for repeal. This repeal is adopted on an emergency basis in this issue.

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

Dr. Beverly J. Bardsley, director for policy development, and Mr. Bennett also have determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is that the rules for allocations to the Department of Corrections will be in compliance with current law. There is no anticipated economic cost to individuals who are required to comply with the repeal.

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

of a proposed change in rules has been published in the *Texas Register*.

These amendments are proposed under the authority of the Texas Education Code, §29.05, which authorizes the State Board of Education to approve the formula for allocations to the Department of Corrections for schools operated under the Texas Education Code, Chapter 19, and the General Appropriations Act, Article III, 69th Legislature, 1985, which directs the State Board of Education to adopt rules to implement the funding provisions of the Appropriation's Act for Windham Independent School District.

**§105.49. Allocation of Personnel Units to the Department of Corrections.**

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 July 18, 1985.

TRD-856430

W. N. Kirby  
Commissioner of  
Education

Proposed date of adoption:  
October 12, 1985  
For further information, please call  
(512) 475-7077.

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*(Editor's note: The Texas Education Agency proposes for permanent adoption the new section it adopts on an emergency basis in this issue. The text of the rule is published in the Emergency Rules section of this issue.)*

The Texas Education Agency proposes new section §105.49, concerning Windham Independent School District allotment. The proposed new section replaces previous rules for the allotment of funds to the school district. The General Appropriations Bill, Article III, 69th Legislature, 1985, indicates a sum certain amount for financing Windham Independent School District (ISD) and requires the State Board of Education to adopt necessary rules to implement these provisions and to ensure accountability for the expenditure of these funds. This new section is adopted on an emergency basis in this issue.

The new section provides that, to be funded, students must attend at least six hours a week. A basic allotment of \$1,350 (or greater amount, if provided by appropriation) will be adjusted by a weight of 1.333 to enable the district to provide a program comparable with that of regular school districts. Windham ISD has no local tax base, and .333 is equal to the percentage of the statewide local share of the total Foundation School Program. In addition, the Windham ISD allocation will be increased by 20% of the formula allocation, because of the 12-month operation of the district. Allotments for



special education, bilingual education, vocational education, and educational improvement and career ladder are also provided for. Funds are to be expended only for academic and vocation education programs approved by the agency.

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

Dr. Beverly J. Bardsley, director for policy development, and Mr. Bennett also have determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is the clarification of funding provisions for Windham ISD. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

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

These amendments are proposed under the Texas Education Code, §29.05, and the General Appropriations Act, Article III, 69th Legislature, 1985, which directs the State Board of Education to make rules for the funding of the Windham Independent School District.

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 July 18, 1985.

TRD-856420 W. N. Kirby  
Commissioner of  
Education

Proposed date of adoption:  
October 12, 1985  
For further information, please call  
(512) 475-7077.

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## Chapter 129. Student Attendance Subchapter A. Student Attendance

### ★ 19 TAC §129.2

*(Editor's note: The Texas Education Agency proposes for permanent adoption the*

*amendments it adopts on an emergency basis in this issue. The text of the amendments is published in the Emergency Rules section of this issue.)*

The Texas Education Agency proposes amendments to §129.2, concerning kindergarten. School district may offer kindergarten for either a half-day or full-day program. To ensure continuity of instruction, the amendment prohibits districts from conducting full-day kindergarten programs on alternate school days or kindergarten programs that operate for one semester only. The amendment allows districts to offer either a full-day or half-day kindergarten program on a full-year basis.

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

Dr. Beverly J. Bardsley, director for policy development, and Mr. Bennett also have determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is the assurance of continuity of instruction for kindergarten students. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

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

These amendments are proposed under the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for administration of the Foundation School Program.

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 July 18, 1985.

TRD-856431 W. N. Kirby  
Commissioner of  
Education

Proposed date of adoption:  
October 12, 1985  
For further information, please call  
(512) 475-7077.

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## Subchapter D. Student Attendance Accounting

### ★ 19 TAC 129.61

*(Editor's note: The Texas Education Agency proposes for permanent adoption the amendments it adopts on an emergency basis in this issue. The text of the amendments is published in the Emergency Rules section of this issue.)*

The Texas Education Agency proposes amendments to §129.61, concerning requirements for student attendance accounting for state funding purposes.

The proposed amendments set the semester dates for taking attendance for state funding purposes for the 1985-1986 school year and alters instructions for providing information on students in special programs.

It is proposed that fall attendance be counted beginning with the first Monday in October, as was done for the 1984-1985 school year. It is proposed that the four spring attendance accounting weeks begin with the third Monday in February.

The proposed amendments also delete specific references to special and vocational education contact hour registers and provides instead for the commissioner of education to issue specific instructions concerning reporting of students participating in special programs. This change allows the commissioner to implement paperwork reduction measures related to student attendance accounting, including the elimination of the requirement for teachers to maintain vocational education contact hour registers.

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

Dr. Beverly J. Bardsley, director for policy development, and Mr. Bennett also have determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is a reduction in paperwork for teachers, and implementation of an attendance accounting schedule which is more sensitive to the fluctuations of attendance in districts with large numbers of migrant students. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

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

more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

These amendments are proposed under the authority of the Texas Education Code, §16.006, which requires the State Board of Education to set the weeks for student attendance accounting and \$61,005, which authorizes the board to make rules for administration of the Foundation School Program.

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 July 18, 1985.

TRD-856432 W. N. Kirby  
Commissioner of  
Education

Proposed date of adoption:  
October 12, 1985  
For further information, please call  
(512) 475-7077.

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## Chapter 141. Teacher Certification Subchapter H. Transportation Services

### ★ 19 TAC §141.25, 141.26

*(Editor's note: The Texas Education Agency proposes for permanent adoption the amendments it adopts on an emergency basis in this issue. The text of the amendments is published in the Emergency Rules section of this issue.)*

The Texas Education Agency proposes amendments to §141.25 and §141.26, concerning schedule of fees and fees for teacher certification. The Texas Education Code, §13.032(h), was amended by House Bill 1593, 69th Legislature, 1985, extending the State Board of Education's prior authority to fix and require the payment of fees for teacher certification by including authority for a fee to recover the administrative costs of reviewing the credentials of an applicant for a Texas certificate including costs for transcript analysis and other costs associated with out-of-state certificates. This analysis is one of the more complex and costly activities conducted by the Division of Teacher Certification for which a fee could not be assessed previously. This change in the law resulted from a recommendation of the Legislative Budget Board which had reviewed the cost and service effectiveness of the certification function within the agency.

The proposed amendment to §141.25 requires employing school districts to pay the application fee for emergency teaching and special assignment permits, rather than the individual. Currently, board

rules allow districts to employ individuals on a temporary basis when they are unable to employ a full-certified person for a specific assignment. This employment by temporary permit status is accompanied by annual progress requirements toward full certification and is validated by the employing school district through the submission of a permit document and fee to the agency. The permit may only be issued at the request of the district, is retained by the district for the term of its validity, and is not transferable between districts. For these reasons, it is recommended that the district bear the cost of the fee for the permit.

The proposed amendment to §141.26 establishes a new schedule of fees for teacher certification, inclusive of the fee for credential review, in response to the legislative mandate with this agency's biennial appropriations that the cost of certification administration shall be financed entirely from revenues and balances from certification fees. Agency staff has estimated costs for efficient certification services in the future based upon internal studies and recommendations of the Legislative Budget Board. Comparisons of cost-generating fees in the few other states with similar legislative mandates reflect generally higher fees in those states than those proposed here for Texas

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

The effect on state government for the first five-year period the rules will be in effect is an estimated increase in revenue of \$1,172,579 each year in 1986-1990. The estimated revenue is designed to recover agency administrative costs for the program.

The effect on local government for the first five-year period the rules will be in effect is an additional cost of \$240,000 each year from 1986-1990. The estimated cost is based on school districts paying fees for certain permits.

Dr. Beverly J. Bardsley, director for policy development, and Mr. Bennett also have 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 that the fee structure for teacher certification will more accurately reflect the actual cost of processing the various types of certificates.

The possible economic cost to individuals who are required to comply with the rules as proposed is \$15 for paraprofessional certificates, \$20 for provisional certificates, \$30 for professional certificates, \$20 for initial certificates (out of state), \$40 for review of creden-

tials, and \$40 each year in 1986-1990 for initial emergency permits.

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

The amendments are proposed under the Texas Education Code, §13.032(h), which authorizes the State Board of Education to set fees for teacher certificates which are reasonable and designed to cover the administrative costs of issuing the certificate.

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-856433 W. N. Kirby  
Commissioner of  
Education

Proposed date of adoption:  
October 12, 1985  
For further information, please call  
(512) 475-7077.

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## Chapter 143. Assignment of Personnel

### Subchapter A. General Provisions

#### ★ 19 TAC §143.1

*(Editor's note: The Texas Education Agency proposes for permanent adoption the new section it adopts on an emergency basis in this issue. The text of the new section is published in the Emergency Rules section of this issue.)*

The Texas Education Agency proposes the adoption of new §143.1, concerning assignment of personnel. This proposed new section implements the provisions of House Bill 72, 69th Legislature, 2nd Called Session, 1984. As result of House Bill 72, the Texas Education Code, §13.907, specifies that each teacher, including those who direct extracurricular activities, must teach in the classroom at least four hours each day. The section specifies those position titles to which the four-hour requirement applies. At this time, only §143.1 of the new chapter is proposed, however the agency plans shortly to move all rules for teacher assignment from Chapter 97 to this new chapter.

Mr. Richard Bennett, associate commissioner for finance, has determined that

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

Dr. Beverly J. Bardsley, director for policy development, and Mr. Bennett also have determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is the clarification of the applicability of the Texas Education Code, §13.907, concerning minimum teaching duties. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

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

The new section is proposed under the Texas Education Code, §13.907, which requires each teacher to teach not less than four hours each school day, and §16.005, which authorizes the State Board of Education to make rules for implementation of the Foundation School Program.

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-858434 W. N. Kirby  
Commissioner of  
Education

Proposed date of adoption:  
October 12, 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

*(Editor's note: The Texas Education Agency proposes for permanent adoption the new section it adopts on an emergency basis in this issue. The text of the new section is published in the Emergency Rules section of this issue.)*

The Texas Education Agency proposes the adoption of new §145.2 concerning paperwork reduction. The 69th Legislature, 1985, passed House Resolution 3

and Senate Resolution 5, both of which required the Central Education Agency and local school districts to make every effort to reduce the paperwork burden on teachers.

The proposed new section address these requirements, and provides that a review of school district efforts to reduce paperwork will be included in each regular accreditation visit.

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

Dr. Beverly J. Bardsley, director for policy development, and Mr. Bennett also have determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is the assurance that every effort will be made to free teachers from the paperwork burden which inhibits their ability to concentrate on the education of students. There is no economic cost to individuals who are required to comply with the rule as proposed.

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

The new section is proposed under House Resolution 3 and Senate Resolution 5, 69th Legislature, 1985, which directed the State Board of Education to adopt rules to provide for the simplification and reduction of paperwork requirements.

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

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TRD-856435 W. N. Kirby  
Commissioner of  
Education

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

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## Subchapter C. Employment Assurances

#### ★ 19 TAC §145.48

*(Editor's note: The Texas Education Agency proposes for permanent adoption the new section it adopts on an emergency basis in this issue. The text of the new section is published in the Emergency Rules section of this issue.)*

The Texas Education Agency proposes the adoption of new §145.48, concerning duty-free lunch. The 69th Legislature, 1985, passed and the governor signed House Bill 505 amending the Texas Education Code, §13.909. This statute establishes a duty-free lunch period for public school teachers actively engaged in instruction and supervision of students and takes effect September 1, 1985.

The proposed new section requires school districts to provide teachers with a duty-free lunch period in accordance with the Texas Education Code, §13.909. The law permits districts to assign teachers one day a week to supervise students during the duty-free lunch period in cases of personnel shortage, extreme economic conditions, or unavoidable or unforeseen circumstances. These three terms are defined in the section.

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

Dr. Beverly J. Bardsley, director for policy development, and Mr. Bennett also have determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is the provision for a duty-free lunch for teachers. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

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

The new section is proposed under the Texas Education Code, §13.909, which provides for a duty-free lunch for teachers and which directs the State Board of Education to define in rule extreme economic conditions, personnel shortage, and unavoidable or unforeseen circumstances for purposes of implementation of the Texas Education Code, §13.909.

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-856438

W. N. Kirby  
Commissioner of  
Education

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October 12, 1985

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

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## TITLE 22. EXAMINING BOARDS

### Part I. Texas Board of Architectural Examiners Chapter 3. Landscape Architects Subchapter C. Written Examinations

#### ★ 22 TAC §3.46

The Texas Board of Architectural Examiners proposes an amendment to §3.46, concerning failed sections of the uniform national examination retake as often as necessary to pass. Equivalent parts for the examination will be available for three years under the new format and then no longer available to the board for purchase.

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

Mr. Norris also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is continued assurance of minimum professional competency. 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 Robert H. Norris, AIA, Executive Director, Texas Board of Architectural Examiners, 8213 Shoal Creek Boulevard, Suite 107, Austin, Texas 78758, (512) 458-1363.

The amendment is proposed under Texas Civil Statutes, Article 249c, §4, which provides the Texas Board of Architectural Examiners with the authority to promulgate rules and prescribe forms necessary to administer the Act.

#### §3.46. Grading.

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

[(d) Any section failed by the applicant may be retaken as often as necessary.]

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 July 16, 1985.

TRD-856386

Robert H. Norris, AIA  
Executive Director  
Texas Board of  
Architectural  
Examiners

Earliest possible date of adoption:

August 26, 1985

For further information, please call  
(512) 458-4126.

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### Subchapter F. Landscape Architect Seal

#### ★ 22 TAC §3.105

The Texas Board of Architectural Examiners proposes new §3.105, concerning the landscape architects seal. This section provides prohibited use of the seal for offices performing landscape architectural services and registrants, as well as requiring one full-time landscape architect in each office performing landscape architectural services.

Robert H. Norris, AIA, 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 as a result of enforcing or administering the rule. The cost of compliance with the rule for small businesses will be the labor costs to add one registered landscape architect or replace one nonregistered technical person with one registered landscape architect in each office practicing landscape architecture. (The majority of offices already conform to this rule). The cost per employee will be the net increased labor cost of one registered landscape architect in each office practicing landscape architecture where one does not presently exist. There will possibly be no additional cost.

Mr. Norris 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 assurance of minimum technical competency in each office where landscape architecture is practiced and protection of the rights of the public using landscape architectural services. 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 Robert H. Norris, AIA, Executive Director, Texas Board of Architectural Examiners, 8213 Shoal Creek Boulevard, Suite 107, Austin, Texas 78758, (512) 458-1363.

The new section is proposed under Texas Civil Statutes, Article 249c, §4, which provides the Texas Board of Architectural Examiners with the authority to promulgate rules and prescribe forms necessary to administer the Act.

#### §3.105. Prohibited Use.

(a) No registrant shall affix the seal and/or registration number to sketches, working drawings, specifications, or other documents developed by others not under the direct and continuing supervision and not subject to the authority of that registrant in critical professional judgments.

(b) Each office in the State of Texas where landscape architectural service is offered or performed shall have a Texas registered landscape architect employed and practicing on a full-time basis in that office.

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

Issued in Austin, Texas, on July 16, 1985.

TRD-856387

Robert H. Norris, AIA  
Executive Director  
Texas Board of  
Architectural  
Examiners

Earliest possible date of adoption:

August 26, 1985

For further information, please call  
(512) 458-4126

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#### ★ 22 TAC §3.107

The Texas Board of Architectural Examiners proposes an amendment to §3.107, concerning assumed names. This section is amended to show the requirements for and description of the assumed name certificate currently required in existing rules. This amendment also enables this board to keep all files current on assumed names.

Robert H. Norris, AIA, executive director, has determined that there will be fiscal implications for state government as a result of enforcing or administering the rule. The estimated additional cost will be \$20 for 1986 and \$25 for 1989. There is no anticipated economic cost for 1987, 1988, or 1990. There is no effect on local government and small businesses for the first five-year period the rule will be in effect.

Mr. Norris 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

assurance of minimum technical competency in each office where landscape architecture is practiced. 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 Robert H. Norris, AIA, Executive Director, Texas Board of Architectural Examiners, 8213 Shoal Creek Boulevard, Suite 107, Austin, Texas 78758, (512) 458-1363.

The amendment is proposed under Texas Civil Statutes, Article 249c, §4, which provides the Texas Board of Architectural Examiners with the authority to promulgate rules and prescribe forms necessary to administer the Act.

### §3.107. Assumed Names.

(a) Any person engaging in the practice of landscape architecture in this state, under any business title other than the real name or real names of a registered landscape architect or registered landscape architects, whether individually, or as an association, partnership, or corporation, shall file in the office of this board a certificate, on a form promulgated by the board, stating the full name and residence address of each registered landscape architect [person] engaging in that practice, the place (including street, number, city, and zip code) where that practice is principally conducted, and the title under which the practice [it] is conducted (see also §3.105(b) of this title relating to Prohibited Use). Said certificate shall be signed by the registered landscape architect or landscape architects, through which the individuals, association, partnership, or corporation is authorized to practice and the principal, senior partner, administrative head, or corporate president, as the case may be, of the organization for which the certificate is filed.

(b) Upon the retirement, withdrawal, disassociation or new association of any registered landscape architect from the organization, a new certificate, as described in subsection (a) of this section, must be filed at the board office within 30 days of the effective date of the change to reflect the change in the responsible landscape architect's association with the organization. New certificates must also be executed upon a change of address of any person listed on the original certificate and upon change of address of the operation's location. All certificates described in subsection (a) of this section must be signed by the landscape architect(s) and the principal, senior partner, administrative head or corporate president, as the case may be. [A person who has filed such a certificate shall, upon his discontinuing, retiring, or withdrawing from such practice, or in the case of a change of residence of such a person or the location the practice is conducted, file in the office of this board a statement under oath that the information is correct.]

(c) In the case of the death of the registered landscape architect who has previously filed a certificate, the certificate reflecting the changed circumstances [such persons as have submitted certificates, such statements] may be executed [filed] by the executor or administrator of his or her [the] estate.

(d) (No change.)

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

Issued in Austin, Texas, on July 16, 1985.

TRD-856388

Robert H. Norris, AIA  
Executive Director  
Texas Board of  
Architectural  
Examiners

Earliest possible date of adoption:  
August 26, 1985  
For further information, please call  
(512) 458-4126.

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## Subchapter H. Disciplinary Action Against Registrants

### ★ 22 TAC §§3.141-3.145

The Texas Board of Architectural Examiners proposes new §§3.141-3.145, concerning rules for the conduct of administrative hearings in conformance with the Administrative Procedure Act. These new sections incorporate the Administrative Procedure Act to give proper notice to board registrants of the nature and procedures of disciplinary hearings so that hearings may be conducted efficiently.

Robert H. Norris, AIA, executive director, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rules.

Mr. Norris 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 reference for persons not registered, as well as registrants, with procedures concerning rules for administrative hearings. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Robert H. Norris, AIA, Executive Director, Texas Board of Architectural Examiners, 8213 Shoal Creek Boulevard, Suite 107, Austin, Texas 78757.

The new sections are proposed under Texas Civil Statutes, Article 249c, §4, which provides the Texas Board of Architectural Examiners with the authority to promulgate rules and prescribe forms necessary to administer the Act.

§3.141. *Definition of Complaint.* In order for the board to act on complaints against landscape architects filed with the board by persons other than the board's enforcement staff, the complaint shall be submitted in writing, on a form provided by the board, and acknowledged before a notary public. All unsworn complaints shall be kept in an information file as required by the Regulation of the Practice of Landscape Architecture Act, Texas Civil Statutes, Article 249c, §8(b).

§3.142. *The Administrative Procedure Act.* The provisions of the Administrative Procedure and Texas Register Act shall apply to the conduct of all disciplinary hearings, with additional rules as may be hereinafter adopted by the board which shall be in addition to and not inconsistent with the Administrative Procedure and Texas Register Act.

§3.143. *Informal Disposition.* Informal hearings of disciplinary actions may be conducted after the filing of a sworn complaint but before a formal board hearing is set. Informal disposition may be made of any proceeding by stipulation, agreed settlement, consent order, or default. Informal hearings may be chaired by one board member, or the designate or representative of the board. The board shall present its evidence substantiating the complaint, and the respondent may present its evidence by correspondence or appearance at the informal hearings, in an effort to bring about an adjustment and equitable solution to the matter without a formal hearing before the full board. All informal dispositions of matters shall not be final and effective until the full board, at a regularly called session, endorses and renders its acceptance of the proposed agreement of the parties. Such informal hearing shall be held without prejudice to the right of the board thereafter, if the controversy is not resolved, to institute a formal hearing governing the same matters, or the right of the registrant involved, if the controversy is not resolved, to request a formal hearing.

§3.144. *Notice of Hearings.* Prior to an informal or formal hearing by the board, the respondent shall be advised of the specifics in the complaint as well as the date, time, and place of such informal or formal hearings, provided, however, that notice of said hearing shall be served upon the respondent no less than 30 days prior to the date set for said hearing.

§3.145. *Appeals from Board Orders.* A registrant who is aggrieved by a decision of the board may file suit within 30 days of receipt of a copy of the board's order in the district court of Travis County. Trial shall be as set out in Texas Civil Statutes, Article 249c.

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 July 16, 1985.

TRD-856389 Robert H. Norris, AIA  
Executive Director  
Texas Board of  
Architectural  
Examiners

Earliest possible date of adoption:  
August 26, 1985

For further information, please call  
(512) 358-4126.

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## TITLE 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 1. Texas Board of Health

##### Formal Hearing Procedures

###### ★ 25 TAC §1.29

The Texas Department of Health proposes an amendment to §1.29, concerning the hearing procedure. The major change which the amendment will produce is to allow the department to assess the cost of preparing a hearing record to the appealing party in the event of an appeal of a hearing decision to the district court.

Stephen Seale, Chief Accountant III, has determined that there will be fiscal implications as a result of enforcing or administering the rule. The effect on state government for the first five-year period the rule will be in effect will be an estimated reduction in cost of \$50,000-\$100,000 per year for 1986-1990. The effect on local government for the first five-year period the rule will be in effect may be an estimated additional cost when a local government is a party to an agency administrative hearing. If the local government appeals the agency hearing decision, the cost to the local government for the agency preparing the record or a part of it will be in the range of \$800-\$1,000 for each full day of a hearing. There will be no adverse economic effect on small businesses, except that a small business which is a party to an agency hearing and which appeals the hearing decision may be assessed the cost for the agency preparing the record or a part of it.

Mr. Seale also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be the reduction in cost of state government by requiring appellants and not the taxpayers of the

state to bear the cost of the agency preparing records of hearings when agency hearing decisions are appealed to the district court. The anticipated economic cost to individuals who are required to comply with the rule as proposed may be the cost of a hearing record or part of it to an individual who appeals an agency hearing decision to the district court. That cost will be in the range of \$800-\$1,000 for each full day of a hearing.

Comments on the proposal may be submitted to Hal L. Nelson, Chief, Office of General Counsel, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Comments will be accepted for 30 days after publication of this proposal in the *Texas Register*.

The amendment is proposed under Texas Civil Statutes, Article 4414b, §1.05, which authorizes the Texas Board of Health to adopt rules covering its duties and procedures; Texas Civil Statutes, Article 6252-13a, §4, which authorizes a state agency to adopt rules of practice setting forth the nature and requirements of all formal and informal procedures available; Texas Civil Statutes, Article 6252-13a, §13, which authorizes a state agency to pay the cost of a transcript which has been requested by a party or to assess the cost to one or more parties; and House Bill 1593, §35, 69th Legislature, 1985, which authorizes a state agency to assess the cost of a hearing record or part of it to the appealing party in the event of an appeal to a district court.

##### §1.29. *The Hearing Procedure.*

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

(g) Assessing the cost of a court reporter and the record of the hearing [transcript].

(1) (No change.)

(2) The agency shall prepare a transcript (statement of facts) of the hearing upon the written request of any party. [In accordance with the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §13(g), proceedings, or any part of them, shall be transcribed on written request of any party.] The agency may pay the cost of the transcript or assess the cost to one or more parties.

(3) In the event a final decision of the agency is appealed to the district court wherein the agency is required to transmit to the reviewing court a copy of the record [written transcript] of the hearing proceeding, or any part thereof, the agency may require the appealing party to pay all or part of the cost of preparation of the original or a certified copy of the record of the agency proceeding that is required to be transmitted to the reviewing court.

[(A) require the appealing party to file with the agency the original and one copy of such written transcript; or

[(B) acquire such written transcript directly from the court reporter or other person preparing the same and

thereafter assess the cost of the original and one copy of such transcript against the appealing party as reimbursement for the cost of same.]

(h)-(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 July 22, 1985.

TRD-856527 Robert A. MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of  
Health

Proposed date of adoption:  
September 14, 1985

For further information, please call  
(512) 458-7236.

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## Chapter 97. Communicable Diseases

### Venereal Disease

#### ★ 25 TAC §97.136

The Texas Department of Health proposes an amendment to §97.136, concerning prophylaxis against ophthalmia neonatorum. The amendment will allow the use of a specific injection in addition to eyedrops as a prophylaxis.

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

Mr. Seale also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be prevention of blindness and eye infections in newborn babies, as well as a reduction in the number of cases of pneumonia in infants and/or Beta streptococcal infections, depending on the prophylaxis used. 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 Thomas Betz, M.D., Chief, Bureau of Communicable Disease Services, 1100 West 49th Street, Austin, Texas 78756-3192. Comments will be accepted for 30 days after publication of the proposed amendment in the *Texas Register*.

The amendment is proposed under Texas Civil Statutes, Article 4445d, §3.02, as amended by House Bill 1665, 69th Legislature, 1985, which provides the Texas Board of Health with the authority to ap-

prove prophylactic treatment of newborns, and Article 4414b, §1.05, which authorizes the Texas Board of Health to adopt rules to implement its statutory duties.

**§97.136. Prophylaxis against Ophthalmia Neonatorum.**

(a) Every physician, nurse, midwife, or other person in attendance at childbirth shall use [apply] or cause to be used a prophylaxis approved by the board for the prevention of ophthalmia neonatorum. The board considers the following as adequate prophylaxis against ophthalmia neonatorum [applied to the child's eyes one of the following]:

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

(3) a standard ophthalmic erythromycin solution (drops) or ointment within two hours after birth; or

(4) when administered within two hours of delivery, a single injection of aqueous crystalline penicillin G: 50,000 units, intramuscularly (IM) or intravenously (IV), for full-term infants or 20,000 units, IM or IV, for low-birth-weight infants.

(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 July 22, 1985.

TRD-856528

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

Proposed date of adoption:

September 14, 1985

For further information, please call  
(512) 458-7455.

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## Chapter 99. Occupational Diseases Reporting

### ★ 25 TAC §99.1

The Texas Department of Health proposes new §99.1, concerning the reporting of occupational diseases. The new section will cover definitions, reporting requirements, confidentiality of reports, general control measures for reportable occupational diseases, and the list of reportable occupational diseases. In addition to the occupational diseases listed in House Bill 2091, 69th Legislature, 1985, the proposed new section also contains the occupational disease of acute occupational pesticide poisoning

Mr. Stephen Seale, chief accountant III, 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 governments or small businesses as a result of enforcing or administering the rule.

Mr. Seale also has determined that for each year of the first five years that the rule is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be to make known to the public the occupational diseases which shall be reported to the Texas Department of Health and the department procedures for maintaining confidentiality and for investigating the diseases. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed

Comments on the proposal may be submitted to Dr. Charles E. Alexander, Chief, Bureau of Epidemiology, Texas Department of Health, 1100 West 46th Street, Austin, Texas 78756.

Comments will be received for 30 days after this proposed rule is published in the *Register*. In addition, a public hearing will be held on the proposed new rule on Monday, August 19, 1985, beginning at 9 a.m. in the Texas Department of Health auditorium, 1100 West 49th Street, Austin.

The new section is proposed under House Bill 2091, Article 19, §3, 69th Legislature, 1985, which authorizes the Texas Board of Health to adopt rules covering the reporting of occupational diseases.

#### §99.1. Reporting of Occupational Diseases.

(a) Purpose. This section implements the Texas Occupational Disease Reporting Act, House Bill 2091, 69th Legislature, 1985, which authorizes the Texas Board of Health to adopt rules concerning the reporting and control of occupational diseases.

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

(1) Case—A person in whom an occupational disease is diagnosed by a physician based upon clinical evaluation, interpretation of laboratory and/or roentgenographic findings, and an appropriate occupational history.

(2) Commissioner—The commissioner of health.

(3) Department—The Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

(4) Local health authority—The chief administrative officer of a public health district or a local health department, or the physician who is to administer state and local laws relating to public health.

(5) Occupational diseases—Those diseases and abnormal health conditions that are caused by or are related to conditions in the workplace.

(6) Report of an occupational disease—The notification to the appropriate

authority of the occurrence of a specific occupational disease in a human, including all information required by the procedures established by the Board of Health.

(7) Reportable occupational disease—Any occupational disease or condition for which an official report is required. See subsection (d) of this section.

(8) Suspected case—A case in which an occupational disease is suspected, but the final diagnosis is not yet made.

#### (c) Reporting requirements.

(1) It is the duty of every physician holding a license to practice in the State of Texas to report to the local health authority each patient she or he shall examine and who has or is suspected of having any reportable occupational disease. The local health authority may authorize a staff member to transmit reports.

(2) It is the duty of every person who is in charge of a clinical or hospital laboratory, blood bank, mobile unit, or other facility in which a laboratory examination of any specimen derived from a human body yields microscopical, cultural, serological, chemical, or other evidence suggestive of a reportable disease to report that information to the local health authority.

(3) The reporting physician or laboratory director shall make the report in writing, using a form prescribed by the commissioner or his or her designee. A local health authority may authorize one or more employees under his or her supervision to receive the report from the physician or laboratory director by telephone and to complete the form on behalf of the reporter; use of this alternative, if authorized, is at the option of the reporter. The local health authority shall implement a method for verifying the identity of the telephone caller when that person is unfamiliar to the employee.

(4) The local health authority shall collect the reports and transmit the information at weekly intervals to the Bureau of Epidemiology, Texas Department of Health. Transmission may be made by mail, courier, or electronic transfer.

(A) If by mail or courier, the reports shall be placed in a sealed envelope addressed to the attention of the Bureau of Epidemiology, Texas Department of Health, and marked "confidential medical records."

(B) If by electronic transmission, including facsimile transmission by telephone, it shall be in a manner and form authorized by the commissioner or his or her designee in each instance. Any electronic transmission of the reports must provide at least the same degree of protection against unauthorized disclosure as those of mail or courier transmission. The commissioner or his or her designee shall, before authorizing such transmission, establish guidelines for establishing and conducting such transmission.

(5) When a case of occupational disease is reported to a local health authority, and the person diagnosed as having the disease resides outside his or her area of local health jurisdiction, the local health authority receiving the report shall notify the appropriate local health authority where the person or persons reside. The department shall assist the local health authority in providing such notifications if requested.

(d) List of reportable occupational diseases. Occupational diseases reportable by name, address, age, sex, race/ethnicity, method of diagnosis, and relevant occupation(s) and employer(s) of the case, and identity of the reporter, are: asbestosis, silicosis, blood lead levels at or above 40 micrograms lead/100 milliliters of blood in persons 15 years of age or older, and acute occupational pesticide poisoning.

(e) General control measures for reportable occupational diseases. The commissioner or his or her duly authorized representative shall, as circumstances may require, proceed as follows.

(1) Investigation shall be made for the purpose of verifying the diagnosis, ascertaining the source of the causative agent, obtaining an occupational and employment history, and discovering unreported cases.

(2) Collection of specimens of the body tissues, fluids, or discharges and of materials directly or indirectly associated with the case, as may be necessary in confirmation of the diagnosis, and their submission to a laboratory for examination.

(3) Obtaining samples of air or materials from the current or former business or place of employment of a case, as may be necessary to ascertain if a public health hazard exists. If a hazard is found, the commissioner or his or her designee shall make appropriate recommendations concerning the hazard.

(f) Confidential nature of case reporting.

(1) All case reports received by the local health authority or the Texas Department of Health are confidential records and not public records. These records will be held in a secure location and accessed only by authorized personnel.

(2) The department may use information obtained from reports or health records for statistical and epidemiological studies which may be public information as long as an individual is not identifiable.

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 July 22, 1985.

TRD-856531 Robert A. MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of  
Health

Proposed date of adoption:

September 14, 1985

For further information, please call  
(512) 458-7207.

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## Chapter 115. Home Health Care Agencies

### Licensing and Regulation

#### ★ 25 TAC §115.14

*(Editor's note: The Texas Department of Health proposes for permanent adoption the new section it adopts on an emergency basis in this issue. The text of the new section is published in the Emergency Rules section of this issue.)*

The Texas Department of Health proposes new §115.14, concerning licensing fees. The new section will cover licensing fees for home health care agencies.

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 for state government. There will be an estimated additional cost of \$5,890 per year and an estimated increase in revenue of \$660,000 per year for 1985-1989. There will be no effect on local government for the first five year period the rule will be in effect. The cost of compliance with the rule for small businesses will be the home health service license fees established in §115.14. The cost of compliance for small businesses compared with the cost of compliance for the largest businesses affected by the rule is based on the cost per employee. A small Class A home health agency cost is \$75 per employee versus a large Class A home health agency cost of \$34.29 per employee. A small Class B home health agency cost is \$100 per employee versus a large Class B agency cost of \$17.87 per employee.

Mr. Seale also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be the license fees which should allow for a measure of control in the quantity and quality of home health care agencies. There is no anticipated cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Juanita Carrell, R.N., Ed.D., Director, Medicare Certification Division, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7245. Comments will be accepted for 30 days from the date of publication of this proposal in the *Texas Register*.

The new section is proposed under Texas Civil Statutes, Article 4447u, §8, which

authorizes the Texas Board of Health to set home health services license fees and \$4, which authorizes the board to adopt rules covering home health care agencies.

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 July 22, 1985.

TRD-856530

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

Proposed date of adoption:

September 14, 1985

For further information, please call  
(512) 458-7245.

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## Chapter 205. Product Safety Labeling of Hazardous Substances

#### ★ 25 TAC §205.44

The Texas Department of Health proposes new §205.44, concerning a registration fee for manufacturers of hazardous substances.

Section 205.44 will apply to all manufacturers of hazardous substances whose products are distributed in Texas and will cover the registration fee, the registration statement, the procedure for filing the statement with the department, and procedures for denying, suspending, or revoking the statement.

Stephen Seale, chief accountant III, has determined that there will be fiscal implications as a result of enforcing or administering the rule. The effect on state government for the first five-year period the rule will be in effect will be the additional cost for a secretary III and office equipment, estimated as follows: \$28,500 for 1986, \$17,500 for 1987, \$18,500 each year for 1988-1989, and \$20,000 for 1990. Although the program is in need of this addition, no funds have been appropriated for this purpose. There will be an estimated increase in revenue of \$135,000 for 1986, \$165,000 for 1987, \$187,500 for 1988, \$210,000 for 1989, and \$225,000 for 1990. These amounts are based on estimating registrations by each September 1 of 900, 1,100, 1,250, 1,400, and culminating in a total of 1,500 registrations by 1990. All registration fees go directly into the general revenue fund—not to the department. There will be no effect on local government for the first five-year period the rule will be in effect. The cost for compliance with the rule for small businesses will be \$150—the registration fee prescribed by the rule. An average small manufacturer may incur a cost of \$ .03 per \$100 of



sales, while a large manufacturer would incur a cost of \$ .015 per \$100 of sales, or less.

Mr. Seale also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be an increase in the protection afforded to the Texas consumer from misbranded or mislabeled hazardous substances which can result in accidental poisonings, by requiring both in-state and out-of-state manufacturers of hazardous substances, who distribute these products in Texas, to file registration statements with the department. Furthermore, the proposed rule will decrease the financial burden on the Texas consumer by requiring the manufacturers to pay the cost of enforcing the labeling requirements for hazardous substances. The anticipated economic cost to individuals who are required to comply with the rule as proposed will be as follows: Each manufacturer will pay an annual registration fee of \$150 for each establishment from which products are distributed in Texas. The department estimates 500 such manufacturers are located in the state, while an additional 1,000 are located outside of Texas and distribute in Texas. The only retailers affected by the registration are those which sell a hazardous substance manufactured to their own specifications or sold under their own private (house) brand.

Comments on the proposal may be submitted to R. D. Sowards, Jr., Chief, Hazardous Products Branch, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

Comments will be accepted for 30 days after publication of these rules in the *Register*. In addition, a public hearing will be held on Thursday, August 22, 1985, 9 a.m., Texas Department of Health auditorium, 1100 West 49th Street, Austin.

The new section is proposed under Texas Civil Statutes, Article 4476-13, §2A, as added by House Bill 1593, 69th Legislature, 1985, which establishes the \$150 registration fee and which requires the Texas Board of Health to adopt a rule to implement §2A.

#### §205.44. Registration Fee for Manufacturers of Hazardous Substances.

(a) Purpose and scope. The Texas Hazardous Substances Act, Texas Civil Statutes, Article 4476-13, was amended by House Bill 1593, 69th Legislature, 1985. The amendment added §2A to the Act, which requires manufacturers of hazardous substances whose products are distributed in Texas to file a registration statement with the department prior to doing business in the state. Section 2A also establishes a registration fee of \$150 and requires the Texas Board of Health to adopt rules covering the registration statement, the procedures for filing it, and procedures for de-

nying, suspending, or canceling the registration statement. This section is intended to accomplish the statutory purpose.

(b) Definitions. The following words and terms, when used in this section, shall have the following meanings unless the context clearly indicates otherwise. In addition, the definitions used in §205.42 of this title (relating to Definitions) apply to this section.

#### (1) Distribute—

(A) Dissemination of a hazardous substance to the general public under one's own brand (private label); or

(B) Dissemination of a hazardous substance as a wholly owned subsidiary of the business or establishment which manufactured or packaged the product.

#### (2) Hazardous substance—

(A) The term "hazardous substances" applies to the following:

(i) any substance or mixture of substances which is toxic, corrosive, flammable, an irritant, a strong sensitizer, or generates pressure through decomposition, heat, or other means, if the substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonable foreseeable handling or use, including reasonably foreseeable ingestion by children;

(ii) any toy or other article other than clothing intended for use by children which presents an electrical, mechanical, or thermal hazard; or

(iii) any radioactive substance if, with respect to the substance as used in a particular class of article or as packaged, the department finds by rule that the substance is sufficiently hazardous to require labeling in accordance with the provisions of Texas Civil Statutes, Article 4476-13, in order to protect the public health.

(B) The term "hazardous substance" does not apply to economic pesticides subject to the State or Federal Insecticide, Fungicide, and Rodenticide Act, or to foods, drugs, and cosmetics subject to the Federal Food, Drug, and Cosmetic Act, or to beverages complying with or subject to the Federal Alcohol Administration Act or the Texas Food, Drug, and Cosmetic Act, or to substances intended for use as fuels when stored in containers and used in the heating, cooking, or refrigeration system of a private residence, or to any source material, special nuclear material, or by-product material as defined in the Federal Atomic Energy Act of 1954, as amended, and regulations issued pursuant thereto by the Atomic Energy Commission.

(3) Manufacturer—Any person who manufactures, repacks, or distributes a hazardous substance. The term does not include a retailer who distributes a hazardous substance to the general public, except that a retailer who distributes a hazardous

substance made to its specifications is considered to be a manufacturer.

(c) Basic requirement. A manufacturer whose products are distributed in the State of Texas may not manufacture or distribute a hazardous substance in the state unless the manufacturer has filed with the department a registration statement accompanied by a \$150 registration fee in accordance with this section.

(d) Annual refiling. After the initial filing, the manufacturer shall refile each year by filing the registration statement accompanied by a \$150 registration fee in accordance with this section prior to September 1 of each calendar year.

#### (e) Registration statement.

(1) A manufacturer's registration statement shall be signed and verified, shall be made on a registration form furnished by the department, and shall contain the following information:

(A) the name under which the manufacturing, repacking, or distributing is conducted;

(B) the address of each place of business or establishment being registered; if the manufacturer operates more than one place of business or establishment, and products manufactured at each establishment are distributed in Texas, the manufacturer shall include each place of business or establishment on the registration statement. A separate fee of \$150 is required for each place of business or establishment;

(C) if the business is a sole proprietorship, the name of the proprietor shall be included;

(D) if the business is a partnership, the names of the partners shall be included;

(E) if the business is a corporation, the names of the officers and directors shall be included; or

(F) if the business is of any other kind than the ones described in subparagraphs (C)-(E) of this paragraph, the names of those persons in a managerial position shall be included.

(2) Registration forms may be obtained from the Product Safety Program, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

#### (f) Registration fees.

(1) Each initial registration statement and each annual refiling of the registration shall be accompanied by a \$150 fee.

(2) The fee shall be by money order, certified check, or personal check and shall be made payable to the Texas Department of Health. Cash payment is not acceptable.

(3) For manufacturers operating more than one facility, each facility from which products are distributed in Texas must pay the \$150 registration fee.

(g) Special provisions. Manufacturers of hazardous substances, whose products are distributed for sale in Texas and whose

products might normally be banned, but who meet specific exemption criteria enabling their products to be sold in Texas shall file registration statements accompanied by a registration fee of \$150 in accordance with this section. Some examples are:

(1) toy electric trains with special labeling, exempting the products from the ban on toys presenting an electrical hazard; and

(2) toy caps which are exempt from the classification as a banned hazardous substance by special labeling and peak sound pressure levels.

(h) Refusal to accept, cancellation, revocation or suspension of a registration statement.

(1) The department may, after notice and opportunity for a hearing, refuse to accept, or cancel, revoke or suspend a manufacturer's registration if the manufacturer fails to make payment of the \$150 fee required in this section.

(2) The hearing described in paragraph (1) of this subsection shall be conducted in accordance with Texas Civil Statutes, Article 6252-13a, and §§1.21-1.32 of this title (relating to Formal Hearing Procedures).

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

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

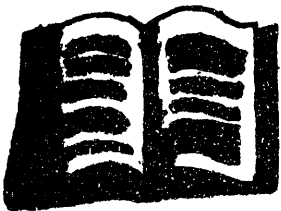
TRD-856534

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

Proposed date of adoption.  
September 14, 1985

For further information, please call  
(512) 458-7519.

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## Part II. Texas Department of Mental Health and Mental Retardation

### Chapter 405. Client (Patient) Care

#### Subchapter A. Employment of Independent Contractors (Consultants)

#### ★ 25 TAC §§405.3, 405.4, 405.7

The Texas Department of Mental Health and Mental Retardation proposes amendments to §§405.3, 405.4, and 405.7, concerning employment of independent contractors (consultants). The proposed amendments would update titles and would indicate that the Form P-11 has been updated. Changes to this form, which is known as Exhibit A and is adopted by reference, would also update terminology, would clarify that consultants are not subject to the general personnel rules of the department, and would emphasize the confidentiality of client-identifying information under Texas and federal laws. It is noted that consultants provide services in compliance with the standards of outside accrediting or certifying agencies, as applicable. A termination clause has been added to the contract.

Sue Dillard, Office of Standards and Quality Assurance director, has determined that there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rules as proposed.

Ms. Dillard also has determined that the anticipated public benefit is rules which are up to date, which describe more clearly consultant contract terms, and which better protect the confidentiality of client-identifying information. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Linda Logan, Rules Coordinator, Texas Department of Mental Health and Mental Retardation, P. O. Box 12668, Austin, Texas 78711, within 30 days of publication.

The amendments are proposed under Texas Civil Statutes, Article 5547-202, §2.11(b), which provide the commissioner with the authority to promulgate rules subject to the basic and general policies of the Texas Board of Mental Health and Mental Retardation.

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

**Facility**—Any hospital, state school for the mentally retarded, state [human development] center, [research institute], the central office, or other institution [of the department] or which may hereafter become a part of the department.

**§405.4. Employment of an Independent Contractor (Consultant).**

(a) No independent contractor (consultant) will be employed by any facility [of this department] without written approval by the head of the facility prior to the rendition of any services; provided, however, that services may be rendered without the

prior written approval of the head of the facility in emergency situations in which the well-being of a client or clients or the best interest of the State of Texas would be adversely affected by a failure to take immediate action; provided further, however, that if the services of a consultant are necessary in such an emergency, the contractual approval should be obtained as soon as practicable after the services have been rendered.

(b) Approval by the head of the facility shall be evidenced by a contract for consultant services (Texas Department of Mental Health and Mental Retardation Form P-11 as revised September 1, 1985 [July 30, 1982]) illustrated by Exhibit A, which is herein adopted by reference and available from the Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711, or in appropriate situations by an interagency contract between this department, acting through its individual facility, and the independent contractor (consultant). An interagency contract used to evidence approval for consultant services must meet all of the requirements of this subchapter. The contract for consultant services or the interagency contract, as the case may be, is to be signed by the head of the facility employing such consultant, provided that any such contract for consultant services in an amount over \$1,000 shall be approved in advance by the commissioner if such services are required to study an existing or a proposed operation or project of the facility. In the case of the central office, the commissioner will sign the contract, and it will be forwarded to the director of the Office of Budget and Fiscal Services [chief of budgets and finance]. This contract responsibility may not be delegated without written approval of the commissioner. All existing agreements through which independent contractors (consultants) are providing services to a facility of this department will, as soon as possible, be reduced to writing on Form P-11 (revised September 1, 1985 [July 30, 1982]) or on an interagency contract form, as appropriate. [Form P-11 (Exhibit A) is available from the Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711.]

(c) (No change.)

**§405.7. Retention Period for Records.** Texas Department of Mental Health and Mental Retardation Form P-11 (revised September 1, 1985 [July 30, 1982]), dealt with in §405.4 of this title (relating to Employment of an Independent Contractor (Consultant)), and Form P-11(A) (revised March 15, 1975), dealt with in §405.5 of this title (relating to Documentation of Duties Performed by an Independent Contractor (Consultant)), will be retained for five years. These forms have been produced and stocked in central office, subject to requisition. [Forms on hand, altered as nec-

essary, should be used before requisitioning new ones.)

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 July 17, 1985.

TRD-856379

Gary E. Miller, M.D.  
Commissioner  
Texas Department of  
Mental Health and  
Mental Retardation

Earliest possible date of adoption:  
August 26, 1985  
For further information, please call  
(512) 465-4870.

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## TITLE 28. INSURANCE

### Part II. Industrial Accident Board

#### Chapter 1. Communications and General Medical Provisions

*(Editor's note: Because the Industrial Accident Board's rules have not yet been published in the Texas Administrative Code (TAC), they do not have designated TAC numbers. For the time being, the rules will continue to be published under their Texas Register numbers. However, the rules will be published under the agency's correct title and part.)*

★ 061.01.00.015, .275

The Industrial Accident Board proposes an amendment to Rule 106.01.00.015 and new Rule 061.01.00.275, concerning definitions and payment of medical benefits. It is the intent of the amendment to Rule 061.01.00.015 to clarify for all interested parties that reference to insurance carrier or to carrier is synonymous with association, as used in the Texas Workers' Compensation Law, board rules, and court decisions. New Rule 062.02.00.275 provides that when the insurance carrier has accepted liability for compensation benefits, it must advise the board, the health care provider, and the injured worker and his or her attorney if any part of a health care provider's bill is disputed, and the procedures to follow if such a dispute occurs.

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

Mr. Treacy 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 assurance that insurance carrier or carrier or association will be clarified in the law and that the injured worker or employer should not be billed by health care providers unless the board or court has denied the claim. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted in writing to William Treacy, Executive Director, Industrial Accident Board, 200 East Riverside Drive, First Floor, Austin, Texas 78704, within 20 days from the date of publication in the *Texas Register*.

The amendment and new rule are proposed under Texas Civil Statutes, Article 8307, §4, which provide the Industrial Accident Board with the authority to promulgate rules.

**.015. Definitions.** The following words and terms, when used in these rules, shall have the following meanings, unless the context clearly indicates otherwise.

**Insurance carrier or carrier—**Shall be synonymous with the term "association," as defined in Texas Civil Statutes, Article 8309, §1, to mean any insurance company authorized to insure payment of workers' compensation including political subdivisions according to Texas Civil Statutes, Article 8309h, §3(b).

**.275. Payment of Medical Benefits.** In any case where the carrier has accepted liability for compensation benefits, if the carrier subsequently denies any part of a health care provider's bill, within 20 days after such denial, the carrier shall notify the board in writing and shall explain in detail the reason(s) for its refusal to pay each item. The carrier shall provide copies of the notification to the health care provider and to the claimant and his or her attorney. These copies shall include the following statement:

The insurance carrier, and not the claimant/patient or employer, is solely responsible for all reasonable and necessary medical treatment rendered in connection with the injury, and no billing for any unpaid amounts should be directed to the claimant/patient or employer, nor should any attempt be made to collect any unpaid amount from the claimant/patient or employer, unless the claim has been denied by the board or the court.

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 July 19, 1985.

TRD-856535

William Treacy  
Executive Director  
Industrial Accident  
Board

Earliest possible date of adoption:  
August 26, 1985  
For further information, please call  
(512) 468-7982.

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## Chapter 2. Insurance Coverage

### 061.02.00.011

The Industrial Accident Board proposes an amendment to Rule 061.02.00.011, concerning the filing of notice that employer has become subscriber with the board. The proposed amendment requires that all notices that employer has become subscriber be filed by certified mail or in person to ensure the notices are promptly filed in accordance with the law.

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

Mr. Treacy 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 timely filing of the notice that the employer has elected to become a subscriber under the Workers' Compensation Law. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to William Treacy, Executive Director, Industrial Accident Board, 200 East Riverside Drive, First Floor, Austin, Texas 78704, within 20 days from date of publication in the *Texas Register*.

The amendment is proposed under Texas Civil Statutes, Article 8307, §4, which provide the Industrial Accident Board with authority to promulgate rules.

**.011. Notice That Employer Has Become Subscriber.** The notice that employer has become subscriber shall be filed with the board's Austin office by certified mail or in person within 30 days of the effective date of the policy and the notice must be completed in detail and shall include:  
(1)-(7) (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 July 16, 1985.

TRD-856355

William Treacy  
Executive Director  
Industrial Accident  
Board

Earliest possible date of adoption:  
August 26, 1985

For further information, please call  
(512) 448-7962.

★ ★ ★

## Chapter 5. Procedures for Formal Hearings by the Board

### Special Formal and Other Investigative Hearings

#### ★ 061.05.00.337

The Industrial Accident Board proposes new Rule 061.05.00.337, concerning the withdrawal of an injured worker's attorney. The proposed new rule requires an attorney representing an injured worker to request the board's approval to withdraw from the case, when a special formal hearing or other hearing has been set before the board.

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

Mr. Treacy also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is that the board will know how to proceed with the claim for compensation. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to William Treacy, Executive Director, Industrial Accident Board, 200 East Riverside Drive, First Floor, Austin, Texas 78704, within 20 days from the date of publication in the *Texas Register*.

The new rule is proposed under Texas Civil Statutes, Article 8307, §4, which provides the Industrial Accident Board with authority to promulgate rules.

**.337. Withdrawal of Attorney.** After a compensation claim has been scheduled for a special formal hearing, or other hearing as provided in board Rule 061.05.00.300 of this title (relating to Procedures), *et seq.*, an attorney may not voluntarily withdraw as counsel for a claimant, except upon written request therefore as approved by the Industrial Accident Board.

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 July 19, 1985.

TRD-856538

William Treacy  
Executive Director  
Industrial Accident  
Board

Earliest possible date of adoption:  
August 26, 1985

For further information, please call  
(512) 448-7962.

★ ★ ★

## Chapter 6. Award of the Board

### ★ 061.06.00.005

The Industrial Accident Board proposes an amendment to Rule 061.06.00.005, concerning power of attorney. The rule is amended so that the attorney's fee can be incorporated into the rule, in accordance with the Workers' Compensation Law. The intent of this amendment is to provide the injured worker with this information and to try and eliminate the claimants' questions regarding their claim for compensation, when their claim has been settled before the board or in court.

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

Mr. Treacy also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is a clearer understanding of the power of attorney, the contract of employment of attorney, or any other document the individual has signed. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to William Treacy, Executive Director, Industrial Accident Board, 200 East Riverside Drive, First Floor, Austin, Texas 78704, within 20 days from the date of publication in the *Texas Register*.

The amendment is proposed under Texas Civil Statutes, Article 8307, §4, which provide the Industrial Accident Board with authority to promulgate rules.

**.005. Power of Attorney.** Attorneys representing claimants will be authorized by the board to receive fees and expenses only when a power of attorney, contract of employment of attorney, or other document signed by the claimant is filed with the board. The attorneys' fees for representing claimants shall be specified within such

power of attorney, contract of employment, or other signed document, and such fees are not to exceed 25% of the total recovery. All attorneys' fees for representing claimants before the board shall be subject to the approval of the board as provided in Texas Civil Statutes, Article 8306, §7(c). When a dispute arises as to the representation of the claimant by two or more attorneys, the board will require a signed and dated power of attorney or employment contract from each attorney, and the attorney first retained will be deemed to be the attorney of record, unless the board shall determine that the claimant has effected a change of attorneys. (198i)

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 July 16, 1985.

TRD-856357

William Treacy  
Executive Director  
Industrial Accident  
Board

Earliest possible date of adoption:  
August 26, 1985

For further information, please call  
(512) 448-7962.

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## Chapter 7. Carrier's Report of Initiation and Suspension of Compensation Payments

### ★ 061.07.00.025, .035, .065

The Industrial Accident Board proposes amendments to Rules 061.07.00.025 and 061.07.00.035 and new Rule 061.07.00.065. The amendments clarify that insufficient statements of controversion, reason for suspension, or stopping of compensation payments and medical benefits will cause the board to issue a complaint report. If the complaint report is not answered in the specified period of time with a sufficient reason for nonpayment of benefits, then the majority of the board will review the response and determine whether it is a violation that will become a part of the insurance carrier's record of general business practices.

The new Rule 061.07.00.065 establishes the procedures the board will follow when a formal hearing has been held by a majority of the board, and an insurance carrier fails to comply with the board's order.

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

Mr. Treacy 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 clarification of procedures the insurance carrier shall follow in compliance with Texas Civil Statutes, Article 8306, §18 and §18a. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to William Treacy, Executive Director, Industrial Accident Board, 200 East Riverside Drive, First Floor, Austin, Texas 78704, within 20 days from date of publication in the *Texas Register*

The amendments and new rule are proposed under Texas Civil Statutes, Article 8307, §4, which provide the Industrial Accident Board with authority to promulgate rules.

**.025. Contents of Statement of Controversy or Statement of Position.** [When an association or self-insured has filed] A statement of position [controversion] or a statement of controversion [position] as provided for in Texas Civil Statutes, Article 8306, §18a(a), [it] shall state fully and in writing the grounds for refusal to commence paying compensation [therein the reason or reasons why compensation benefits are not timely commenced]. These grounds must be based on actual investigation of the claim and stated in sufficient detail so as to be compared with the position taken by the carrier at the prehearing conference [The reason or reasons recited must be sufficiently informative so they may be evaluated by the board] It is insufficient [and considered a violation of the statute] to simply state a conclusion, [such as] for example, "liability in question", ["under investigation" or] "compensability in dispute", or "under investigation" ["liability in question", etc.].

When a carrier files an insufficient statement of controversion or statement of position, the board will issue a complaint report to the carrier through its designated Austin Industrial Accident Board representative. The carrier will have 30 days from the date of receipt of the complaint report to respond in writing to the charge. The board will evaluate the carrier's response. If a majority of the board members determine that a violation has occurred, the violation may be used to establish a record of general business practice, in accordance with Texas Civil Statutes, Article 8306, §18a(d). A failure to respond to the complaint report within 30 days will constitute an automatic violation. [A statement of controversion of statement of position which is timely filed with this board, but the reason or reasons contained therein are deemed by the board to constitute inadequate compliance with the statute, shall be treated the same as a failure to file the statement of controversion or statement of position, and the carrier or self-insured will accordingly be notified by the board, through its designated Austin Industrial Accident Board

representative, in writing of its possible violation of the Workers' Compensation Law, and of Texas Civil Statutes, Article 8306, §18a(a).]

**.035. Notice of Suspension of Compensation.**

(a) (No change.)

(b) If a carrier [an association of self-insured] suspends or stops the payments of indemnity compensation or medical benefits, and notifies the board in writing thereof pursuant to Texas Civil Statutes, Article 8306, §18a(b) and Article 8307, §11, such notice shall state fully the [reason or] reason(s) for suspending or stopping such payments [why such benefits have been suspended]. This statement must contain sufficient substantive information to enable the board to evaluate the carrier's position on the claim. [The reason or reasons must be sufficiently informative so they may be evaluated by the board.] It is sufficient to simply state the carrier's position with such phrases as abandoned medical treatment, disability in dispute, etc. [Although the filing of this notice may have been timely made pursuant to Texas Civil Statutes, Article 8306, §18a(b), if the reason or reasons advanced therein are deemed by the board to constitute inadequate compliance with the statute, the filing thereof shall be treated the same as a failure to file, and the board may notify the association or self-insured in writing, through its designated Austin Industrial Accident board representative, of its possible violation of the Workers' Compensation Law.] When a carrier files an insufficient statement of reasons for suspension of payment of benefits, the board will issue a complaint report to the carrier through its designated Austin Industrial Accident Board representative. The carrier will have 30 days from the date of receipt of the complaint report to respond in writing to the charge. The board will evaluate the carrier's response. If a majority of the board members determine that a violation has occurred, the violation may be used to establish a record of general business practice, in accordance with Texas Civil Statutes, Article 8306, §18a(d). A failure to respond to the complaint report within 30 days will constitute an automatic violation.

**.065. Certification Procedure.** In cases where it appears that the carrier willfully fails, or refuses without justification to pay compensation, the following procedure will apply.

(1) If, on suspension or stoppage of workers' compensation payments, it appears to the board that the carrier has not fully discharged its obligation to the claimant, the board will notify the carrier through its Austin Industrial Accident Board representative of the deficiency, and copies of such notice shall be sent to the claimant or his attorney.

(2) The board will specify a reasonable period of time in which a carrier may either pay the deficiency and submit a correct report or submit information to the board justifying the amount of its payment.

(3) If the carrier fails to pay the deficiency or fails to submit information justify-

ing the amount of its payment, the board shall set the case for formal hearing to be held by a majority of the board within 100 miles of the claimant's residence. The provision of board Rule 061.05.00.300 of this title (relating to Special Formal Hearing and Other Investigative Hearings), et. seq., shall apply.

(4) At such hearing, if it is determined that compensation benefits are due, the board shall so order. If the carrier fails to obey such order within 10 days the board may certify such fact to the commissioner of insurance for proceedings, according to Texas Civil Statutes, Article 8306, §18.

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 July 19, 1985.

TRD-856537

William Treacy  
Executive Director  
Industrial Accident  
Board

Earliest possible date of adoption:  
August 26, 1985

For further information, please call  
(512) 448-7962.

★ ★ ★

## Chapter 8. Lump Sum Payments

### ★ 061.08.00.200

The Industrial Accident Board proposes an amendment to Rule 061.08.00.200, concerning consent withdrawn. The amendment provides the procedures that an interested party must follow to withdraw his consent to a compromise settlement agreement (prior to the board's approval).

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

Mr. Treacy 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 all interested parties are apprised of the procedure to withdraw their consent to a compromise settlement agreement. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to William Treacy, Executive Director, Industrial Accident Board, 200 East Riverside Drive, First Floor, Austin, Texas 78704, within 20 days from the date of publication in the *Texas Register*.

The amendment is proposed under Texas Civil Statutes, Article 8307, §4, which pro-

vide the Industrial Accident Board with authority to promulgate rules.

**.200. Consent Withdrawn.** The board's approval of a compromise settlement agreement shall be final at the time the approval [order] is signed by the board unless the board has received a request in writing [notice] prior to [such] entry of the approval order that one or more parties to the agreement wishes to withdraw [have withdrawn] their consent to the agreement, and the board permits the withdrawal of such consent. Any such written request to the board for permission to withdraw consent to an agreement must fully set out the reason or reasons for such request. (1981)

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 July 16, 1985.

TRD-856358 William Treacy  
Executive Director  
Industrial Accident  
Board

Earliest possible date of adoption:  
August 26, 1985  
For further information, please call  
(512) 448-7982.

★ ★ ★

★ **061.08.00.190, .210**

The Industrial Accident board proposes to repeal Rules 061.08.00.190 and .210, concerning approval of the board and presumption of timely notice. The rules are repealed because they will be in conflict with the proposed amendment to Rule 061.08.00.200

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

Mr. Treacy also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal is the elimination of unnecessary rules. There is no anticipated economic cost to individuals who are required to comply with the repeal as proposed

Comments on the proposal may be submitted to William Treacy, Executive Director, Industrial Accident Board, 200 East Riverside Drive, First Floor, Austin, Texas 78704, within 20 days from the date of publication in the *Texas Register*.

The repeal is proposed under Texas Civil Statutes, Article 8307, §4, which provide the Industrial Accident Board with authority to promulgate rules.

**.190. Approval of the Board.**

**.210. Presumption of Timely 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 July 16, 1985.

TRD-856364 William Treacy  
Executive Director  
Industrial Accident  
Board

Earliest possible date of adoption:  
August 26, 1985  
For further information, please call  
(512) 448-7982.

★ ★ ★

**Chapter 13. Unethical or Fraudulent Claims Practices**

★ **061.13.00.020**

The Industrial Accident Board proposes an amendment to Rule 061.13.00.020, concerning actions by carrier, claimant's attorney, and/or agent. The proposed amendment places the insurance carrier on notice that it will be deemed unethical or fraudulent conduct to controvert a claim for compensation, when evidence clearly indicates compensability.

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

Mr. Treacy also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is a prompter payment of weekly compensation and medical benefits. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to William Treacy, Executive Director, Industrial Accident Board, 200 East Riverside Drive, First Floor, Austin, Texas 78704, within 20 days from the date of publication in the *Texas Register*.

The amendment is proposed under Texas Civil Statutes, Article 8307, §4, which provide the Industrial Accident Board with authority to promulgate rules.

**.020. Actions by Carrier, Claimant's Attorney, and/or Agent.** The following willful acts shall be deemed unethical or fraudulent conduct by the board:

- (1) Carrier representatives:
  - (A)-(U) (No change.)
  - (V) controverting claims when evidence clearly indicates compensability.
- (2) (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 July 16, 1985.

TRD-856365 William Treacy  
Executive Director  
Industrial Accident  
Board

Earliest possible date of adoption:  
August 26, 1985  
For further information, please call  
(512) 448-7982.

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**TITLE 34. PUBLIC FINANCE**

**Part. I. Comptroller of Public Accounts**

**Chapter 3. Tax Administration Subchapter L. Motor Fuels Tax**

★ **34 TAC §3.178**

The Comptroller of Public Accounts proposes an amendment to §3.178, concerning trip permit in lieu of interstate trucker permit. The purpose of the amendment is to increase the fuel supply tank capacity from 42 to 60 gallons, as adopted by the legislature. This change is effective August 26, 1985

Billy Hamilton, director of revenue estimating for the comptroller, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. This rule is promulgated under Title 2 of the Tax Code, and no statement of the fiscal implications for small businesses is required.

Mr. Hamilton also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is provision of new information regarding tax responsibilities under changes made by the legislature. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to D. Carolyn Busch, Director, Tax Administration, P.O. Box 13528, Austin, Texas 78711.

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

**§3.178. Trip Permit in Lieu of Interstate Trucking Permit.**

(a) Who may qualify. A person entering Texas for commercial purposes with a gasoline or diesel powered motor vehicle having a fuel tank capacity of 60 [42] gallons or more may purchase a temporary trip permit in lieu of the required interstate trucker permit if no more than five entries into the state are made during a calendar year.

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

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

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

TRD-856524      Bob Bullock  
                         Comptroller of Public  
                         Accounts

Earliest possible date of adoption:  
August 26, 1985  
For further information, please call  
(512) 475-1913.

★            ★            ★

**Subchapter S. Interstate Motor Carrier Sales and Use**

**★ 34 TAC §3.444**

The Comptroller of Public Accounts proposes an amendment to §3.444, concerning computation of the proportioned tax—interstate motor vehicles. The purpose of this amendment is to change the fuel supply tank capacity from 42 to 60 gallons. This change is due to motor fuel tax legislation that becomes effective August 26, 1985. The change is necessary to maintain uniformity in record keeping for both the interstate motor carrier tax as well as the fuels tax.

Billy Hamilton, director of revenue estimating for the comptroller, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. This rule is promulgated under Title 2 of the Tax Code, and no statement of the fiscal implications for small businesses is required.

Mr. Hamilton also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is provision of new information regarding tax responsibilities under changes made by the legislature. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to D. Carolyn Busch, Director, Tax Administration, P.O. Box 13528, Austin, Texas 78711.

This amendment is proposed under the Texas Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the interstate motor carrier sales and use tax.

**§3.444. Computation of the Proportioned Tax—Interstate Motor Vehicles.**

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

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

(6) Interstate commercial motor vehicle—A motor vehicle other than a motorcycle or passenger car which:

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

(C) has fuel supply tanks of 60 [42] gallons or more; or

(D) (No change.)

(7)-(9) (No change.)

(b)-(c) (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 July 22, 1985.

TRD-856525      Bob Bullock  
                         Comptroller of Public  
                         Accounts

Earliest possible date of adoption:  
August 26, 1985  
For further information, please call  
(512) 475-1913.

★            ★            ★

**★ 34 TAC §3.445**

The Comptroller of Public Accounts proposes an amendment to §3.445, concerning computation of the proportioned tax—trailers and semitrailers. The purpose of this amendment is to change the fuel supply tank capacity from 42 to 60 gallons. This change is due to motor fuel tax legislation that becomes effective August 26, 1985. The change is necessary to maintain uniformity in record keeping for both the interstate motor carrier tax as well as the fuels tax.

Billy Hamilton, director of revenue estimating for the comptroller, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. This rule is promulgated under Title 2 of the Tax Code, and no statement of the fiscal implications for small businesses is required.

Mr. Hamilton also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is provision of new information regarding tax responsibilities under changes made by the legislature. There is no anticipated

economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to D. Carolyn Busch, Director, Tax Administration, P.O. Box 13528, Austin, Texas 78711.

This amendment is proposed under the Texas Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the interstate motor carrier sales and use tax.

**§3.445. Computation of the Proportioned Tax—Trailers and Semitrailers.**

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

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

(6) Interstate commercial motor vehicle—A motor vehicle other than a motorcycle or passenger car which:

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

(C) has fuel supply tanks of 60 [42] gallons or more; or

(D) (No change.)

(7)-(10) (No change.)

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

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

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

TRD-856526      Bob Bullock  
                         Comptroller of Public  
                         Accounts

Earliest possible date of adoption:  
August 26, 1985  
For further information, please call  
(512) 475-1913.

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**TITLE 40. SOCIAL SERVICES AND ASSISTANCE**

**Part I. Texas Department of Human Resources**

**Chapter 3. Income Assistance Services**

**Subchapter D. Expedited Services**

**★ 40 TAC §3.403**

The Texas Department of Human Resources (DHR) proposes an amendment to §3.403, concerning income assistance services. The amendment results from the Omnibus Hunger Act of 1985, enacted by the Texas Legislature in May. This Act requires DHR to provide priority service to food stamp applicants.

who are in dire need of food assistance. Section 3.403 is amended to specify that DHR must provide benefits on the same day as application to clients in immediate need of food.

Clifton Martin, Associate Commissioner for Programs, 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 estimated cost to state government will be \$651,993 in fiscal year 1986, \$656,073 in fiscal year 1987, \$660,359 in fiscal year 1988, \$664,856 in fiscal year 1989, and \$669,578 in fiscal year 1990. There are no fiscal implications for units of local government or small businesses.

Mr. Martin also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be quicker delivery of food stamps to households needing food immediately. 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 Cathy Rossberg, Administrator, Policy Development Support Division—409, Texas Department of Human Resources, 153-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in this Register.

The amendment is proposed under the Human Resources Code, Title 2, Chapter 31, which authorizes the department to administer public assistance programs.

**§3.403. Time Limits.** The Texas Department of Human Resources must provide food stamp benefits for households eligible for expedited services according to the processing standards stipulated in 7 Code of Federal Regulations §273.2(i)(3). **Exception:** Rather than providing benefits within five days after the application date as stipulated in §273.2(i)(3)(i), DHR provides benefits for households referenced in §273.2(i)(3)(i) in immediate need of food by close of business on the date of application.

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 July 22, 1985.

TRD-856542

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Resources

Earliest possible date of adoption:  
August 26, 1985  
For further information, please call  
(512) 450-3766.

★ ★ ★

**TITLE 43.**  
**TRANSPORTATION**  
**Part I. State Department of**  
**Highways and Public**  
**Transportation**  
**Chapter 25. Maintenance**  
**Division**  
**Oversize-Overweight Permits for**  
**Unladen Lift Equipment Motor**  
**Vehicles**

★43 TAC §25.201, §25.202

*(Editor's note: The State Department of Highways and Public Transportation proposes for permanent adoption the new sections it adopts on an emergency basis in this issue. The text of the new sections is published in the Emergency Rules section of this issue.)*

The State Department of Highways and Public Transportation proposes new §25.201 and §25.202, concerning the issuance of oversize-overweight permits for unladen lift equipment motor vehicles. House Bill 2496, 69th Legislature, 1985, specifically requires the department to establish rules, set permit fees, and determine maximum permit weights for the movement of oversize-overweight unladen lift equipment motor vehicles.

Milton Dietert, Safety and Maintenance Operations chief engineer, 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.

The effect on state government for the first five-year period the rules will be in effect is an estimated increase in revenue of \$1.84 million of each year from 1986-1990.

Mr. Dietert, 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 uniform issuance of oversize-overweight permits for extended periods of time for unladen lift equipment motor vehicles, thus controlling the movement route for these vehicles which will protect the public investment in the highway system. The possible economic cost to individuals who are required to comply with the rules as proposed is not predictable because the department is unable to calculate the number of permits that will be issued under this new procedure.

Comments on the proposal may be submitted to Milton Dietert, Chief Engineer, Safety and Maintenance Operations Division, 11th and Brazos Streets, Austin, Texas 78701.

The new section is proposed under Texas Civil Statutes, Article 6666, and House Bill 2496, 69th Legislature, 1985, which provide the State Highway and Public Transportation Commission with the authority to establish rules, fees, and axle weight for the issuance of oversize-overweight permits for the movement of unladen lift equipment motor vehicles.

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 July 22, 1985.

TRD-856539

Diane L. Northam  
Administrative  
Technician  
State Department of  
Highways and  
Transportation

Earliest possible date of adoption:  
September 26, 1985  
For further information, please call  
(512) 475-2141.

★ ★ ★



# Withdrawn

## Rules

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

### TITLE 4. AGRICULTURE Part IV. State Entomologist Chapter 71. Bees Quarantines

#### ★4 TAC §71.31

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed amendments to §71.31, submitted by the State Entomologist, have been automatically withdrawn, effective July 19, 1985. The amendments as proposed appeared in the January 18, 1985, issue of the *Texas Register* (10 TexReg 198).

TRD-856593  
Filed: July 19, 1985

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### TITLE 25. HEALTH SERVICES Part I. Texas Department of Health Chapter 73. Laboratories Serologic Testing

#### ★25 TAC §73.11

The Texas Department of Health has withdrawn the emergency adoption of new §73.11, concerning serologic testing for antibodies to human T-cell lymphotropic virus, type III (HTLV-III). The text of the new section originally was published in the March 26, 1985, issue of the *Texas Register* (10 TexReg 1011).

Issued in Austin, Texas, on July 22, 1985

TRD-856532

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

Filed: July 22, 1985  
For further information, please call  
(512) 458-7236.

★ ★ ★

### TITLE 40. SOCIAL SERVICES AND ASSISTANCE Part I. Texas Department of Human Resources Chapter 35. Pharmacy Services Subchapter J. Texas Drug Code Index—Additions, Retentions, and Deletions

#### ★40 TAC §35.902, §35.904

The Texas Department of Human Resources has withdrawn from consideration for permanent adoption proposed amendments to §35.902 and §35.904, concerning review and evaluation and the retention and deletion of drugs. The text of the amended sections as proposed appeared in the January 22, 1985, issue of the *Texas Register* (10 TexReg 239).

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

TRD-856446

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Resources

Filed: July 19, 1985  
For further information, please call  
(512) 450-3766.

★ ★ ★

# 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 7. BANKING AND SECURITIES

### Part IV. Texas Savings and Loan Department

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

##### ★ 7 TAC §64.1

The Texas Savings and Loan Department adopts new §64.1, without changes to the proposed text published in the May 7, 1985, issue of the *Texas Register* (10 Tex-Reg 1385).

This section requires the appropriate location of books of account for associations to facilitate examinations and audits of an association.

The section provides that transactions subject to examinations and audits by the Savings and Loan Department be maintained in one central location for these examination purposes.

No comments were received regarding adoption of the new section.

This new section is adopted pursuant to Texas Civil Statutes, Article 342-114, which provide the Texas Savings and Loan Department with the authority to promulgate general rules and regulations not inconsistent with the constitution and statutes of this state and, from time to time, to amend the same.

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 July 18, 1985.

TRD-856470

L. L. Bowman III  
Commissioner  
Texas Savings and Loan  
Department

Effective date: August 9, 1985  
Proposal publication date: May 7, 1985  
For further information, please call  
(512) 479-1250.

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##### ★ 7 TAC §64.2

The Texas Savings and Loan Department adopts new §64.2, without changes to the proposed text published in the May 7, 1985, issue of the *Texas Register* (10 Tex-Reg 1385).

The section allows the commissioner to require that state-chartered associations observe sound accounting practices, thus promoting the sound operation of associations regulated by the Savings and Loan Department.

The commissioner may require, through appropriate notice to associations, that certain accounting practices be followed by state-chartered associations.

No comments were received regarding adoption of the new section.

This new section is adopted pursuant to Texas Civil Statutes, Article 342-114, which provide the Texas Savings and Loan Department with the authority to promulgate general rules and regulations not inconsistent with the constitution and statutes of this state and, from time to time, to amend the same.

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 July 18, 1985.

TRD-856471

L. L. Bowman III  
Commissioner  
Texas Savings and Loan  
Department

Effective date: August 9, 1985  
Proposal publication date: May 7, 1985  
For further information, please call  
(512) 479-1250

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##### ★ 7 TAC §64.3

The Texas Savings and Loan Department adopts new §64.3, without changes to the proposed text published in the May 7, 1985, issue of the *Texas Register* (10 Tex-Reg 1085).

This section allows savings and loan associations to microfilm or copy rec-

ords. If proper copies are made, the originals may be destroyed, thus promoting the overall efficiency of the daily business activities of the associations.

Associations may microfilm their records, and if proper copies are made, the association may destroy the original.

No comments were received regarding adoption of the new section.

This new section is adopted pursuant to Texas Civil Statutes, Article 342-114, which provide the Texas Savings and Loan Department with the authority to promulgate general rules and regulations not inconsistent with the constitution and statutes of this state and, from time to time, to amend the same.

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 July 18, 1985.

TRD-856472

L. L. Bowman III  
Commissioner  
Texas Savings and Loan  
Department

Effective date: August 9, 1985  
Proposal publication date: May 7, 1985  
For further information, please call  
(512) 479-1250.

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##### ★ 7 TAC §64.4

The Texas Savings and Loan Department adopts new §64.4, without changes to the proposed text published in the May 7, 1985, issue of the *Texas Register* (10 Tex-Reg 1386).

The section requires annual publication of financial statements, which affords the public proper notice of the financial condition of savings and loan associations under the department's jurisdiction.

Each association will give public notice of its financial condition in newspapers of general circulation in the county in which the home office of the association is located on an annual basis.

No comments were received regarding adoption of the new section.

This new section is adopted pursuant to Texas Civil Statutes, Article 342-114, which provide the Texas Savings and Loan Department with the authority to promulgate general rules and regulations not inconsistent with the constitution and statutes of this state and, from time to time, to amend the same.

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 July 18, 1985.

TRD-856473

L. L. Bowman III  
Commissioner  
Texas Savings and Loan  
Department

Effective date: August 9, 1985  
Proposal publication date: May 7, 1985  
For further information, please call  
(512) 479-1250.

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### ★ 7 TAC §64.5

The Texas Savings and Loan Department adopts new §64.5, without changes to the proposed text published in the May 7, 1985, issue of the *Texas Register* (10 Tex-Reg 1386).

The section requires that associations not engage in any device of bookkeeping which results in an entry which is not descriptive of the transaction. This requirement enhances the sound regulation of associations by the Texas Savings and Loan Department.

The section acts to prohibit possible inaccurate or misleading accounting practices of savings and loan associations

No comments were received regarding adoption of the new section.

This new section is adopted pursuant to Texas Civil Statutes, Article 342-114, which provide the Texas Savings and Loan Department with the authority to promulgate general rules and regulations not inconsistent with the constitution and statutes of this state and, from time to time, to amend the same.

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 July 18, 1985

TRD-856474

L. L. Bowman III  
Commissioner  
Texas Savings and Loan  
Department

Effective date: August 9, 1985  
Proposal publication date: May 7, 1985  
For further information, please call  
(512) 479-1250.

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### ★ 7 TAC §64.6

The Texas Savings and Loan Department adopts new §64.6, without changes to the proposed text published in the May 7, 1985, issue of the *Texas Register* (10 Tex-Reg 1387).

The commissioner may order that an association account properly on its books for depreciated or overvalued assets, which helps insure that savings institutions in Texas are operated in a sound manner.

The commissioner may order that assets which have depreciated in value or are overstated in value be charged off or a special reserve be set up for the value of the depreciated or overstated asset by transfers from surplus or from the paid in capital account.

No comments were received regarding adoption of the new section.

This new section is adopted pursuant to Texas Civil Statutes, Article 342-114, which provide the Texas Savings and Loan Department with the authority to promulgate general rules and regulations not inconsistent with the constitution and statutes of this state and, from time to time, to amend the same.

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 July 18, 1985.

TRD-856475

L. L. Bowman III  
Commissioner  
Texas Savings and Loan  
Department

Effective date: August 9, 1985  
Proposal publication date: May 7, 1985  
For further information, please call  
(512) 479-1250.

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## TITLE 19. EDUCATION

### Part I. Coordinating Board, Texas College and University System

#### Chapter 25. Administrative Council

##### Subchapter B. Administration of the Texas State College and University Employees Uniform Insurance Benefits Program

### ★ 19 TAC §§25.32-25.34, 25.36, 25.49-25.51

The Administrative Council of the Coordinating Board, Texas College and University System adopts amendments to §§25.32-25.34, 25.36, and 25.49-25.51, without changes to the proposed text

published in the June 4, 1985, issue of the *Texas Register* (10 TexReg 1779).

These amendments provide the means to curb increases in medical insurance by permitting institutions the flexibility to design health benefit plans around local conditions.

These amendments permit colleges and universities the flexibility in designing insurance benefit plans while maintaining overall comparability with benefits provided state employees, change the bidding requirement from four to six years; require institutions to provide an optional health plan at no cost to the employee if the basic plan exceeds the amount appropriated by the legislature for each employee; permit institutions to deduct from the monthly compensation of the employee up to 1/2 of the amount that exceeds the appropriated amount if the employee chooses the basic plan; clarify that employees may use the difference between the basic plan premium and the state's contribution for any optional coverage purchased by the employee; and clarify that institutions must appropriate from nonappropriated funds for employees not paid from the Appropriations Act the same amount appropriated by the legislature for insurance

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Insurance Code, Article 3.50-3, which provides the Administrative Council with the authority to adopt rules and regulations consistent with the provisions of the Act to carry out its statutory responsibilities.

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 July 15, 1985.

TRD-856384

James McWhorter  
Executive Secretary  
Coordinating Board,  
Texas College and  
University System

Effective date: August 7, 1985  
Proposal publication date: June 4, 1985  
For further information, please call  
(512) 475-2033

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## Part II. Texas Education Agency

### Chapter 77. Comprehensive Instruction

#### Subchapter R. Bilingual Education and Other Special Language Programs

### ★ 19 TAC §77.362

The Texas Education Agency adopts the repeal of §77.362, without changes to the

proposed text published in the May 24, 1985, issue of the *Texas Register* (10 Tex-Reg 1659).

House Bill 72, Acts of the 68th Legislature, Second Called Session, 1984 changed the formula for an annual allotment to districts for bilingual education and special language programs from a per pupil allocation to an amount based on the adjusted basic allotment multiplied by 0.1. The provisions of §77.362 are, therefore, obsolete and have been repealed.

Provisions for funding of bilingual education are now contained in new §77.362, concerning bilingual education allotment.

No comments were received regarding adoption of the repeal.

This repeal is adopted under the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for the administration of the Foundation School Program; and the Texas Education Code, §16.153, which provides for allocations for bilingual education and special language programs.

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

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

TRD-856518      W. N. Kirby  
Commissioner of  
Education

Effective date: August 9, 1985  
Proposal publication date: May 24, 1985  
For further information, please call  
(512) 475-7077

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The Texas Education Agency adopts new §77.362, without changes to the proposed text published in the May 24, 1985, issue of the *Texas Register* (10 TexReg 1659).

House Bill 72, Acts of the 68th Legislature, Second Called Session, 1984, changed the formula for an annual allotment to districts for bilingual education and special language programs from a per pupil allocation to an amount based on the adjusted basic allotment multiplied by 0.1.

Districts are allowed to use up to 15% of the funds allocated for general administrative costs, but they may not exceed the program's actual share of general administrative costs. Districts are permitted to compensate bilingual education and English (as a second language) teachers for participating in continuing education programs designed to improve their skills and/or to lead to certification. School districts must request entitlements on a form approved by the commissioner of ed-

ucation and must report expenditures by program and campus.

No comments were received regarding adoption of the new section.

This new section is adopted under the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for the administration of the Foundation School Program; and the Texas Education Code, §16.153, which provides for allocations for bilingual education and special language programs

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

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

TRD-856519      W. N. Kirby  
Commissioner of  
Education

Effective date: August 9, 1985  
Proposal publication date: May 24, 1985  
For further information, please call  
(512) 475-7077.

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## Chapter 78. Occupational Education and Technology Subchapter D. Secondary School Vocational Education Vocational Students

### ★ 19 TAC §78.103

The Texas Education Agency adopts an amendment to §78.103, without changes to the proposed text published in the May 21, 1985, issue of the *Texas Register* (10 TexReg 1604).

The Advisory Council for Technical-Vocational Education in Texas recommended changing the requirement that students in cooperative education programs be employed for 15 hours per school week. The council recommended that the number of hours be reduced to 10 hours during the school week, with the remaining 5 of the 15 hours per week earned either during or outside of the school week, because of the increase in academic requirements which students must meet.

For students in cooperative education programs, at least 10 of the required 15 hours of employment must be during the school week. The remaining five hours per week may be either during or outside of the school week. This change is effective beginning with the 1985-1986 school year.

No comments were received regarding adoption of the amendment.

This amendment is adopted under the authority of the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for the

implementation of the Foundation School Program; and §16.155, which makes vocational education a part of the Foundation School Program.

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 July 17, 1985.

TRD-856369      W. N. Kirby  
Commissioner of  
Education

Effective date: August 7, 1985  
Proposal publication date: May 21, 1985  
For further information, please call  
(512) 475-7077.

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

### ★ 19 TAC §125.61

The Texas Education Agency adopts the repeal of §125.61, without changes to the proposed text published in the May 21, 1985, issue of the *Texas Register* (10 Tex-Reg 1605).

Section 125.61 concerned the adoption by reference of the *Guide for Determining Indirect Cost Rates for Federal Grants and Contracts*. These provisions are now contained in another section of the Texas Administrative Code. To avoid duplication, §125.61 has been repealed.

Directions to school districts for determining indirect cost rates for federal grants and contracts are now included in the Texas Education Agency's Bulletin 679, Financial Accounting Manual.

No comments were received regarding adoption of the repeal.

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

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 July 17, 1985.

TRD-856370      W. N. Kirby  
Commissioner of  
Education

Effective date: August 7, 1985  
Proposal publication date: May 21, 1985  
For further information, please call  
(512) 475-7077.

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## TITLE 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 73. Laboratories Serologic Testing

##### ★ 25 TAC §73.11

The Texas Department of Health adopts new §73.11, without changes to the proposed text published in the June 7, 1985, issue of the *Texas Register* (10 TexReg 1851).

The rule will authorize the department to assist in reducing the public health hazards posed by acquired immunodeficiency syndrome (AIDS) and to reduce the cost of the program to the State of Texas by charging fees for testing.

The new section will authorize the department's laboratory to provide serologic testing for the detection of antibodies to HTLV-III, the virus which may cause AIDS. The new section also will authorize the department to charge fees for the testing, depending on the cost of the reagents.

No comments were received regarding adoption of the new rule.

The new section is adopted under Texas Civil Statutes, Article 4114c, §2, which provide the Texas Board of Health with the authority to charge fees to persons who receive public health services from the department.

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

Issued in Austin, Texas, on July 22, 1985

TRD-856533      Robert A. MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of  
Health

Effective date: August 12, 1985  
Proposed publication date: June 7, 1985  
For further information, please call  
(512) 458-7318.

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## TITLE 28. INSURANCE

### Part I. State Board of Insurance

#### Prohibited Practices by Insurers Subject to the Insurance Code, Article 5.26

##### ★ 059.05.26.103, .104

The State Board of Insurance adopts Rules 059.05.26.103 and .104, with changes to the proposed text published

in the January 18, 1985, issue of the *Texas Register* (10 TexReg 200).

These rules are adopted to rectify the situation whereby certain regulated insurers have circumvented or avoided the effect of the mandatory rating laws of the Insurance Code, Chapter 5, Subchapter C, through the use of, control of, or other sorts of arrangements with insurers such as lloyds and reciprocal exchanges whose rates are not regulated. These rules are also adopted to deal with unfair discrimination among policyholders of fire and multi-peril insurance which has resulted from the use of the arrangements described. The rules hereby adopted are a clarification or interpretation of the rules under Board Order 45913 (Rules 059.05.26.101 and .102), dated December 4, 1984, which were adopted as non-substantive amendments to Board Order 26043 (corrected), dated November 14, 1973.

Certain persons and organizations offered comments on the rules. Summaries of their comments follows. In most instances, the summary is followed by the agency's response to the comments received.

Commenters made general observations concerning the serious problems facing the insurance industry at the present time including, among others, increased numbers of insolvencies, constriction of the reinsurance market, unavailability of insurance, companies being underreserved, and capacity shortages. The proponents and opponents of the rules differed in their opinions as to whether or not the rules are proper means to alleviate some of the problems. Several of the opponents urged the board to take some action but not necessarily through adoption of these rules.

The board agrees with the proponents that these rules are a necessary and proper step toward solving the present problems in the insurance industry, and many of the industry's problems have been exacerbated by the practices which are prohibited by these rules.

Another commenter stated that the rules are necessary to restore and maintain the integrity of the rate-regulated system and to help avoid further insolvencies in the property and casualty insurance industry in Texas. Such insolvencies are threatened in large part by excessive competition at inadequate premium rates which competition has arisen from regulated insurers' attempts to circumvent the rating laws through the use of affiliated nonregulated insurers. The result is that 45% or more of the commercial property and casualty business in Texas is being written at nonregulated rates.

Further comments were that the rules are necessary to avoid unjust discrimination in rates between small and large commercial insurance purchasers. The large

commercial purchasers are able to obtain very low premium rates through affiliated nonregulated insurers. The small commercial purchaser's business is not sufficiently lucrative to attract an affiliated nonregulated insurer, which results in the small purchaser's being restricted to considerably higher rates.

Another commenter stated that the rules are necessary to prohibit insurers from doing indirectly that which they may not do directly.

It was stated that regulated rates published by the board are skewed because the statistical data of the nonregulated insurers (which write a substantial portion of commercial property and casualty business) is excluded from consideration in the rate-making process.

Some commenters felt that the rules constitute an unwarranted and impermissible restraint on competition by prohibiting the affiliated non-regulated insurers from offering lower-than-manual rates.

The board disagrees with the comment and is of the opinion that the rules do not affect the competition in the insurance business which is allowed by the legislature's exclusion of certain types of insurers from rate regulation. Nonaffiliated, nonregulated insurers will continue to be free of rate regulation following adoption of these rules, unless they enter into transactions with regulated insurers which enable the regulated insurer directly or indirectly to insure risks at lower rates than otherwise permissible. The rules are designed not to restrain competition but to keep the regulated companies within the rating scheme where the legislature has placed them.

Additionally, it was stated that the rules will have an adverse effect on agri-business insurance customers in that their insurance, which is presently being written in affiliated nonregulated insurers, will be shifted to the independent lloyds (some of whom are of questionable financial soundness) and to regulated companies with Class C deviations. Agents who have been placing this type business through affiliated nonregulated insurers will be hardpressed to compete with agents representing regulated companies with Class C deviations.

While the board recognizes that certain groups may be placed at a disadvantage because of the adoption of any restrictive requirements of law such as these, the board's duty is to follow the law by preserving the general scheme of rate making that the legislature has devised. What competitive advantages may have been previously obtained were a result of unlawful circumvention of the rating scheme.

Others felt that unless the rules cover nonadmitted carriers, they will have an adverse effect on Texas insurance agents

and insureds. The rules will cause the business that is presently written in the affiliated nonregulated insurers to be shifted to nonadmitted carriers, and Texas agents will be harmed because of the prohibition against placing business with a nonadmitted carrier (who might offer lower rates than the regulated rates) if the insurance is procurable from an admitted carrier, regardless of price. Texas insureds who obtain insurance from a nonadmitted carrier will not be protected by the Texas guaranty fund.

The board agrees that these are matters of concern, but the restriction on Texas agents and the scope of protection under the guaranty fund are provided by statute. These rules simply define what a regulated insurer may not do in order to circumvent the rating laws.

It also was felt that adoption of the rules will result in higher premiums being paid by the purchasers of insurance represented by Mr. Dodds and Mr. Niemann.

The board notes that large commercial purchasers of insurance have enjoyed unusually low premium rates offered by nonregulated insurers involved in regulated insurers' stratagems from avoiding the mandatory rating laws. Small commercial insurance purchasers have had no access to comparable rates. While the board recognizes that price advantages may appropriately accrue through efficiency because of size, it believes such advantages are available through the rate-regulated system to provide for adequate rates to protect all of the public generally, and the statutes prohibit unjust discrimination.

Others felt that the rules as published have the effect of prohibiting certain reinsurance transactions involving nonregulated, nonaffiliated insurers which are legitimate and proper.

The board revised the rules to provide an opportunity, through the use of a rebuttable presumption, to demonstrate that the regulated insurer involved is in compliance with the applicable rate statutes.

It was stated that the rules will restrict the ability of nonregulated insurers to obtain reinsurance, which they are required by statute to obtain.

The board recognizes that the rules may have a restricting effect, but this is so only when the nonregulated insurer charges less for insurance than the regulated insurer is allowed to charge where an affiliation exists. Nonregulated insurers will have the same reinsurance market as the regulated insurer by charging the rates that the regulated insurer is permitted to charge. The published rules were changed in part to alleviate the situation addressed by these comments.

The comment was received that the problems of the Texas insurance industry are not the result of the affiliation of regulated and nonregulated insurers. Low

rates charged by regulated companies with deviations have caused the problems.

The board disagrees with the first portion of the comment and is of the opinion that such affiliations have been detrimental when they have had the purpose and effect of contravening the rating laws. The board's intent is to enforce legislative mandates with regard to rate regulation which includes deviations.

It also was felt that the rules will take away the flexibility of the nonregulated insurers to charge rates higher or lower than regulated rates.

The board notes that the rules are designed to prevent regulated insurers from violating the rating laws. The rules are not directed to nonregulated insurers and affect them only when they enter into transactions with regulated insurers which have the purpose and effect of the regulated insurers' evading the rating laws.

Additionally, comments were received that the rules are beyond the authority of the board to adopt, in that the board has no rate-making power with regard to nonregulated insurers and no power to regulate reinsurance transactions. The board has only the authority granted it by the legislature in clear and unmistakable terms, which authority must be strictly construed and not extended by implication or inference.

The board is of the opinion that it has been granted broad authority to regulate the insurance business and, in particular, to guard against insolvencies and to regulate rates under the scheme the legislature devised. Where the legislature has granted broad regulatory powers to an administrative agency, the agency has the authority to promulgate rules that are necessary to perform its statutory duty in harmony with, or come within the framework of, the objective of the Act from which its authority is derived. The board is of the opinion that these rules are consistent with the objectives of the Insurance Code. These rules are not adopted to regulate reinsurance or to regulate rates of insurers which are exempt from regulation by statute. The rules are adopted to identify a practice which unlawfully circumvents the rating laws. The board's statutory authority is sufficient to adopt these rules.

It was felt that the rules dictate a finding that the regulated insurer is in violation of the Insurance Code, Article 5.28 and Article 5.41, by having entered into a reinsurance agreement with the nonregulated insurer that sold policies at less than regulated rates. The rules thus establish an unconstitutional presumption of guilt and will be struck down as contrary to due process.

The board disagrees with these comments. Guilt and innocence are not at

issue in connection with these rules, because administrative proceedings are not criminal in nature. Through a series of public hearings, the board has promulgated these rules to identify a fact situation that is subject to the mandatory rating laws. Due process is adequately observed by providing for a hearing at the request of any regulated insurer who desires to show it does not come within the fact situation identified. These rules are simply a product of the board's duty to enforce the rate-regulatory statutes of this state.

As originally published, these rules would limit Mr. Burner's and Will Davis' clients' availability in the reinsurance market to professional reinsurers. Mr. Burner also objected to the prohibition against retrocession.

The board responded to these comments by revising the rules.

It was also felt that the rules are vague and indefinite and fail to give adequate notice of what the violation is.

The board disagrees with these comments and is of the opinion that the rules as adopted adequately define the practice being prohibited.

It was felt that the solution to the problem of the published rates being skewed is to make a statistical call which would include data from the nonregulated insurers.

The board agrees that it will be helpful to study the necessity of making such a statistical call. A statistical call alone would not correct the problem that has resulted from regulated companies' evasion of the rate structure through subterfuge.

Those commenting in favor of the rules were J. W. Arendall, R. B. Ashworth, and Charles Ramsey, representing the State Board of Insurance; Steven Hacker, representing the Professional Insurance Agents of Texas; Don Manthe, the U.S. Insurance Group, owner of Commonwealth Lloyds; Charles E. Roberts, Commercial Union Group, underwriters for Commercial Union Lloyds of Texas; J. D. White, American General Company, Jess Johnson, J. H. Lafaver, and John Richwagen, Professional Insurance Agents of Texas; Wade Spilman, attorney representing Independent Insurance Agents of Texas; and Wallace Cook, independent agent, Dallas.

Those commenting against the rules were Will Davis, attorney, representing Foremost Lloyds, Houston General Lloyds, Reliance Lloyds, and Ranger Lloyds; Larry Niemann, attorney, representing Texas Apartment Association, Inc., and Texas Building Owners and Managers Association; Lewis Plast, State Farm Lloyds of Texas; W. E. Gane Taylor, John F. Sullivan Company; Bill Morrison, Producer's Exchange, Inc., and Texas Agricultural Cooperative Council;

Paul Roberts, Insurance Services, Inc.; Brian Davis, attorney, representing Texas Apartment Association, Inc., Texas Association of Builders, Inc.; and Texas Building Owners and Managers Association, Inc.; Bill Hertel, Texas National Agency; Dennis Harper, Ordway-Saunders Company; Hilton Hilliard, Professional Insurance Agents of Texas, James Dodds, Texas Association of Builders, Mindy Pollack, general counsel, Reinsurance Association of America; W. E. Gene Taylor, John F. Sullivan Company; Burnie Burner, attorney, representing Texas Association of Independent Lloyds; and Don Ehrlich, Colonial Lloyds

The following persons also offered comments to the effect that the board is without authority to adopt these rules: Burnie Burner, attorney, representing Texas Association of Independent Lloyds, Brian Davis, attorney, representing Texas Apartment Association, Inc., Texas Association of Builders, Inc., and Texas Building Owners and Managers Association, Inc., and Larry Niemann, attorney, representing Texas Apartment Association, Inc., and Texas Building Owners and Managers Association, Inc

These rules are a necessary and proper step toward solving the present problems in the insurance industry, and many of the industry's problems have been exacerbated by the practices which are prohibited by these rules

These new rules are adopted under the Insurance Code, Article 110(1), which requires the board to see that all laws respecting insurance and insurance companies are faithfully executed; Article 1.15-1 19, which requires the board to examine all insurance companies with respect to financial condition, ability to meet liabilities and compliance with laws affecting conduct of their business; Article 1 32, which empowers the board to promulgate rules and regulations pertaining to hazardous financial condition of insurers, Article 5 25, which requires the board to prescribe, fix, determine and promulgate premium rates for fire insurance companies transacting business in Texas, Article 5.26, which provides that maximum premium rate of companies transacting fire insurance business in Texas are to be exclusively fixed, determined and promulgated by the board and which provides for lawful deviations from such maximum rates; Article 5.41, which prohibits rebating and discrimination in the writing of fire insurance business and provides that no rate-regulated company shall knowingly write fire insurance at a lesser rate than the rates provided for in Chapter 5, Subchapter C; Article 5.75-1, which prohibits reinsurance of the entire outstanding business of a company writing any line of business regulated by Chapter 5 without approval by the board of the reinsurance contract; Article 5.81, which authorizes multiperil

policies of insurance including fire and allied lines insurance, and authorizes the board to make, approve, and enforce such rules and regulations as in its best judgement are necessary and desirable in carrying out the purposes and objectives of that article; Article 21.21, which regulates trade practices and defines, or provides for the determination by the board of, practices or methods of competition, and which authorizes the board to promulgate and enforce reasonable rules and regulations as necessary in the accomplishment of the purposes of the article; Article 21.28-A, pertaining to insurer delinquencies and prevention of same and, in particular, Article 21 28-A, §1, which states express authority as well as authority implied from context when not expressed, for the board to promulgate rules and regulations as directed in the legislative findings and in the augmentation of the article; and Article 21.29-1, which regulates transactions within an insurance holding company system and empowers the commissioner of insurance to approve or disapprove reinsurance agreements between affiliates; Article 21 49-1, §8, which prohibits an insurer's acting indirectly through an affiliate in a manner the insurer is not permitted to act directly; and Article 21.49-1, §11, which authorizes the board to issue rules and regulations consistent with and to carry out the provisions of the article.

.103. *Purpose and Scope.* These rules address the practice by certain insurers subject to the provisions of the Insurance Code, Article 5.26 (hereinafter referred to as regulated insurers) and other insurers not subject to the provisions of the Insurance Code, Article 5.26 (hereinafter referred to as nonregulated insurers) in entering into accommodative arrangements through the use of contracts or accommodations in respect of guaranty agreements, indemnity agreements, various types of reinsurance agreements, retrocessions, or other types of agreements, combinations thereof or other devices, or through the use of any device designed to avoid or circumvent the restrictions or limitations of a law or laws applicable to insurers. These rules are applicable to fire and allied lines insurance regulated under the Insurance Code, Chapter 5, Subchapter C, and multiperil insurance when a policy adopted under the Insurance Code, Article 5.81, includes fire and allied lines insurance and is effectuated under the procedure specified in the Insurance Code, Chapter 5, Subchapter C. These rules are additional to and cumulative of but not in lieu of any other law.

.104. *Prohibited Practices.* If all or substantial part of the risk covered by an insurance policy issued by a nonregulated insurer directly or indirectly becomes an obligation of or is ceded to a regulated insurer that is an affiliate of such nonregulated insurer and the rate charged by the

nonregulated insurer is less than the lowest rate which may be lawfully charged by such regulated insurer or any regulated insurer affiliate thereof for the same coverage in this state, this constitutes an evasion of the rate regulatory laws applicable to the regulated insurer and the regulated insurer is in violation of the Insurance Code, Article 5.26 and Article 5.41. The term "affiliate," as used herein, is as defined in the Insurance Code, Article 21.49-1, §2(a). Also, for purposes of this rule, a regulated insurer is presumed to be an affiliate of any nonregulated insurer with which it enters into a transaction enabling it directly or indirectly to insure Texas insurance risks through such nonregulated insurer; provided, that this presumption may be rebutted by a showing to the commissioner, at a hearing requested for this purpose, that the regulated insurer is, in fact, in compliance with the Insurance Code, Article 5.26 and Article 5.41, and with any other applicable rate statutes.

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 July 18, 1985.

TRD-856391

James W. Norman  
Chief Clerk  
State Board of  
Insurance

Effective date: August 8, 1985  
Proposal publication date: January 18, 1985  
For further information, please call  
(512) 475-2950.

★ ★ ★

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Resources

#### Chapter 35. Pharmacy Services

##### Subchapter A. Administration

#### ★ 40 TAC §35.2

The Texas Department of Human Resources (DHR) adopts amendments, to §§35.2, 35.609, 35.610, new §35.701, and an amendment to §35.702, with changes to the proposed text as published in the January 22, 1985, issue of the *Texas Register* (10 TexReg 239). Amendments to §§35.401, 35.702, 35.706, 35.709, and §35.806 and the repeal of §35.701 are adopted without changes and will not be republished.

A change was made to §35.2 to delete proposed subsection (f) and renumber the subsequent subsections. The deleted material was not a standard for tape input service bureau companies and is more appropriately addressed as a pro-

cedure in the forms section of the *Pharmacy Provider Handbook*. A change was made to §35.609(b) to delete a phrase which was procedurally obsolete. A change was made to §35.610 to identify a form by its correct title. Changes were made to new §35.701 for clarification, to combine paragraphs (2) and (3) into one policy statement, and to renumber the subsequent paragraphs

Sections 35.902 and 35.904 are withdrawn from consideration for adoption because the type of option the DHR has chosen to implement requires the DHR to retain the current text of these rules.

The amendments and new rule concern reimbursement to pharmaceutical providers for acquisition cost of covered drugs and the proper reporting of prescription price on pharmacy claims. The changes in acquisition cost will achieve more accurate reimbursement for the drug portion of claims paid to pharmacy providers and reduce dependence on published average wholesale prices as a basis for Medicaid reimbursement. The changes in proper reporting of prescription price will simplify the pharmacy claims submittal process for pharmacy providers by enabling them to utilize their usual and customary pricing policies in determining prices to be billed to the DHR for Medicaid pharmacy claims.

The DHR received both oral and written comments during the 60-day public comment period. The DHR received written comments from 46 individuals and eight groups/associations. The following groups/associations expressed their written opposition to the proposals. Central Texas Pharmaceutical Association; Heart of Texas Pharmaceutical Association; Shamrock Pharmaceutical Association; West Texas Pharmaceutical Association; Eckerd Drug Company, Revco DS, Inc.; and Walgreen Company. The Attorney General of Texas, Medicaid Fraud Control Unit, expressed support for the proposals. The DHR received oral comments at a public hearing held on February 22, 1985. The following groups/associations expressed opposition to the proposals at the hearing: Bexar County Pharmaceutical Association, Big Country Pharmaceutical Association, Cook/Collin/Gray Counties Pharmaceutical Association, Deep East Texas Pharmaceutical Association; National Wholesale Druggists Association; Nortex Pharmaceutical Association; Nueces County Pharmaceutical Association; Service Wholesaler Druggists Association of Texas, Shamrock Pharmaceutical Association; Tarrant County Pharmaceutical Association; Texas Federation of Drug Stores; Texas Pharmaceutical Association; and Eckerd Drug Company. The following is a summary of the comments received and the DHR's response to each comment.

One individual and one association expressed opposition to the proposed amendment to §35.609 and stated that

tape companies should be allowed to price claims since the DHR does not keep up with price changes and to correct prices they know are wrong. The DHR does not agree. The DHR acknowledges that tape service bureaus provide a valuable service to pharmacies by providing pricing information. The pharmacy provider alone, however, is able to determine the usual and customary price for a prescription. For a provider to utilize one pricing basis to establish a prescription price for a non-Medicaid prescription and then allow a tape service bureau to utilize a different pricing basis to establish a prescription price for a Medicaid prescription could easily result in overcharges to the DHR. These overcharges could result in audit exceptions and their attendant monetary liabilities for the pharmacy. The DHR also does not agree that price changes are not current. Price changes are processed weekly as received from manufacturers and through the Redbook Update.

Twenty-four individuals and two associations expressed opposition to the proposed new §35.701 on the basis that discounts earned by a pharmacy belong to the pharmacy as part of its profit factor and should not be considered by the DHR in establishing drug reimbursement levels. Several of the commenters suggested that instead of looking at pharmacies' earned discounts, the DHR should consider the following alternatives: mandate the use of generics and eliminate all new high-priced drugs; have a closed formulary based on therapeutics and competitive bids from drug manufacturers; limit recipients to a 33-day supply of medication per prescription and two prescriptions per month; remove over-the-counter drugs from the Texas Drug Code Index; have drug stamps (similar to food stamps) and apply monetary restrictions to them as needed; implement a monthly dollar limit per prescription; reinstate recipient co-pay, and restrict manufacturers' price increases to the yearly rate of inflation. In addition, one commenter did not oppose or agree with the proposals but did suggest that the DHR could reduce the cost of the program by requiring the use of generic equivalents when possible. The DHR does not agree that discounts should not be taken into consideration in establishing drug reimbursement levels. Discounts are routinely awarded to pharmacies by drug wholesalers. Although the discounts are earned in the sense that there are volume and timely remittance requirements, pharmacies are able to qualify for some level of discount and do, in fact, take advantage of the discount offers. Of the alternatives offered, the DHR cannot mandate the use of generics on Medicaid prescriptions but is planning to increase the use of generics by implementing a maximum allowable cost program for multisource products. In addition, it is not within the DHR's purview to mandate restrictions on the level of price increases which may be

implemented by drug manufacturers. Recipient co-pay cannot be reinstated at this time because of federal restrictions which would make identification of drugs and recipients eligible for co-pay confusing for both recipients and providers. The DHR does not consider the remainder of the alternatives to be cost-effective options at this time.

Eighteen individuals and three associations expressed opposition to new §35.701 on the basis that the proposals were discriminatory to retail pharmacies and could result in reduction or elimination of services to Medicaid recipients. Two of these commenters suggested that manufacturers be required to implement a rebate system for drugs used on Medicaid prescriptions, particularly overpriced patent-protected drugs. The DHR does not agree with these commenters. Recent studies of drug product cost at federal and state levels have revealed that published wholesale price information does not accurately portray true costs for drugs purchased from wholesalers by all levels of the retail pharmacy trade. These proposals are intended to allow the DHR to reimburse more accurately pharmacy providers for the cost of drugs purchased from wholesalers and are not intended to discriminate against retail pharmacy nor to diminish the availability of pharmaceutical services to Medicaid recipients. The DHR also does not agree that the suggestion to implement a manufacturer rebate system is a viable option at this time.

One commenter expressed written opposition to the proposal and stated that the DHR could not determine with accuracy and fairness the estimated acquisition cost to be paid. The DHR does not agree and believes that the wholesale and direct estimated acquisition costs to be paid will be fair to all pharmacy providers and will accurately portray costs for purchases from wholesalers and directly from manufacturers.

One individual and one group expressed opposition to §35.701 on the basis that the DHR already uses actual acquisition cost in the dispensing fee methodology when computing the net profit margin, and this proposal would take earned discounts without a compensating increase in the fee. The DHR does not agree with these commenters. The DHR desires to reimburse pharmacists on the basis of true cost principles which reflect the dispensing and drug costs which pharmacists actually incur. Discounts are considered in the dispensing fee methodology according to accepted accounting principles to determine a true net profit margin to be used in reimbursing pharmacists for dispensing costs. This proposal will enable the DHR to reimburse more accurately for drug costs which are incurred.

Three commenters expressed opposition to the proposals and stated that the DHR



should instead pay all pharmacy providers their usual and customary price. The DHR does not agree because federal regulations clearly state that Medicaid drug programs must pay for drugs on the basis of the lower of estimated acquisition cost plus the dispensing fee or usual and customary price.

One commenter expressed conditional support for the provision of §35.701 that would reimburse direct estimated acquisition cost only for select manufacturers. The commenter stated support for this provision if the dispensing fee were increased. Another commenter stated this provision was unfair to small pharmacies unless drug chains were forced to bill direct for warehouse purchases. One group expressed opposition to the provision on the basis that federal regulations address package size only as it relates to all providers and not to an individual provider. The DHR does not agree that this provision should be removed. Drug cost is a factor of prescription reimbursement and is separate from the dispensing fee. Reimbursement for drugs on a direct price basis only does not dictate an increase in the dispensing fee, though the DHR does agree that the dispensing fee must be reviewed to ensure its adequacy when the estimated acquisition cost is implemented. The issue that drug chains be required to bill direct for warehouse purchases was included in the rule proposal and in this adopted rule. The DHR also does not agree that federal regulations preclude consideration of package size as it relates to purchases by individual providers.

Three groups opposed §35.701 and suggested that the DHR delay implementation of this section until more complete data were available. The DHR does not agree. Though the DHR data was incomplete at the time these proposals were published, the data are now complete and supports the DHR's approach in estimating acquisition cost.

Three groups also suggested that the DHR institute a generic substitution incentive as a cost saving device. One of these groups also suggested that the DHR explore a pilot study on the utilization of drug vouchers. The DHR does not agree with these suggestions and does not believe these options to be cost-effective at this time.

One association objected to the redefinition of acquisition cost in §35.401 as estimated acquisition cost on the basis that such a definition was not consistent with the Texas Pharmacy Act, §40—Generic Substitution, which it believes allows pharmacists to charge costs of additional services. The DHR does not agree with this objection. Estimated acquisition cost applies to the reimbursement of cost of drugs dispensed and not to any costs of service related to the dispensing. One association objected to the requirement in §35.609 that tape service bureaus may

not determine the price of prescription claims nor change the usual and customary price as supplied by the contracted provider. One individual commented that he could surmount the submission of usual and customary price on all claims if the tape service bureau was permitted to price his claims. The DHR does not agree with these commenters, as stated in its earlier response to objections to this rule.

One association objected to the requirement in §35.610 that claims for compounded prescriptions must be submitted to the DHR's regional pharmacists for review before payment. The DHR does not agree with this objection. All compounded prescriptions are currently reviewed on a post-payment basis and there is no additional jeopardy incurred by providers as a result of prior review.

Four associations objected to new §35.701 on the basis that discounts on purchases from wholesalers are routine, but are not automatic, and requiring pharmacies to give those discounts up on Medicaid prescriptions would likely result in many pharmacies dropping out of the drug program. One of these associations stated the DHR should address its budgetary problem specifically but not apply specific remedies to all drugs. In addition, one association objected to the proposal and stated these actions could affect the competitiveness of the wholesale industry, particularly smaller wholesalers and those in high cost areas, with resultant effects on smaller pharmacies. Five individuals and five associations objected to the rule on the basis that program reimbursements are at less than usual and customary price and earned discounts must be kept or an economic hardship would result, with withdrawal from the program a possible consequence. One of these individuals and one of these associations stated that the DHR should instead pursue alternatives such as insisting on the use of generics, competitive bidding by manufacturers of multisource products, rebates from manufacturers, the discontinuance of over-the-counter drug reimbursement, decreasing drug waste, and avoiding the entire issue at this time. An additional individual and association agreed that the competitive bid and rebate alternatives should be pursued by the DHR rather than the published proposals. In addition, one individual and three groups/associations agreed that the proposals should be delayed on the basis that there either was no federal mandate to implement now or there was no need adequately studied and shown at this time. The DHR does not agree that discounts should not be taken into consideration in establishing drug reimbursement levels, as stated in its earlier response to objections to this rule. Of the alternatives offered, only decreasing drug waste was not previously addressed. The DHR does not agree with this alternative, having previously established that documented drug waste

was of proportions that corrective measures were not cost-effective.

Four individuals objected to the proposals and stated they would affect a pharmacy's entire business, possibly resulting in a reduction or elimination of services to Medicaid recipients. In addition, one individual and one association stated that recipients would be hurt if the proposals were adopted. Two other associations stated that there is an obvious cost to providers and for the DHR to say in the preamble that there is no cost is contradictory. The DHR does not agree with these objections, as stated in its earlier response to objections that these proposals were discriminatory to retail pharmacy and could result in reduction or elimination of services to Medicaid recipients.

Four groups/associations commented that study methodologies used to formulate the proposals were flawed and, as a result, the proposals should be withdrawn or postponed until more adequate results are available. Inadequacies were identified as a disregard of usual and customary pricing and examining cost without considering usual and customary pricing and the dispensing fee. One of the associations suggested that the DHR should instead study the implementation of a generic substitution incentive program. The DHR does not agree with these commenters, as stated in our earlier response to objections to this rule that implementation be delayed until more complete data were available. The DHR also does not agree that a generic substitution incentive program is a cost-effective option at this time. In addition, objections to §35.701 were expressed by one association which stated that manufacturers should not be allowed increased costs while pharmacies are not, one association which stated that the DHR was already taking discounts by using actual cost for inventory in the cost report used to determine the dispensing fee, one association and one individual on the basis the reimbursement of direct estimated acquisition cost for all drugs of selected companies could penalize some pharmacies and the DHR should not interfere in this segment of the marketplace. One individual opposed the rule and stated that the DHR should instead reimburse on the basis of actual cost. Two associations and one individual expressed general opposition to the proposals. The DHR does not agree with the first three comments, as stated in our earlier response to objections concerning these issues. The DHR does not consider the fourth comment as a viable or cost-effective option.

One individual objected to §35.702 on the basis that it appeared that it is the intent of the DHR to delay implementation of price changes in order to save money. One association objected to the elimination of Redbook as a price base.

The 30-day effective period referenced by the individual commenter is not a change. Relative to the commenter's concern that price changes might not be current, price changes are processed weekly as received from manufacturers and through the Redbook Update. The use of the Redbook as a price change reference has been reinstated in the adopted rule.

One association objected to the change in §35.706 about reimbursement for compounded prescriptions. This change is necessary to ensure conformity with new §35.701. One association objected to changes in §35.902 and §35.904. Those changes have been withdrawn.

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

#### §35.2. Standards for Tape Input Service Bureau Companies.

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

(c) Service bureau companies will provide in their computer programs the correct numeric Texas Drug Code for all drugs and package sizes covered by the Texas Drug Code Index and updates. Use of a single code to cover a similar drug of several manufacturers cannot be permitted due to the variation in estimated acquisition cost.

(d) Sequential numbers must be used by a service bureau company on claims, beginning with number one to infinity, so that claims can be referenced and located, researched and audited by the Texas Department of Human Resources. Duplication of a claim number must be avoided. The sequential number assigned claims by the service bureau company will be the substitute for the preprint number on the pharmacy claim form.

(e) Each service bureau company will be programmed to handle its vendor's corrections. This means that it will have a program in its processing system by which it can recycle corrected claims. Thus dual input by a pharmacy provider, partially by tape and partially by use of the pharmacy claim form, will be avoided. This will facilitate research and auditing in the Vendor Drug Program. It should also give the service bureau company a more complete history of claims it has processed for its vendors.

(f) Each service bureau company will submit weekly an updated list of the vendors participating in its processing system. This means that pharmacy provider enrollment will need notification of participation of new vendors and cancellation of previously participating vendors. It is requested that pharmacy provider enrollment be supplied with a copy of the contract between the service bureau company and its vendors. Pharmacy provider enrollment will need the specific date of beginning participation and of the ending date of participation for those who drop out.

(g) Tape record layout must be uniform with the requirements of DHR Office of Information Systems.

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 July 19, 1985.

TRD-856439

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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#### Subchapter E. Medications

##### ★40 TAC §35.401

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

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

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

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#### Subchapter G. Pharmacy Claims

##### ★40 TAC §35.609, §35.610

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

§35.609. *Pharmacy Claim Magnetic Tape Input.*

(a) (No change.)

(b) For each entry, the contracted pharmacy provider must supply the tape service bureau with correct information on the recipient's identification number, name of recipient, days supply, drug code, drug quantity, prescription number, prescription date, date of service, refills authorized, physician's identification number, physician's override if applicable, wholesale override if applicable, and the usual and customary price to the general public. The tape service bureaus may not determine the price nor change the usual and customary price as supplied by the contracted provider.

#### §35.610. *Submittal of Special Claims.*

(a) The pharmacy claims billing receipt is used to submit claims for prescriptions involving an excessive quantity, price, or dosage. These require special handling to ensure prompt processing and must be submitted within 60 days of the date of service. The form is also used for the submission of prior eligibility claims. These require special handling since they may be initially rejected due to the age of the claims. The form is also used for the submission of claims for compounded prescriptions. These require special handling to allow approval by the department's regional pharmacists before payment.

(b) (No change.)

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

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

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#### Subchapter H. Reimbursement

##### ★40 TAC §35.701

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

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

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

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The new section is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public assistance and medical programs.

§35.701. *Legend and Nonlegend Medication.* For all medication, legend and nonlegend, covered by the Vendor Drug

**Program and appearing in the *Texas Drug Code Index* and updates:**

(1) reimbursement to the pharmaceutical provider is based upon estimated acquisition cost, verifiable by invoice audit, plus DHR's currently established dispensing fee per prescription, or the usual and customary price charged the general public, whichever is lower;

(2) estimated acquisition cost is defined as wholesale estimated acquisition cost (WEAC) or direct estimated acquisition cost (DEAC), according to the pharmacist's usual purchasing source and in the pharmacist's usual purchasing quantity, or maximum allowable cost (MAC) for selected multi-source products. All drug purchases from a central purchasing entity or co-op must be billed to DHR as direct purchases in the quantities purchased by the central purchasing agent or co-op. If the quantities are larger than those shown in the *Texas Drug Code Index* (TDCI), the largest package size shown in the TDCI will be used for billing and reimbursement purposes. The WEAC is established by DHR using the current *Redbook* or *Redbook Update*, less a percentage representing routine discounts received by pharmacists on wholesale drug purchases. The WEAC may not exceed wholesaler cost, as supplied by drug manufacturers, plus a percentage mark-up representing wholesaler operating costs and profits. The DEAC is established by DHR using direct price information supplied by drug manufacturers. Providers are reimbursed DEAC on all drug products that are available from select manufacturers/distributors who actively seek and encourage direct purchasing. The TDCI is used as the reference for drugs included in the scope of benefits and for allowable package sizes. No acquisition cost will be billed to DHR for samples dispensed;

(3) reimbursement for nonlegend drugs is based upon the usual and customary price charged to the general public or estimated acquisition cost plus 50% of estimated acquisition cost, whichever is lower. No dispensing fee will be added to the price of nonlegend drugs, and the 50% of estimated acquisition cost may not exceed the provider's assigned dispensing fee.

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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Commissioner  
Texas Department of  
Human Resources

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

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★ **40 TAC §§35.702, 35.706, 35.709**

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

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

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

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**Subchapter I. Limitations**

★ **40 TAC §35.806**

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

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

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

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**Chapter 79. Legal Services**

**Subchapter L. Fair Hearings**

★ **40 TAC §79.1101**

The Texas Department of Human Resources adopts amendments to §§79.1101, 79.1207, 79.1211, 79.1302, 79.1304, 79.1306, and 79.2009, the repeal of §§79.2010 and 79.2015 and new §79.2010 and §79.2015, without changes to the proposed text published in the March 19, 1985, issue of the *Texas Register* (10 TexReg 925). New §79.2020 is adopted with changes.

The amendments, repeals, and new sections concern the procedures in the department's legal services chapter for conducting fair hearings and reporting suspected fraud

The comment period on the proposal ended April 19, 1985. Comments were received from the Houston Welfare Rights Organization, Inc., requesting that §79.1302 be amended to state that using the telephone in a hearing does not nullify an appellant's right to confront witnesses and examine documents. The commenter also requested that the rule prohibit *ex parte* contacts. The commenter's concerns are addressed respectively in §79.1301(e) and §79.1302(k) of this title. Therefore, the department is not adding the requested changes.

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

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

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Commissioner  
Texas Department of  
Human Resources

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

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**Subchapter M. Appeal Process**

★ **40 TAC §79.1207, §79.1211**

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

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

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Commissioner  
Texas Department of  
Human Resources

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

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**Subchapter N. Hearing Procedure**

★ **40 TAC §§79.1302, 79.1304, 79.1306**

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

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

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

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Commissioner  
Texas Department of  
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For further information, please call  
(512) 450-3766.

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### Subchapter U. Fraud Involving Recipients

#### ★ 40 TAC §79.2009

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

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

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Texas Department of  
Human Resources

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

#### ★ 40 TAC §79.2010, §79.2015

The repeals are adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

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

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Commissioner  
Texas Department of  
Human Resources

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

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#### ★ 40 TAC §§79.2010, 79.2015, 79.2020

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

§79.2020. *Referral to Administrative Disqualification Hearing Officer.*

(a) If the investigator has documented evidence to substantiate that an individual in a food stamp household has committed an intentional program violation, an administrative disqualification hearing may be held.

(b) The department may refer to the hearing officer only three types of cases that

have first been referred to the prosecutor:

(1) cases that were forwarded to the prosecutor but that he declined to prosecute;

(2) cases that were forwarded to the prosecutor in which no action was taken within a reasonable amount of time and the cases were formally withdrawn by the department; or

(3) cases dismissed by the prosecutor after charges were filed that do not reflect a lack of evidence to prosecute.

(c) The department may not refer the following cases to the hearing officer:

(1) cases that were nolleed by a grand jury;

(2) cases that were brought to trial and later dismissed for any reason; and

(3) cases dismissed before trial in which the prosecutor has in some manner expressed the opinion that there was insufficient evidence to prosecute.

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-856459 Marlin W. Johnston  
Commissioner  
Texas Department of  
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For further information, please call  
(512) 450-3766

## State Board of Insurance Exempt Filings

### State Board of Insurance Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L

*(Editor's note: As required by the Insurance Code, Article 5.96 and Article 5.97, the Register publishes notices of actions taken by the State Board of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure and Texas Register Act, and the final actions printed in this section have not been previously published as proposals.*

*These actions become effective 15 days after the date of publication or on a later specified date.*

*The text of the material being adopted will not be published, but may be examined in the offices of the State Board of Insurance, 1110 San Jacinto Street, Austin.)*

The State Board of Insurance has approved the adoption of the 1985 edition of the National Fire Protection Association's *Installation of Automatic Sprinkler Systems* and the amendments to the *State Board of Insurance Supplemental Rules for Automatic Sprinkler Systems*. Automatic sprinkler systems installed in risks located in the State of Texas are subject to the installation standards and requirements set forth in these publications. These publications are updated on a periodic basis to incorporate the latest technology for the installation of automatic sprinkler systems as an effective means of fire protection. The State Board of Insurance recognizes the need to maintain current standards for the installation of proper fire protection systems to insure the availability of proper fire rate credits to those risks adequately protected by automatic sprinkler systems.

These changes are to be effective August 15, 1985.

This notification is filed pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

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

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

TRD-856457 James W. Norman  
Chief Clerk  
State Board of  
Insurance

Effective date: August 15, 1985  
For further information, please call  
(512) 475-2950.

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# Open Meetings

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

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

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

## Texas Department of Agriculture

**Tuesday, August 6, 1985, 10:30 a.m.** The Texas Department of Agriculture will meet in the basement meeting room, Austin County Courthouse, 1 East Main, Bellville. According to the agenda, the department will receive public comments on whether the use of hormone herbicide should be prohibited between March 15-September 15 each year for areas of Austin County, from the Colorado County line, east to IH-10, north up Highway 36 to FM 331, thence on FM 331 to Mill Creek, down Mill Creek to the Brazos River.

**Contact:** Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583

**Filed:** July 22, 1985, 1:59 p.m.  
TRD-856581

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## State Banking Board

**Thursday, July 18, 1985, 4 p.m.** The State Banking Board met via conference call in emergency session at 2601 North Lamar Boulevard, Austin. According to the agenda, the board considered an application for a charter for a state bank to purchase some of the assets and assume some of the liabilities of a failed bank. The applicant, if there is one, will be the bidder chosen by the board of directors of the FDIC. The emergency status was necessary because failure of the bank will disrupt banking services in the community.

**Contact:** William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705; (512) 475-4451.

**Filed:** July 18, 1985, 11:50 a.m.  
TRD-856392

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## State Board of Barber Examiners

**Tuesday, August 6, 1985, 8 a.m.** The State Board of Barber Examiners will meet in Suite C-275, 1300 East Anderson Lane,

Austin. Items on the agenda include minutes of previous meeting; interview of out-of-state applicants; signing of teacher certificates; and letters and reports to the board by the executive director. The board will also meet in executive session.

**Contact:** Jo King McCrorey, 1300 East Anderson Lane, Suite C-275, Austin, Texas 78752, (512) 835-2040.

**Filed:** July 22, 1985, 9:57 a.m.  
TRD-856523

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## Interagency Council on Early Childhood Intervention

**Tuesday, July 30, 1985, 8:30 a.m.** The Interagency Council on Early Childhood Intervention will meet in the second floor conference room, 11101 East Anderson Lane, Austin. Items on the agenda include approval of minutes; discussion of budget issues on request for use of lapsed funds concerning Brazoria County Center for the handicapped and projected expenditures for fiscal year 1985; advisory committee report; review of health program standards; discussion of pending advisory committee nominations and fiscal year 1986 contract issues; and pending litigation.

**Contact:** Mary Elder, 1100 West 49th Street, Austin, Texas 78756, (512) 465-2671.

**Filed:** July 19, 1985, 1:46 p.m.  
TRD-856463

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## Texas Economic Development Commission

**Wednesday, July 24, 1985, 4 p.m.** The Board of Commissioners of the Texas Economic Development Commission met in emergency session in the conference room, second floor, Love Field, 8008 Cedar Springs, Dallas. According to the agenda, the commission met in executive session to discuss personnel matters under Texas Civil Statutes, Article 6252-17, §2(e) and (g), and reconvened in open session to discuss ac-

tion on personnel matters discussed in executive session. The emergency status was necessary due to action on agency personnel matters.

**Contact:** Alexa Richter, P.O. Box 12728, Austin, Texas 78711, (512) 472-5059.

**Filed:** July 22, 1985, 1:38 p.m.  
TRD-856562

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## Texas Employment Commission

**Tuesday, July 23, 1985, 8 a.m.** The Texas Employment Commission (TEC) met in emergency session in Room 644, TEC Building, 15th Street and Congress Avenue, Austin. According to the agenda summary, the commission considered and acted on higher level appeals in unemployment compensation cases listed on commission Docket 30a. The emergency status was necessary because the need to dispose of the cases in accordance with federal guidelines and conflicting nature of the commission's calendar requires this.

**Contact:** C. Ed Davis, TEC Building, Room 660, Austin, Texas 78778, (512) 463-2291.

**Filed:** July 22, 1985, 2:29 p.m.  
TRD-856565

**Tuesday, July 30, 1985, 8:30 a.m.** The TEC will meet in Room 644, TEC Building, 15th Street and Congress Avenue, Austin. According to the agenda summary, the commission will discuss prior meeting notes; internal procedures of commission appeals; consider and act on higher level appeals in unemployment compensation cases on commission Docket 31; and set the date of the next meeting.

**Contact:** Courtenay Browning, TEC Building, 15th Street and Congress Avenue, Austin, Texas 789778, (512) 463-2226

**Filed:** July 22, 1985, 2:28 p.m.  
TRD-856566

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## Texas Department of Health

**Wednesday, August 28, 1985, 1 p.m.** The West Texas Alzheimer's Network of the Texas Department of Health (DOH) will meet in the University of Texas of the Permian Basin Founders Building, 4901 East University Boulevard, Odessa. Items on the agenda include a procedure briefing; a DOH Alzheimer's disease initiative; Texas Tech role in service education and research; West Texas legislative interest; nursing home concerns; Area Agency on Aging reports; insurance concerns and custodial care; association of Alzheimer's disease and related conditions; Alzheimer's disease research and development; family support groups; needs and concerns of San Angelo, Abilene, Odessa, Midland, Amarillo, and El Paso; and a question and answer panel discussion.

**Contact:** Morris H. Craig, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7710.

**Filed:** July 19, 1985, 1:45 p.m.  
TRD-856464

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## State Department of Highways and Public Transportation

**Thursday and Friday, July 25 and 26, 1985, 9 a.m. daily.** The State Highway and Public Transportation Commission of the State Department of Highways and Public Transportation made emergency additions to a meeting held in Room 101-A, first floor, Dewitt C. Greer State Highway Building, 11th and Brazos Street, Austin. The additions concerned oil well equipment permit fees; a status discussion on Loop I in Travis County; 1987 license plates; and commissioners' group insurance benefits. The emergency status was necessary because commission action is necessary this month.

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

**Filed:** July 22, 1985, 3:26 p.m.  
TRD-856574

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## Texas Historical Commission

**Saturday, August 3, 1985, 9:30 a.m.** The State Board of Review of the Texas Historical Commission will meet in the ballroom, Texas Federation of Women's Club, 2312 San Gabriel Street, Austin. Items on the agenda include approval of the last meeting minutes and a review of national register nominations.

**Contact:** Marlene Casarez, P.O. Box 12276, Austin, Texas 78711, (512) 475-3094.

**Filed:** July 19, 1985, 11:51 a.m.  
TRD-856458

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## University of Houston System

**Tuesday, July 23, 1985, 2 p.m.** The Board of Regents of the University of Houston System made an addition to the agenda of a meeting held in Room 510, Enterprise Bank Building, 4600 Gulf Freeway, Houston. The addition concerned the board's meeting in executive session to discuss employment of university counsel.

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

**Filed:** July 19, 1985, 10:27 a.m.  
TRD-856456

**Wednesday, July 24, 1985, 10 a.m.** The Board of Regents of the University of Houston System met in Room 510, Enterprise Bank Building, 4600 Gulf Freeway, Houston. According to the agenda summary, the board considered establishing building priorities and authorizing the refund and issuance of bonds.

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

**Filed:** July 19, 1985, 4:22 p.m.  
TRD-856521

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## State Board of Insurance

**Wednesday, July 24, 1985, 10 a.m.** The State Board of Insurance made an emergency addition to the agenda of a meeting that was held in Room 414, 1110 San Jacinto Street, Austin. The addition concerned proposed members for the board of directors of the Texas Property and Casualty Insurance Guaranty Association. The emergency status was necessary because the terms of four members have expired, and their replacements should be chosen as soon as possible.

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

**Filed:** July 22, 1985, 3:23 p.m.  
TRD-856568

**Tuesday, July 30, 1985, 10 a.m.** The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. Items on the agenda include motion for dismissal of the appeals of the estate of H. B. Foster, Roy H. Moore, and Lloyd C. Jones, M.D., from actions of the Texas Catastrophe Property Insurance Association; board orders on several different matters; fire marshal's report on personnel; commissioner's report on litigation and personnel; and considera-

tion of amendments to Rules 059.01.11.041-.044, as proposed in the June 7, 1985, issue of the *Texas Register* (10 TexReg 1852).

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

**Filed:** July 22, 1985, 3:23 p.m.  
TRD-856569

The Commissioner's Hearing Section of the State Board of Insurance will conduct public hearings at 1110 San Jacinto Street, Austin. Days, times, rooms, and dockets follow.

**Tuesday, July 30, 1985, 1:30 p.m.** In Room 342 in Docket 9034—application of North American Security Life Insurance Company, Dover, Delaware, for authority to issue variable insurance contracts in the State of Texas

**Contact:** John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 463-6525.

**Filed:** July 22, 1985, 11:16 a.m.  
TRD-856545

**Wednesday, July 31, 1985, 9 a.m.** In Room 342 in Docket 9024—whether the application of David Theo Ousley, Arlington, for a group I legal reserve life insurance agent's license should be issued by the board.

**Contact:** Staci Copelin, 1110 San Jacinto Street, Austin, Texas 78786, (512) 463-6498.

**Filed:** July 22, 1985, 11:16 a.m.  
TRD-856546

**Wednesday, July 31, 1985, 1:30 p.m.** In Room 342 in Docket 9037—application of Acacia National Life Insurance Company, Annandale, Virginia, for authority to issue variable life insurance contracts in the State of Texas.

**Contact:** John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 463-6525.

**Filed:** July 22, 1985, 11:16 a.m.  
TRD-856547

**Thursday, August 1, 1985, 9 a.m.** In Room 353 in Docket 9039—approval of the amendments of the articles of agreement providing for the substitution of attorneys-in-fact and underwriter of A. I. Lloyds, Dallas.

**Contact:** J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 463-6524.

**Filed:** July 22, 1985, 11:16 a.m.  
TRD-856548

**Friday, August 2, 1985, 9 a.m.** In Room 342 in Docket 9032—application of Tom E. Turner to acquire control of U. B. I. Life Insurance Company, San Antonio.

**Contact:** John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 463-6525.

**Filed:** July 22, 1985, 11:16 a.m.  
TRD-856549

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## Texas National Guard Armory Board

**Friday, August 2, 1985, 1 p.m.** The Texas National Guard Armory Board will meet in the conference room, Building 64, Camp Mabry, Austin. Items on the agenda include administrative and fiscal matters and facility construction, remodeling, and renovation.

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

**Filed:** July 18, 1985, 2:17 p.m.  
TRD-856399

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## Pan American University

**Tuesday, August 6, 1985, 10 a.m.** The board of regents and committees of the board of regents of Pan American University (PAU) will meet in the board room, Administration Building, PAU, Edinburg. Times, committees, and agendas follow.

**10 a.m.** The board of regents will conduct a budget workshop to review the proposed operating budgets for fiscal year 1985-1986.

**1 p.m.** The Buildings and Grounds Committee will consider selection of a general contractor for cooling plant expansion and interagency contracts concerning facilities rental and library services for PAU-Brownsville-Texas Southmost College.

**1:15 p.m.** The Finance Committee will consider approval of operating budgets for fiscal year 1985-1986 for PAU-Edinburg and PAU-Brownsville; budget changes; purchase of telephone equipment for PAU-Brownsville; financial aid policies; tuition and fees installment payment plan, emergency tuition and fees loans, special line item scholarship, Texas public education grants, and competitive academic scholarships; approval of signature authorizations; designation of building use fees; and proposition 2 budget.

**1:30 p.m.** The Development Committee will consider the greater FAU fund; and IBM matching gift of \$11,870; and information items.

**1:45 p.m.** The Academic Affairs Committee will meet in executive session to discuss new hires tenure track and one-year appointments, PAU-Brownsville promotions, PAU-Brownsville leave of absence, faculty salary adjustment and the president's supplemental salary

**2 p.m.** The board of regents will hear reports from the Buildings and Grounds, Finance, Development, and Academic Affairs Committees and the Committee of the Whole; consider approval of PAU 1985-1986 holiday calendar, approval of resolution regarding Melvin Hill, approval of policies and procedures manual, student government appeal, approval of American

Humanics contract; hear the president's informational items; and set the date of next meeting. The board will also meet in executive session.

**Contact:** Miguel A. Nevarez, Pan American University, Edinburg, Texas 78539, (512) 381-2100.

**Filed:** July 22, 1985, 10:07 a.m.  
TRD-856554-856559

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## Board of Pardons and Paroles

**Monday-Friday, July 29-August 2, 1985, 1:30 p.m. daily Monday-Thursday and 11 a.m. Friday.** A three-member panel of the Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the panel will receive, review, and consider information and reports concerning prisoners and inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate action.

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

**Filed:** July 19, 1985, 10:22 a.m.  
TRD-856437

**Tuesday, July 30, 1985, 1:30 p.m.** The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will consider executive clemency recommendations and related actions, other than out-of-country conditional pardons, including full pardons and restoration of civil rights of citizenship; emergency medical reprieves; commutations of sentence; and other reprieves, remissions, and executive clemency actions.

**Contact:** Gladys Sommers, 8610 Shoal Creek Boulevard, Austin, Texas, (512) 459-2704.

**Filed:** July 19, 1985, 10:22 a.m.  
TRD-856438

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## Texas Parks and Wildlife Department

**Tuesday, July 30, 1985, 7 p.m.** The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at 1205 North Lamar Boulevard, Austin. According to the agenda summary, the commission will meet for dinner, and although no formal action is planned the commission may discuss items on the public hearing agenda scheduled for July 31, 1985, at 9 a.m.

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

**Filed:** July 22, 1985, 4:02 p.m.  
TRD-856572

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## Public Utility Commission of Texas

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

**Friday, July 26, 1985, 9 a.m.** The division will consider Dockets 5968, 6027, 6279, 6072, 6318, 6200, 6307, 4089, 6317, 5749, 5835, 6012, 5307, 5746, 6088, 6108, 6367, 5795, 3860, 5848, 5976, 5978, 6031, 6062, 6214, 6216, 6217, 6244, 6271, 6164, 6196, 6208, 6068, 6155, 6182, and 6236. The division also will meet in executive session to consider pending litigation and personnel matters.

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

**Filed:** July 18, 1985, 2:47 p.m.  
TRD-856401

**Monday, July 29, 1985, 10 a.m.** A prehearing conference in Docket 6383—complaint of Diane Razor, *et al.* against Mustang Valley Water Supply Corporation.

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

**Filed:** July 18, 1985, 2:46 p.m.  
TRD-856402

**Thursday, August 1, 1985, 1:30 p.m.** A prehearing conference in Docket 6382—application of Tri-County Utilities, Inc., for a rate increase.

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

**Filed:** July 18, 1985, 2:47 p.m.  
TRD-856403

**Tuesday, August 6, 1985, 9:30 a.m.** A prehearing conference in Docket 6385—petition of South Plains Electric Cooperative, Inc., for revision of its power cost recovery factor.

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

**Filed:** July 22, 1985, 2:50 p.m.  
TRD-856573

**Wednesday, August 28, 1985, 10 a.m.** A hearing on the merits in Docket 6361—application of Kerrville South Water Company for a tariff amendment.

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

**Filed: July 19, 1985, 2:43 p.m.**  
**TRD-856476**

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### **Railroad Commission of Texas**

**Monday, July 29, 1985, 9 a.m.**  
Railroad Commission of Texas will meet in Room 309, 1124 IH 35 South, Austin. The commission will consider and act on division agendas as follows.

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

**Contact: Roger Dillon, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1211.**

**Filed: July 19, 1985, 3:15 a.m.**  
**TRD-856482**

The Automatic Data Processing Division director's report on division administration, budget, procedures, equipment acquisitions, and personnel matters.

**Contact: Bob Kmetz, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1204.**

**Filed: July 19, 1985, 3:21 a.m.**  
**TRD-856483**

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

**Contact: Ken Fossler, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1103.**

**Filed: July 19, 1985, 3:14 a.m.**  
**TRD-856484**

Various matters falling within the Gas Utilities Division's regulatory jurisdiction.

**Contact: Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, (512) 475-0461.**

**Filed: July 8, 1985, 3:15 a.m.**  
**TRD-856485**

The Office of Information Services director's report on division administration, budget, procedures, and personnel matters.

**Contact: Brian W. Schaible, P.O. Drawer 12967, Austin, Texas 78711.**

**Filed: July 19, 1985, 3:19 a.m.**  
**TRD-856486**

The LP-Gas Division director's report on division administration, budget, procedures, and personnel matters; various matters within the division's jurisdiction; the signing of final orders in LP-Gas Dockets 364—Consumer's Fuel Association, 388—Intercoastal Butane, 389—Felix Fuel, and 390—Bobby Bell Plumbing Company; consideration of the adoption of §§9.6-9.10, concerning examination and certification of employees; and consideration for publication of §9.29, concerning uniform notice requirements.

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

**Filed: July 19, 1985, 3:23 a.m.**  
**TRD-856487**

Various matters falling within the Oil and Gas Division's regulatory jurisdiction.

**Contact: Timothy A. Poe, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1283.**

**Filed: July 19, 1985, 3:17 a.m.**  
**TRD-856489**

Additions to the previous agenda:

Consideration of whether the Railroad Commission of Texas should respond in any official manner to the action of the FERC in Docket GP84-23-000—stowers case, and the form and content of any such response.

**Contact: Susan Cory, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1285.**

**Filed: July 19, 1985, 4:17 p.m.**  
**TRD-856503**

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

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

**Filed: July 19, 1985, 3:22 a.m.**  
**TRD-856488**

Emergency additions to the previous agenda:

Consideration of Docket 5207 Consolidated—appeals of Lone Star Gas Company from the actions of the Cities of Grand Prairie, Bowie and Saint Jo. The emergency status is necessary because this item was properly noticed for conference held on July 15, 1985, was passed, and is now being considered on less than seven days' notice as a matter of urgent public necessity.

**Contact: Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, (512) 475-0461.**

**Filed: July 19, 1985, 3:15 p.m.**  
**TRD-856478**

Consideration of Docket 3-76,975—application of Mobil Producing TX. & N.M. Inc., for retention of gas well classification, Raywood (Gressett Sand) Field, Liberty County. The emergency status is necessary because this item was properly noticed for conference held on July 15, 1985, was passed, and is now being considered on less than seven days' notice as a matter of urgent public necessity.

**Contact: Billy D. Thomas, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1289.**  
**TRD-856481**

**Filed: July 19, 1985, 3:16 p.m.**

Consideration of Docket 3-84,145—a hearing to afford John Littlejohn and Douglas Glass an opportunity to show cause why they should not be referred to the attorney general of Texas or any other appropriate

authority. The emergency status is necessary because this item was properly noticed for conference held on July 15, 1985, was passed, and is now being considered on less than seven days' notice as a matter of urgent public necessity.

**Contact: Meredith Kawaguchi, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1293.**

**Filed: July 19, 1985, 3:18 p.m.**  
**TRD-856480**

Consideration of the use of state funds to plug J. H. Wharton Lease, unidentified well, operator unknown, George Green Survey, A-207, Palo Pinto County. The emergency status is necessary because this item must be considered on less than seven days' notice as a matter of urgent public necessity. The well is leaking mud and saltwater to the surface is located approximately 200 feet from the landowner's stock tank and ½ mile from the Brazos River and could be harmful to the public's health, safety, and welfare.

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

**Filed: July 19, 1985, 3:18 p.m.**  
**TRD-856479**

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

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

**Filed: July 19, 1985, 3:15 p.m.**  
**TRD-856490**

The Office of Research and Statistical Analysis director's report on division administration, budget, procedures, and personnel matters.

**Contact: Gail Gemberling, P.O. Drawer 12967, Austin, Texas 78711.**

**Filed: July 19, 1985, 3:23 p.m.**  
**TRD-856491**

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

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

**Filed: July 19, 1985, 3:15 p.m.**  
**TRD-856492**

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

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

**Filed: July 19, 1985, 3:22 p.m.**  
**TRD-856493**

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



Contact: Michael A. James, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1330.

Filed: July 19, 1985, 3:22 p.m.  
TRD-856494

**Monday, August 19, 1985, 1:30 p.m.** The Oil and Gas Division of the Railroad Commission of Texas will meet in the William B. Travis Building, 17th Street and Congress Avenue, Austin. According to the agenda summary, the division will conduct a statewide oil and gas hearing.

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

Filed: July 19, 1985, 3:17 p.m.  
TRD-856495

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### Texas Rehabilitation Commission

Committees of the Texas Rehabilitation Commission will meet in Room 302, 118 East Riverside Drive, Austin. Days, times, and agendas follow.

**Friday, July 26, 1985, 1:15 p.m.** The Texas Advisory Board of Occupational Therapy will meet via teleconference to consider the approval of the June 24, 1985, meeting minutes, a license fee reduction report, an office report, and other business.

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

Filed: July 18, 1985, 4:16 p.m.  
TRD-856405

**Wednesday, July 31, 1985, 10 a.m.** The Planning Committee/Texas Planning Council for Developmental Disabilities (DD) will consider perfection of the agenda, approval of the minutes, the DD state plan for fiscal year 1987-1989, and other unfinished business.

Contact: Joellen F. Simmons, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8867.

Filed: July 22, 1985, 9:59 a.m.  
TRD-856560

**Friday, August 2, 1985, 10 a.m.** The Advocacy and Public Information Committee/Texas Planning Council for Developmental Disabilities will consider perfection of the agenda; conduct discussions on legislative items and ICF-MR reports; recommend for council long-range goals; and consider unfinished business.

Contact: Joellen F. Simmons, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8867.

Filed: July 22, 1985, 9:59 a.m.  
TRD-856561

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### Texas 1986 Sesquicentennial Commission

**Wednesday, July 24, 1985, 10 a.m.** The board of the Texas 1986 Sesquicentennial Commission will meet in emergency session in the Commission for the Deaf Conference Room for the deaf, 510 South Congress Avenue, Austin. According to the agenda, the board will meet in executive session to consider personnel selection. The emergency status is necessary because of the urgent necessity to select a new executive director.

Contact: Randy M. Lee, P.O. Box 1986, Austin, Texas 78767, (512) 475-1986.

Filed: July 19, 1985, 3:46 p.m.  
TRD-856496

**Tuesday, July 30, 1985, 1 p.m.** The Executive Committee of the Texas 1986 Sesquicentennial Commission rescheduled a meeting to be held in the Commission for the Deaf Conference Room, 510 South Congress Avenue, Austin. According to the agenda the committee will meet in executive session to consider commemorative products and sanctioning, and policy and rule recommendations concerning the promotional program/commemorative products policy, the Sponsorship Program, and the Industrial Corporate Products Program.

Contact: Randy M. Lee, P.O. Box 1986, Austin, Texas 78767, (512) 475-1986.

Filed: July 19, 1985, 3:46 p.m.  
TRD-856497

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### The University of Texas at Austin

**Monday, July 29, 1985, 10 a.m.** The Intercollegiate Athletics Council for Men of the University of Texas at Austin will meet in Room 240, Bellmont Hall, San Jacinto Street, between 21st and 23rd Streets, Austin. Items on the agenda include the approval of the May 28, 1985, meeting minutes; approval of items from executive session; approval of team schedules and recommended schedule changes; approval of budgets and budget changes; athletic facilities; reports on the status of ongoing development plans; the approval of awards; and old business. The council also will meet in executive session to consider personnel matters and potential litigations pursuant to Texas Civil Statutes, Article 6252-17, §2(g).

Contact: Betty Coreley, P.O. Box 7399, Austin, Texas 78712, (512) 471-5757.

Filed: July 18, 1985, 3:05 p.m.  
TRD-856400

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### Texas Tech University

**Friday, July 26, 1985.** Committees of the Texas Tech University Board of Regents

and the Texas Tech University Health Sciences Center Board of Regents will meet jointly in the board suite, Administration Building, Texas Tech University campus, Lubbock. Times, committees and agendas follow.

**10 a.m.** The Research Steering Committees will meet in executive session to consider the review of the land use plan; the status of the feasibility study, the education conference center project, and reports.

**2 p.m.** The Finance and Administration Committees will meet in executive session to consider the operating budget for fiscal year 1986; a natural gas supply contract; the transportation of natural gas from supplier's lien to Energas; the transportation of natural gas to the campus; the authorization for the administration to make plans for the sale of approximately \$14 million in Texas dedicated revenue bonds and the selection of a fiscal agent and a bond attorney to assist in the sale of such revenue bonds; and reports.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: July 11, 1985, 10:08 a.m.  
TRD-856550-856553

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### Texas Tourist Development Agency

**Wednesday and Thursday, July 24 and 25, 1985, 8:45 a.m.** The board of the Texas Tourist Development Agency made an emergency addition to the agenda of a meeting held at the Austin Hilton Inn, 6000 Middle Fiskville Road, Austin. The addition concerned applications and policies regarding grants. The emergency status was necessary due to the undetermined amount of additional funding provided by Senate Bill 1002.

Contact: Margaret Younger, P.O. Box 12008, Austin, Texas 78711, (512) 475-4326.

Filed: July 19, 1985, 10:55 a.m.  
TRD-856452

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### Texas Water Commission

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

**Tuesday, July 30, 1985, 10 a.m.** In Room 118, the commission will consider water district bond issues, the use of surplus funds, release from escrow, certification of water rights, water quality proposed permits, amendments and renewals, in situ uranium mining projects, examiner's proposals, and the filing and setting of hearing dates.

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

**Filed:** July 19, 1985, 3:44 p.m.  
TRD-856498

**Monday, August 5, 1985, 2 p.m.** The commission will consider the application of the City of Pinehurst to the Texas Department of Water Resources for a temporary order to authorize the discharge of partially treated domestic sewage at a volume not to exceed that authorized by existing Permit 10579-01 from its facility at 3000 Gull Street in the City of Pinehurst, Orange County. The applicant proposes to modify its existing contract stabilization facility as part of an EPA construction grants project. The proposed modification involves rehabilitating the existing unit as an aeration tank and adding two new chlorine contact chambers. The discharge of partially treated wastewater will occur while the existing unit is being rehabilitated and cleaned.

**Contact:** Claire Peterson, P.O. Box 13087, Austin, Texas 78711, (512) 463-8079.

**Filed:** July 19, 1985, 3:44 p.m.  
TRD-856499

**Monday, August 12, 1985, 2 p.m.** In Room 118, the commission will consider Application 4545 of Marlin R. Rowland and Margaret Rowland for a permit to divert and use 70.0 acre-feet of water per year from North Llano River, tributary of Llano River, Colorado River Basin for irrigation purposes in Kimble County; and the application by TEC Industries, Inc., for Proposed Permit 12864-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 50,000 gallons per day from the proposed Sharonwood Place Mobile Home Park Sewage Treatment Plant, San Jacinto River Basin, Harris County.

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

**Filed:** July 19, 1985, 3:44 p.m.  
TRD-856500

**Wednesday, August 14, 1985, 2 p.m.** In Room 118, the commission will consider the application by Randy Morine for Proposed Permit 13086-01 to authorize an average discharge of 540,000 gallons per day of treated domestic sewage, Travis County, Colorado River Basin.

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

**Filed:** July 19, 1985, 3:45 p.m.  
TRD-856501

**Wednesday, September 4, 1984, 10 a.m.** In Room 118, the commission will consider Application 3866A of the Colorado River Municipal Water District for an amendment to Permit 3676. The applicant seeks to divert 15,000 acre-feet of water from the Colorado River, Colorado River Basin, to the Brazos River, Brazos River Basin, in

Taylor County and Jones County.

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

**Filed:** July 22, 1985, 2:18 p.m.  
TRD-856582

**Friday, September 20, 10 a.m.** In Room 618, the commission will conduct a hearing on Application 4590 of George M. Williams, Sr. and George M. Williams, Jr. for a permit to divert and use 50 acre-feet of water per annum from the Guadalupe River for irrigation purposes, Guadalupe River Basin, Kendall County.

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

**Filed:** July 22, 1985, 2:17 p.m.  
TRD-856584

**Friday, September 20, 1985, 10 a.m.** In Room 618, the commission will conduct a hearing of Dale L. Hasten to amend Certificate of Adjudication 21-3097. The applicant seeks to add an additional diversion point, Nueces River Basin, Dimmit County.

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

**Filed:** July 22, 1985, 2:17 p.m.  
TRD-856583

**Monday, September 23, 1985, 10 a.m.** In Room 618, the commission will conduct a hearing of the City of Sherman to extend the time for commencement of construction of a dam creating a 350 acre-foot capacity reservoir on Post Oak Creek, tributary of Choctaw Creek, tributary of Red River, Red River Basin, Grayson County.

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

**Filed:** July 22, 1985, 2:17 p.m.  
TRD-856585

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### Regional Agencies Meetings Filed July 18

**The Callahan County Appraisal District,** Board of Directors, will meet on the first floor, Callahan County Courthouse, Baird, on July 30, 1985, at 8 p.m. Information may be obtained from Jane Ringhoffer, P.O. Box 1055, Baird, Texas 79504, (915) 854-1165.

**The Golden Crescent Regional Planning Commission,** Board of Directors, will meet on the mezzanine level, Town Hall, First Victoria National Bank, 101 South Main, Victoria, on July 31, 1985, at 5 p.m. Information may be obtained from Patrick J. Kennedy, P.O. Box 2028, Victoria, Texas 77902, (512) 578-1587.

**The Gulf Bend Mental Health and Mental Retardation Center,** Board of Trustees, met

at 1404 Village Drive, Victoria, on July 25, 1985, at 12 p.m. Information may be obtained from T. G. Kelliher, Jr., 1404 Village Drive, Victoria, Texas 77901, (512) 575-0611.

**The Heart of Texas Region Mental Health and Mental Retardation, Board of Trustees,** will meet at 110 South 12th Street, Waco, on July 31, 1985, at 11:30 a.m. Information may be obtained from Jan Baty, P.O. Box 890, Waco, Texas 76703, (817) 752-3451.

**The Jack County Appraisal District, Appraisal Review Board,** will meet at the Lost Creek Office Building, 216D South Main, Jacksboro, on July 29, 1985, at 9 a.m. Information may be obtained from Doris G. Ray, P.O. Box 850, Jacksboro, Texas 76056, (817) 567-6301.

**The Kendall County Appraisal District, Board of Directors,** met at 207 East San Antonio Street, Boerne, on July 24, 1985, at 7:30 p.m. Information may be obtained from Sue R. Wiedenfeld, P.O. Box 788, Boerne, Texas 78006, (512) 249-8012.

TRD-856398

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### Meetings Filed July 19

**The Central Plains Mental Health and Mental Retardation Center, Board of Trustees,** met at 2601 Dimmitt Road, Plainview, on July 25, 1985, at 7 p.m. Information may be obtained from Rick Van Hersh, Executive Director, 2700 Yonkers, Plainview, Texas 79072, (806) 296-2726.

**The Lavaca County Central Appraisal District, Board of Directors,** met in the Lavaca County Central Appraisal District, 113 North Main Street, Hallettsville, on July 25, 1985, at 11 a.m. Information may be obtained from J. P. Davis, Chief Appraiser, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396.

**The Lower Rio Grande Valley Development Council, Board of Directors,** met in the Harlingen Chamber of Commerce, 311 East Tyler, Harlingen, on July 25, 1985, at 1:30 p.m. Information may be obtained from Robert A. Chandler, Executive Director, Suite 707, Texas Commerce Bank Building, 1701 West Highway 83, McAllen, Texas 78501, (512) 682-3481.

**The North Central Texas Council of Governments, Executive Board,** met in Centerpoint Two, 616 Six Flags Drive, 2nd Floor, Arlington, on July 25, 1985, at 12:45 p.m. Information may be obtained from Edwina J. Hicks, Director of Public Affairs, NCTCOG, P.O. Drawer COG, Arlington, Texas 76005-5888, (817) 640-3300.

**The Rio Grande Valley Municipal Water Authority,** will meet in the Valley Chamber of Commerce Board Room, Weslesco, on

July 31, 1985, at 3 p.m. Information may be obtained from E. G. Lantz, 308 Scott Street, Brownsville, Texas 78521, (512) 542-8764.

TRD-856462

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### Meetings Filed July 22

**The Burnet County Appraisal District, Appraisal Review Board,** will meet at 215 Pierce Street, Burnet, on July 29-31, 1985, at 8 a.m. Information may be obtained from Alvin C. Williams, Drawer E, Burnet, Texas 78611, (512) 756-8291.

**The Coastal Bend Council of Governments,** will meet in the San Diego Civic Center, Highway 44, San Diego, on July 26, 1985, at 3 p.m. Information may be obtained from John P. Buckner, Executive Director, CBCOG, P.O. Box 9909, Corpus Christi, Texas 78408, (512) 883-5743.

**The Deep East Texas Private Industry Council, Executive Committee,** met in the Angelina College Board Room, Lufkin, Angelina County, on July 25, 1985, at 12:45 p.m. Information may be obtained from Charlene Meadows, Box 1463, Lufkin, Texas 75901, (409) 634-4432.

**The Deep East Texas Regional Mental Health and Mental Retardation Services, Board of Trustees,** will meet in the Ward R. Burke Community Room—Administration Facility, 4101 South Medford Drive, Angelina County, Lufkin, on July 29, 1985, at noon. The board will also meet at 5:30 p.m. at the same location. Information may be obtained from Jim McDermott, Ph.D., Executive Director, 4101 South Medford Drive, Lufkin, Texas 75901, (713) 639-1141.

**The Deep East Texas Private Industry Council** will meet in the Texas Power and Light Meeting Room, 204 East Burke, Luf-

kin, on July 31, 1985, at 3 p.m. Information may be obtained from Charlene Meadows, Box 1463, Lufkin, Texas 75901, (409) 634-4432.

**The Region 18 Education Service Center, Board of Directors,** will meet in the Region 18 ESC, LaForce Boulevard, Midland, on August 15, 1985, at 7:30 p.m. Information may be obtained from J. W. Donaldson, P.O. Box 6020, Midland, Texas 79701, (915) 563-2380.

**The Edwards County Appraisal District, Appraisal Review Board,** met in the New County Office Building, P.O. Box 378, Rocksprings, on July 25, 1985, at 10 a.m. Information may be obtained from Sonda Madden, P.O. Box 378, Rocksprings, Texas 78880, (512) 683-2337.

**The Gillespie County Appraisal District, Board of Directors,** will meet in the City Hall Assembly Room, Fredricksburg, on July 31, 1985, at 9 a.m. Information may be obtained from Gary Neffendorf, Secretary, Board of Directors, Gillespie County Appraisal District, P.O. Box 429, Fredricksburg, Texas 78624, (512) 997-7655.

**The Golden Crescent Regional Review Committee** met in the GCRPC Conference Room, 115 South Main, 2nd Floor, Victoria, on July 25, 1985, at 3 p.m. Information may be obtained from Patrick J. Kennedy, RRC Staff, P.O. Box 2028, Victoria, Texas 77902, (512) 578-1587.

**The Hays County Central Appraisal District, Board of Review,** will meet at the Hays County Courthouse, San Marcos, on August 7, 1985, at 9 a.m. Information may be obtained from Hays County Appraisal District, 102 LBJ Courthouse Annex, 3rd Floor, San Marcos, Texas 78666, (512) 396-4777.

**The Heart of Texas Council of Governments, Executive Committee,** met at 320

Franklin, Waco, on July 25, 1985, at 10 a.m. Information may be obtained from Mary McDow, 320 Franklin Avenue, Waco, Texas 76701, (817) 756-6631.

**The Hockley County Appraisal District, Appraisal Review Board,** met in emergency session at 913 Austin Street, Levelland, on July 23, 1985, at 10 a.m. The Board of Directors met in emergency session at the same location on the same date at 7 p.m. Information may be obtained from Keith Toomire, Chief Appraiser, P.O. Box 1090, Levelland, Texas 79336, (806) 894-9654.

**The Parmer County Appraisal Office, Board of Directors,** will meet at 305 Third Street, Bovina, on August 5, 1985, at 8:30 p.m. Information may be obtained from Ron Proctor, R.P.A., P.O. Box 56, Bovina, Texas 79009, (806) 238-1405.

**The Lee County Appraisal District, Board of Review,** met in emergency session at 218 East Richmond Street, Giddings, on July 25, 1985, at 9 a.m. Information may be obtained from Delores Shaw, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618.

**The North Plains Water District, Board of Directors,** will meet in the District Office, 702 East First Street, Dumas, on August 5, 1985, at 10 a.m. Information may be obtained from Orval E. Allen, Box 795, Dumas, Texas 79029, (806) 935-6401.

**The Scurry County Appraisal District, Board of Directors,** met at K-Bobs Steak House, 4604 College Avenue, Snyder, on July 25, 1985, at noon. Information may be obtained from L. R. Peveler, Chief Appraiser, 2612 College Avenue, Snyder, Texas 79549, (915) 573-8549.

TRD-856543

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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 July 1-5, 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.

Tamko Asphalt Products, Inc., Dallas; fuel oil use in steam generators; 7910 South Central Expressway, Dallas County; 2828E; modification

Tamko Asphalt Products, Inc., Dallas; asphalt fume incinerators, fuel oil use in steam generators; 7910 South Central Expressway, Dallas County; 2828F; modification

Tamko Asphalt Products, Inc., Dallas; horizontal stills, fuel oil use in steam generators; 7910

South Central Expressway, Dallas County; 2828G; modification

Tamko Asphalt Products, Inc., Dallas; asphalt heater, fuel oil use in steam generators; 7910 South Central Expressway, Dallas County; 2828H; modification

Tamko Asphalt Products, Inc., Dallas; asphalt heater, fuel oil use in steam generators; 7910 South Central Expressway, Dallas County; 2828I; modification

Texaco U.S.A., Port Arthur; number 3 furfural unit solvent; north end Houston Avenue, Jefferson; 9793; new source

Polipar Gulf Coast, West Orange; replace A dryer; FM Road 1006, Orange County; 9794; new source

Issued in Austin, Texas, on July 16, 1985.

TRD-856382

Paul M. Shinkawa  
Director of Hearings  
Texas Air Control Board

Filed: July 17, 1985

For further information, please call (512) 451-5711, ext. 364.

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The Texas Air Control Board gives notice of applications for construction permits received during the period of July 8-12, 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.

Mark Butler, Rockwall; asphalt concrete; High School Drive; 9440A; modification

Technical Concrete System, Richardson; concrete batch; 740 East Campbell; 9740A; modification

The Brinkman Corporation, Farmers Branch; outdoor cooker fab facility; 4215 McEven; 9802; new source

Issued in Austin, Texas, on July 16, 1985

TRD-856381 Paul M. Shinkawa  
Director of Hearings  
Texas Air Control Board

Filed: July 17, 1985  
For further information, please call (512) 451-5711, ext. 354.

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## Banking Department of Texas Hearing

The hearing officer of the Texas Department of Banking will conduct a hearing on Wednesday, September 4, 1985, at 9 a.m. at 2601 North Lamar, Austin, on the Forest Park Memorial, Inc., Houston.

Additional information may be obtained from Hubert Bell, Assistant General Counsel, Texas Department of Banking, 2601 North Lamar, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on July 18, 1985

TRD-856461 Jorge Gutierrez  
General Counsel  
Texas Department of Banking

Filed: July 19, 1985  
For further information, please call (512) 475-4451.

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## Office of Consumer Credit Commissioner

### Rate Ceilings

The consumer credit commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

Type of Rate Ceilings Effective Period (Dates are Inclusive)	Consumer <sup>(3)</sup> Agricul- tural/Commercial <sup>(4)</sup> thru \$250,000	Commercial <sup>(4)</sup> over \$250,000
Indicated (Weekly) Rate—Article 1.04(a)(1) 07/29/85-08/04/85	18.00%	18.00%
Monthly Rate— Article 1.04(c)(1) 07/01/85-07/31/85	18.00%	18.00%
Standard Quarterly Rate—Article 1.04(a)(2) 07/01/85-09/30/85	18.00%	18.00%
Retail Credit Card Quarterly Rate— Article 1.11 <sup>(3)</sup> 07/01/85-09/30/85	18.00%	N/A
Lender Credit Card Quarterly Rate— Article 15.02(d) <sup>(3)</sup> 07/01/85-09/30/85	16.50%	N/A
Standard Annual Rate— Article 1.04(a)(2) <sup>(2)</sup> 07/01/85-09/30/85	18.00%	18.00%

## Retail Credit Card

Annual Rate—  
Article 1.11<sup>(3)</sup>  
07/01/85-09/30/85 18.00% N/A

Annual Rate Applica-  
ble to Pre-July 1, 1983,  
Retail Credit Card and  
Lender Credit Card  
Balances with Annual  
Implementation Dates  
from  
06/01/85-09/30/85 18.42% N/A

Judgment Rate—  
Article 1.05, §2  
08/01/85-08/31/85 10.00% 10.00%

- (1) For variable rate commercial transactions only  
(2) Only for open-end credit as defined in Texas Civil Statutes, Article 5069-1.01(f)  
(3) Credit for personal, family, or household use  
(4) Credit for business, commercial, investment, or other similar purpose

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

TRD-856538 Sam Kelley  
Consumer Credit  
Commissioner

Filed: July 22, 1985  
For further information, please call (512) 479-1280.

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## Texas Education Agency Consultant Proposal Request

The Texas Education Agency announces its consultant proposal request pursuant to Texas Civil Statutes, Article 6252-11c.

**Description.** The Texas Education Agency is requesting proposals for the purchase of a training program and training materials for the teacher appraisal system required by Texas Education Code, §13.302. The last day on which proposals will be accepted for evaluation is August 23, 1985. A contract is expected to be awarded no earlier than September 14, 1985. The right to reject any or all proposals is reserved.

**Procedures for Selecting Contractor.** The respondent deemed best qualified by experience, personnel qualifications, quality of management plan, and quality and timeliness of training program and training materials will be selected for cost and contract negotiations.

**Contact.** Further information and copies of the request for proposals may be obtained by writing or calling Marvin Veselka, Associate Commissioner for Professional Support, Texas Education Agency, 201 East 11th Street, Austin, Texas 78701, (512) 834-4087.

Issued in Austin, Texas, on July 17, 1985

TRD-856520 W. N. Kirby  
Commissioner of Education

Filed: July 19, 1985  
For further information, please call  
(512) 475-7077.

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## Texas Historical Commission Consultant Proposal Request

The Texas Historical Commission (THC) files this consultant proposal request under the provisions of Texas Civil Statutes, Article 6252-11c.

**Description.** The Texas Historical Commission hereby invites the offer of services on a consulting basis relevant to the Texas Heritage Conservation Plan (THCP) database. These services will entail the design, maintenance, and enhancement of an Image 3000-type database system for THCP data, as this data has been defined in the *Texas Heritage Conservation Plan Computerization Program Manual*. Computer time and proper security systems are also required.

**Qualifications.** The contractor must have the ability to design and make operational the system within 15 days; Hewlett-Packard hardware or hardware guaranteed compatible with existing THC hardware; 1200-baud communications capability; the ability to designate a liaison person to develop and maintain the THCP database; and the ability to submit a detailed, verifiable bill on a monthly basis.

**Duration and Amount of Funding.** The project must not extend beyond August 31, 1986. The contract amount will not exceed \$20,000.

**Contact.** For further information, contact Pat Mercado-Allinger, Staff Archeologist, or Lynn Biesaart, Computerization Coordinator, Office of the State Archeologist, Texas Historical Commission, P.O. Box 12276, 105 West 16th Street, Austin, Texas 78711, (512) 475-6328. The deadline for receipt of proposals is 5 p.m. on August 30, 1985.

**Selection.** The information contained in this proposal request is intended to serve only as a general description of the services desired. The THC will use any responses as a basis for further negotiation of specific project details. The THC reserves the right to accept or reject any of the proposals submitted. Selection of a contractor will be made on the basis of demonstrated competence and qualifications and reasonableness of fees for services. Unless a better offer is submitted, preference will go to the contractor that has satisfactorily performed these services in the past.

Issued in Austin, Texas, on July 22, 1985

TRD-856541      Curtis Tunnell  
Executive Director  
Texas Historical Commission

Filed: July 22, 1985  
For further information, please call (512) 475-3092.

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## State Board of Morticians Setting Fees

By authority of the 69th Legislature and Senate Bill 651, the State Board of Morticians hereby gives notice of its intent to set the following fees as of September 1, 1985:

- (a) Funeral director and embalmer fees will be:
- (1) license fees:
    - (A) biennial renewal, per license—\$50;
    - (B) late renewal penalty, per license—\$50;
    - (C) reinstatement—all back fees and penalties;
    - (D) duplicate license—\$15;

- (E) reciprocity, per license—\$75;
- (2) application fee—\$15; and
- (3) examination fees:
  - (A) funeral director written—\$75;
  - (B) embalmer written—\$75;
  - (C) embalmer practical—\$15.
- (b) Establishment license fees will be:
  - (1) annual renewal—\$80;
  - (2) new establishment—\$250;
  - (3) late renewal penalty—\$80.
- (c) Apprentice funeral director and embalmer fees will be:
  - (1) registration fees:
    - (A) funeral director—\$25
    - (B) embalmer—\$25
  - (2) apprentice renewal fees:
    - (A) annual renewal of registration, per license—\$25;
    - (B) penalty for late renewal of registration, per license—\$25; and
    - (C) reinstatement—all back fees and penalties.

Comments may be directed to: John W. Shocklee, Executive Secretary, State Board of Morticians, 1513 South Interstate 35, Austin, Texas 78741, (512) 442-6721.

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

TRD-856460      John W. Shocklee  
Executive Director  
State Board of Morticians

Filed: July 19, 1985  
For further information, please call (512) 442-6721.

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## North Central Texas Council of Governments Requests for Proposals

The North Central Texas Council of Governments (NCTCOG) gives notice that proposals will be accepted for the delivery of aging programs in the following 14 counties of the North Central Texas region: Collin, Denton, Ellis, Erath, Hood, Hunt, Johnson, Kaufman, Navarro, Palo Pinto, Parker, Rockwall, Somervell, and Wise.

The NCTCOG is requesting proposals for the delivery of aging programs as follows.

**Senior Center Services.** A total of \$560,243 for supportive services and \$833,644 for nutrition services for all of the following: congregate meals; home-delivered meals; transportation; information and referral; nutrition education; outreach; physical fitness; recreation; telephone reassurance; health screening; and volunteer opportunities.

**Legal Services.** A total of \$10,000 for services provided through an attorney and/or paralegal trained in legal matters.

**In-Home Services.** A total of \$10,000 for housekeeping, including housecleaning, laundry, and essential shopping, and personal care, including assisting an elderly person with bathing, dressing, personal appearance, feeding, and toileting.

Approval and funding of applications under this request for proposals (RFP) is contingent on appropriations received by NCTCOG from the Texas Department on Aging for the period October 1, 1985-September 30, 1986.

A meeting for all interested proposers was held Monday, July 15, 1985, at 1:30 p.m. in the NCTCOG Offices, 616 Six Flags Drive, Centerpoint Two, Arlington, Texas.

The RFP must be submitted to NCTCOG by 5 p.m., August 1, 1985. To request a copy of the RFP, contact Dale F. Farris, Jr., Manager of Aging Programs, North Central Texas Council of Governments, P.O. Drawer COG, Arlington, Texas 76005-5888, (817) 640-3300.

Issued in Austin, Texas, on July 12, 1985

TRD-856383

William J Pitstick  
Executive Director  
North Central Texas Council of  
Governments

Filed: July 17, 1985

For further information, please call (512) 640-3300.

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## Texas Board of Pardons and Paroles Consultant Proposal Request

This request for proposals is filed pursuant to Texas Civil Statutes, Article 6252-11c.

The Texas Board of Pardons and Paroles (BPP) requests offers from qualified private agencies for its Community Reintegration Program to undertake a short-term community residential program beginning September 1, 1985, and ending August 31, 1986, for adults being released from state prison to assist them in their successful reintegration into the community.

The agencies selected must possess the minimum qualification listed in the qualifications section and will be required to perform the various services listed in the scope of services section.

**Qualifications.** Each agency submitting an offer must present evidence or otherwise demonstrate to the satisfaction of the BPP that such agency possesses the following minimum qualifications:

(1) demonstrated experience in operating community residential reintegration programs or residential community corrections programs;

(2) well-defined program design to achieve successful reintegration of pre-releesees and parolees with one's community and family;

(3) ability to serve as a vehicle which will increase the public image of offenders and the BPP with one's local community;

(4) strive to achieve 65% successful completion of program participants and maintain or reduce 16% rate of return to the Texas Department of Corrections after one year's release (defined as three month's stay in Community Residential Reintegration Program and nine months after release from Community Residential Reintegration Program). Preferences for funding will be given to agencies who meet or exceed these goals;

(5) demonstrated notification, involvement, and support of local officials and citizens in the proposed Community Residential Reintegration Program;

(6) demonstrated compliance with the BPP standards for community residential facilities. See BPP §§145.81-145.100;

(7) ability to provide one or more spaces for a projected need of 537 general purpose beds and 134 special purpose beds for 500 pre-releesees and 2,067 parolees and mandatory releesees statewide during the contract year. These projections are based on the needs of the service population as identified by BPP classification system. These projections will

serve as the basis for the minimum number of beds needed in each locality;

(8) ability to demonstrate accountability for use of public funds.

**Scope of Services.** The program to be developed should focus on re-establishing the client's ties to his/her family, potential employers, and the community as well as providing individual substance abuse, education and personal/social adjustment counseling to those in need. The target population for this program will be those granted pre-release, parole and mandatory supervision status by the BPP. Upon completion of the residential phase of the program, an after-care plan should be developed and implemented to assist in the client's further transition into the community. After-care will include transition to parole supervision.

**Proposal Submission.** Proposals must be submitted to Texas Board of Pardons and Paroles, Attention: James Poland, Administrator, Community Services Section, 8610 Shoal Creek Boulevard, Austin, Texas 78758, by 3 p.m., on August 16, 1985.

A bidder's conference will be held at 1 p.m. on August 7, 1985, 8610 Shoal Creek Boulevard, Austin, Texas.

**Contact.** To obtain a proposal package and further information, contact James Poland, Administrator, Community Services Section, Texas Board of Pardons and Paroles, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (409) 219-7583.

Issued in Austin, Texas, on July 17, 1985.

TRD-856380

John W Byrd  
Executive Director  
Texas Board of Pardons and Paroles

Filed July 17, 1985

For further information, please call (409) 291-7583.

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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 July 15-19, 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.

**July 15-19, 1985**

Hansa Manufacturing Company, Baytown; petroleum refinery; on a 48-acre tract of the east bank of Cedar Bayou fronting on FM Road 1405 approximately 2.5 miles (along the waterway) south of the State Highway 146 Cedar Bayou Bridge in Baytown, Chambers County; 02777; new permit

Livingston Shipbuilding Company, Port Arthur; plant that cleans and gas-frees barges and ship tanks; on the west bank of the Sabine-Neches Canal approximately 1,800 feet northeast of Gulfgate Bridge in Port Arthur, Jefferson County; 01779; renewal

City of Wellington; wastewater treatment facilities; approximately 2,000 feet southwest of the intersection of State Highway 338 (15th Street) and FM Road 1035 (Haskell Street) southwest of Wellington in Collingsworth County; 10328-01; renewal

NL Industries, Inc., Houston; wastewater treatment plant; approximately 2.5 miles west of U.S. Highway 59, on Morales Road about 2,000 feet south of North Belt Road on a tract designated as 3000 North Belt in Harris County; 12046-01; renewal

Texas Parks and Wildlife Department, Lufkin; wastewater treatment plant; west of Purtis Creek and north of Goshen Road, approximately 0.4 mile due west of the intersection of FM Road 316 and Goshen Road in Henderson County; 12190-01; renewal

Vidor Municipal Utility District, Vidor; wastewater treatment plant; approximately 1,500 feet west of the intersection of FM Road 105 and the Southern Pacific Railway in Orange County; 12166-01; renewal

Westinghouse Electric Corporation, Bruni; waste disposal well; approximately 3,400 feet from the south line and 800 feet from the east line of Section 2081, Abstract 1372, approximately eight miles northwest of Bruni in Webb County; WDW-170; amendment

Victoria County Airport Commission, Victoria; sewage treatment plant; adjacent to the north side of U.S. Highway 59 approximately six miles east of Victoria in Victoria County; 10856-01; renewal

Nolin W. Ragsdale, Jim Steele, and Jack Roe, doing business as RSR Investment, Roanoke; wastewater treatment plant; approximately 8,000 feet southeast of the intersection of State Highway 114 and Interstate Highway 35W approximately two miles west of Roanoke in Denton County; 13143-01; new permit

City of Grandview; wastewater treatment facilities; on the north side of County Road 102, approximately 1-½ miles southeast of Grandview in Johnson County; 10180-01; renewal

Earl and Gilda Dungan, doing business as Lake Livingston Properties, Houston; wastewater treatment plant; approximately 4,000 feet north of the intersection of State Highway 156 and FM Road 224, approximately 4.2 miles southeast of the intersection of U.S. Highway 190 and State Highway 156 in San Jacinto County; 13145-01; new permit

Amerada Hess Corporation, Galena Park; tank farm and loading terminal; on company controlled property abutting the north shore of the Houston Ship Channel at a point approximately ½ mile downstream from

the Washburn Tunnel and about one mile south of Interstate Highway 10 in Harris County; 00671; renewal

A. G. Pourkamal, Houston; wastewater treatment plant; approximately ¼ mile southwest of the intersection of FM Road 149 (Mt. Houston Road) and Steubner-Airline Road, approximately ¼ mile northwest of the Steubner-Airline Road and Gulf Bank Road in Harris county; 13133-01; new permit

Brackman/529 Limited, Houston; wastewater treatment plant; approximately 3,300 feet southeast of the intersection of Freeman Road (FM Road 529) and Stockdick Road in Harris County; 13146-01; new permit

Homecraft Enterprises Corporation, Houston; wastewater treatment plant; approximately 3,500 feet north of the intersection of Koebelen Road and FM Road 2977 (Minonite Road) in Fort Bend County; 13160-01; new permit

City of Seabrook; wastewater treatment plant; adjacent to the intersection of Second Street and Todville Street in Seabrook in Harris County; 10671-01; renewal

U.S. Department of the Navy—Naval Air Station, Corpus Christi; class I hazardous/industrial solid waste storage and processing facility; at the Corpus Christi Naval Air Station on the north end of the En-cinal Peninsula in Corpus Christi, Nueces County; HW-50038; new permit

The Jefferson Group, Bastrop; wastewater treatment plant; approximately 3,000 feet south-southeast of the intersection of FM Road 812 and Old San Antonio Road in Bastrop County; 13129-01; new permit

Huber Technology Group, Borger; class I hazardous/industrial solid waste storage and processing facility; on a 3.062-acre tract of land in Section 27, Block Y, A, and B Survey of Hutchinson County; HW-50082-001; new permit

Mostek Corporation, Carrollton; class I hazardous/industrial solid waste storage and processing facility; at 1215 West Crosby Road, on a 15.8-acre tract of land, approximately 0.5 mile west of IH 35 between Beltline Road and Valwood Parkway in Carrollton, Dallas County; HW-50064-000; new permit

Calgon Corporation, Pasadena; commercial solid waste storage and processing facility for class I hazardous/industrial solid wastes; on a 15.19-acre tract of land at 9640 Bayport Boulevard in Pasadena, Harris County; HW-50026-001; new permit

Empak, Inc., Houston; class I hazardous/commercial industrial solid waste storage and processing facility; on FM Road 134, approximately 2.5 miles north of State Highway 225 on a 163-acre tract of land in Deer Park, Harris County; HW-50025-000; new permit

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

TRD-856502

Mary Ann Hefner  
Chief Clerk  
Texas Water Commission

Filed: July 19, 1985

For further information, please call (512) 463-7898.

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