Texas Register

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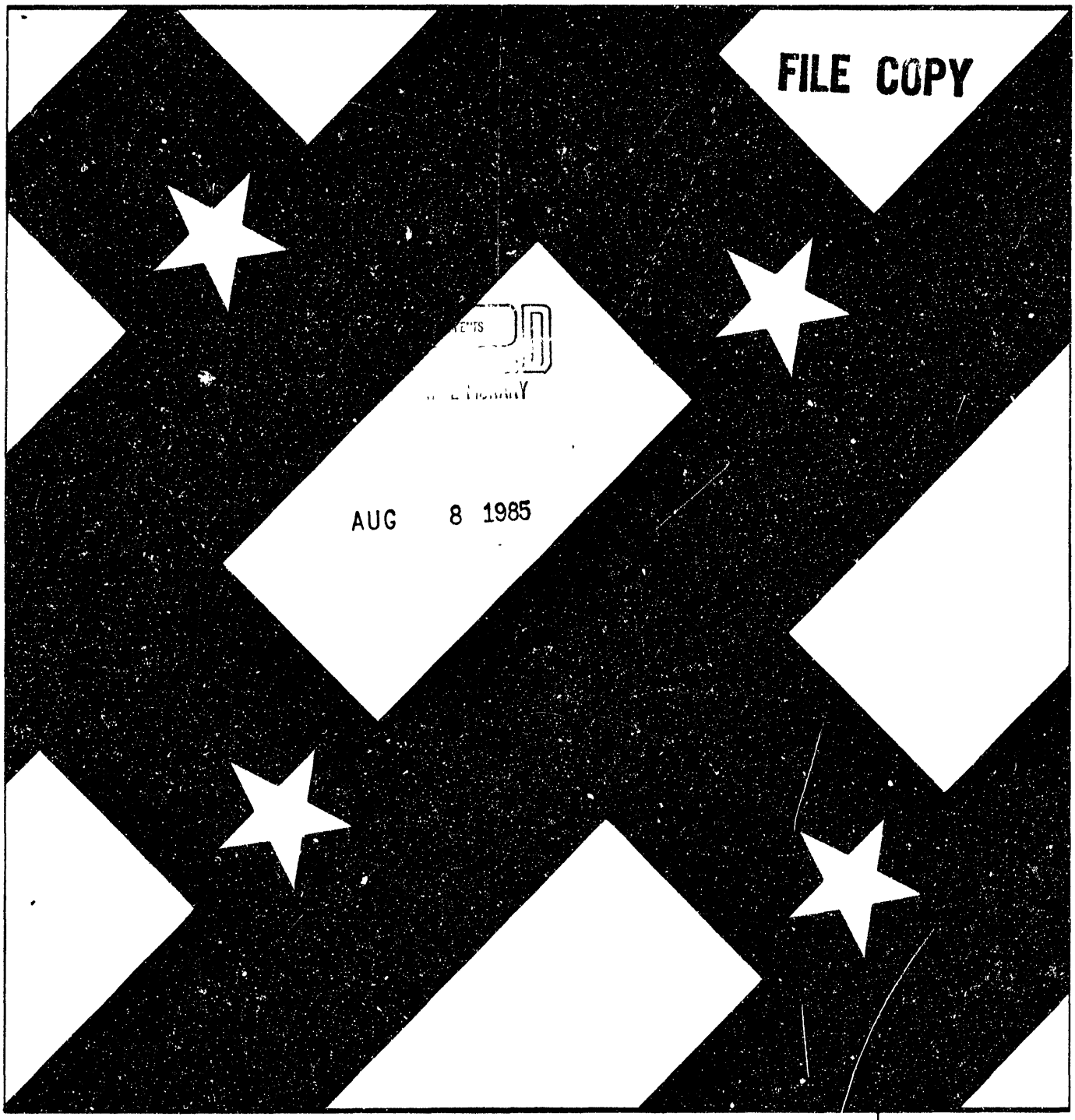

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Office of the Secretary of State

Texas Register

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

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

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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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

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

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

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

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

Texas Administrative Code

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

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

- **1** indicates the title under which the agency appears in the *Texas Administrative Code*;
- **TAC** stands for the *Texas Administrative Code;*
- **27.15** is the section number of the rule (27 indicates that the rule is under Chapter 27 of Title 1; 15 represents the individual rule within the chapter).

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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.

Appointments Made July 18

West Texas Region Community Development Block Grant Review Committee

For a term to expire January 1, 1986:

James Stewart
Mayor
P.O. Box 1269
Anthony, Texas 88021

Mayor Stewart is replacing Adrian Baca of Anthony, who no longer qualifies.

For a term to expire January 1, 1987:

Jane Shurley
Mayor
P.O. Box 787
Marfa, Texas 79843

Ms. Shurley is replacing Herbert Meyers of of Presidio, who no longer qualifies.

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

TRD-856586 Mark White
Governor of Texas

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Appointments Made July 19

Real Estate Research Advisory Committee

For terms to expire January 31, 1991:

Bill Jennings
1517 Shady Oaks Lane
Fort Worth, Texas 76107

Mr. Jennings is replacing Ted Schuler, Jr., of Amarillo, whose term expired.

Frederick Donald McClure
1507 West Barrett
San Augustine, Texas 75972

Mr. McClure is being reappointed.

315th Judicial District Court

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

Eric G Andell
4404 Basswood
Bellaire, Texas 77401

Mr. Andell is replacing Criss Cole of Houston, who is deceased.

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

TRD-856586 Mark White
Governor of Texas

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Appointment Made July 22

Texas 1986 Sesquicentennial Commission

For a term to expire January 31, 1991:

Bob Bowman
2207 Kensington
Tyler, Texas 75703

Mr. Bowman is being reappointed.

Issued in Austin, Texas, on July 22, 1985

TRD-856586 Mark White
Governor of Texas

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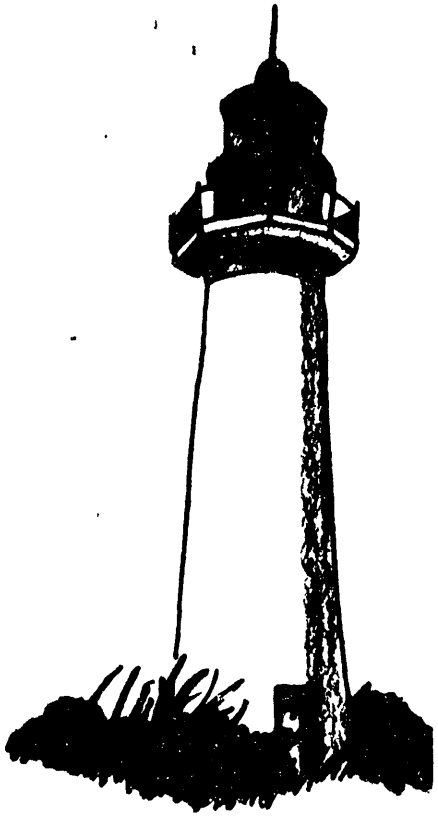

Emergency Rules

An agency may adopt a new or amended rule, or repeal an existing rule on an emergency basis, if it determines that such action is necessary for the public health, safety, or welfare of this state. The rule may become effective immediately upon filing with the *Texas Register*, or on a stated date less than 20 days after filing, 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 10. COMMUNITY DEVELOPMENT

Part IV. Texas Housing Agency

Chapter 147. 1985 Single Family Mortgage Purchase Program

★10 TAC §§147.1-147.22

The emergency new sections submitted by the Texas Housing Agency will be serialized in the August 6, 1985, issue of the *Texas Register*. The effective date for the document is July 24, 1985.

TITLE 19. EDUCATION

Part II. Texas Education Agency

Chapter 69. Proprietary Schools and Veterans Education

Subchapter E. Guidelines and Minimum Standards for Operation of Texas Proprietary Schools

★19 TAC §69.125, §69.127

The Texas Education Agency adopts on an emergency basis amendments to §69.125 and §69.127, concerning certificates of approval and permits for representatives and minimum standards for operation of proprietary schools.

The 69th Legislature, 1985, passed House Bill 1593, which changed the fee structure of the Texas Proprietary School Act. These amendments will implement and clarify these mandated changes.

The amendment to §69.125 outlines the documents which comprise a complete application for renewal. It is necessary to specify what constitutes a complete application, since the Texas Education Code, §32.34, now requires the agency to charge a fee of at least $100 for late renewals.

The amendment to §69.127(b)(11) requires schools to submit information on the gross amount of annual student tuition and fees. The annual renewal fee for schools is based on the gross amount of student tuition and fees.

These amendments are adopted on an emergency basis to ensure that schools have prompt notice of the new fee requirements.

These amendments are adopted on an emergency basis under the Texas Education Code, §32.22, which directs the State Board of Education to make rules for the implementation of the Texas Proprietary School Act.

§69.125. Certificates of Approval and Permits for Representatives.

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

(c) Renewal of certificate of approval. A complete application for renewal of a certificate of approval shall consist of the following:

(1) annual renewal fee as set forth in the Texas Education Code, §32.71(a)(2);

(2) completed application for renewal (Form DPSVE-015);

(3) properly executed school bond;

(4) complete and correct annual financial statements for the most recent fiscal year demonstrating the school is financially stable and capable of fulfilling its commitments for training; and

(5) any other revisions or evidence of which the school has been notified in writing necessary to bring the school's application for approval to a current and accurate status.

(d)[(c)] Application procedures for additional courses. Schools making application for approval of additional courses after the original approval has been granted shall submit a summary of course information (DPSVE-004) for each new course, a synopsis of each subject, and any relevant additions to the school catalogue such as a revised staff roster, personal data forms, equipment inventory, floor plans, and class schedule. Courses must be approved prior to solicitation of students, advertising, and conducting classes.

(e)[(d)] Notification of issuance or denial of certificate of approval. The administrator, upon review and consideration of an application for a certificate of approval from each school, shall determine the applicant to be acceptable or unacceptable. The administrator shall set forth in writing the approval or the reasons for denial of approval.

(f)[(e)] Revocation of certificate of approval.

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

§69.127. Minimum Standards for Operation of Proprietary Schools.

(a) (No change.)

(b) Schools desiring issuance and renewal of certificates of approval shall adhere to the following standards:

(1)-(10) (No change.)

(11) Financial stability.

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

(C) General requirements for annual statements. Each certificated school shall furnish annually two copies of acceptable financial statement in association with an independent public accountant or certified public accountant not later than 120 days from the close of the school's fiscal year. These statements will be consistent with generally accepted accounting principles and must include the following:

(i)-(iii) (No change.)

(iv) **The gross amount of annual student tuition and fees for each school unless the school chooses to pay an annual renewal fee of $1,100.**

(D) Specific types of statements required. Certificated schools shall meet the following requirements:

(i) (No change.)

(ii) Such schools must submit annual financial statements as set forth in subparagraph ***(C)(i)-(iv)*** [(C)*(i)-(iii)*] of this paragraph; however, they need to be audited or reviewed but must be compiled by a public accountant or certified public accountant and no opinion need be expressed. If a question arises as to the validity of the compiled or reviewed financial statements submitted or to the adequacy of the financial structure, the administrator may require an audit of a school, at the school's expense, certified by a public accountant or certified public accountant. Schools which are subsidiaries of another corporation may submit, in lieu of the statements required in subparagraph ***(C)(i)-(iv)*** [(C)*(i)-(iii)*] of this paragraph, the annual audited financial statements of the parent corporation provided that:

(I) said statements are accompanied by an audited list of any student tuition refunds payable by the subsidiary school at the close of its fiscal year **and the gross amount of annual student tuition and fees for each school unless an annual fee of $1,100 is paid for each school;**

(I)-(III) (No change.)

(12)-(15) (No change.)

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

TRD-856575 W. N. Kirby
Commissioner of Education

Effective date: July 22, 1985
Expiration date: November 19, 1985
For further information, please call (512) 475-7077.

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★19 TAC §69.126

The Texas Education Agency adopts on an emergency basis new §69.126, concerning the fee structure of the Texas Proprietary School Act. The 69th Legislature, 1985, passed House Bill 1593, which changed the fee structure. This new section implements these mandated changes, clarifies that the fee for a change in ownership is $1,000, requires documentation necessary to establish the gross amount of annual student tuition fees, and establishes a late renewal fee of $100.

This new section is adopted on an emergency basis to ensure that schools have prompt notice of the new fee structure required by law.

This new section is adopted on an emergency basis under the Texas Education Code, §32.22, which directs the State Board of Education to make rules for the implementation of the Texas Proprietary School Act.

§69.126. Fees.

(a) In the event of a change in ownership of the school, the new owner must pay a $1,000 initial fee.

(b) The annual renewal fee for a school is based on the gross amount of annual student tuition and fees. This gross amount must be included in the annual financial statements required by §69.127 (b)(11) of this title (relating to Minimum Standards for Operation of Proprietary Schools) and reflect the amount for each school separately. If the financial statements of the parent corporation are submitted, the gross amount may be included as a separate document but must be audited by an independent certified public accountant or public accountant registered with the appropriate state board of accountancy. In the alternative, a school may choose to pay the maximum annual renewal fee of $1,100 instead of reporting the gross amount of annual student tuition and fees.

(c) A late renewal fee of $100 must be paid in addition to the annual renewal fee if the school fails to file a complete application for renewal at least 30 days before the expiration date of the certificate of approval. The requirements for a complete application for renewal are found in §69.125 of this title (relating to Certificates of Approval and Permits for Representatives). The complete renewal application must be postmarked with a date on or before the due date.

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

TRD-856576 W. N. Kirby
Commissioner of Education

Effective date: July 22, 1985
Expiration date: November 19, 1985
For further information, please call (512) 475-7077.

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(Editor's note: A notice appeared in the July 26, 1985, issue of the Texas Register *indicating that the following five emergency adoptions would appear in this issue. Effective date of the documents is July 19, 1985.)*

Chapter 77. Comprehensive Instruction

Subchapter R. Bilingual Education and Other Special Language Programs

★19 TAC §§77.351-77.357, 77.361, 77.365, 77.366

The Texas Education Agency adopts on an emergency basis amendments to §§77.351-77.357, 77.361, 77.365, and new 77.366, concerning bilingual education and other special language programs. The amendments reflect changes to complement the requirements mandated under House Bill 72, 68th Legislature, Second Called Session, 1984, and Chapter 75, concerning curriculum. These new requirements address the new performance report required for each program by campus, correlation of the essential elements in program content, and methods of instruction.

Under the amendment to §77.351, limited English proficient (LEP) students are to be provided special language programs which include modified methods of instruction, including dual language and English as a second language (ESL) as integral parts of the regular program, and to be taught by qualified teaching personnel, to ensure the LEP students are afforded full opportunity for learning the essential elements required by Chapter 75.

The amendment to §77.352, concerns districts which are unable to offer bilingual education as required. Such districts must request approval from the commissioner of education to offer an alternative program. Such approval is effective for one school year only. The items to be included in the request for approval are also detailed. The proposed amendments include a provision for the commissioner of education to consider hardship cases in school districts required to provide an ESL program but which are unable to recruit an adequate number of ESL certified teachers.

The amendment to §77.353 provides the flexibility to offer bilingual education or ESL to LEP students in school districts that are required to offer bilingual education. The proposed amendment also incorporates mastery of the essential elements as described in Chapter 75.

The amendment to §77.354 provides for districts to conduct a home language survey for each student new to the district and for students previously enrolled who were not surveyed in the past but who may have a home language other than English. The survey must be completed within 10 days from the date of enrollment. The commissioner of education may distribute to each district sample forms to assist districts in the identification and assessment of LEP students. The survey must be used to identify and classify students who normally use a language other than English in pre-kindergarten through grade 12.

The amendment to §77.355 clarifies how the Language Proficiency Assessment Committee (LPAC) is to be utilized. The responsibility of the LPAC is to review all pertinent information on all students who have a language other than English for the purpose of identification and reclassification of LEP students.

The amendment to §77.356 requires districts to administer an English oral language proficiency test to each student in grades pre-kindergarten through grade 12 who has a language other than English as identified on the home language survey, using one or more of the tests approved by the State Board of Education. Students entering after the fall norming period should be given the language proficiency test within four weeks of enrollment, however, the standardized test should not be administered until the next norming period, usually spring. If the student's test score on the oral English language proficiency test in grades two-12 is above the levels designated for indicating LEP and he or she scores between the 23rd and 40th percentile on the written standardized test, the language proficieny assessment committee must determine whether or not the student is LEP based on criteria set out in the rule.

The amendment to §77.357 directs districts to identify and serve students eligible for programs provided under this subchapter in accordance with law and Chapter 75. Districts must establish procedures to ensure that a student is not refused instruction in a language other than English solely because the student has a handicapping condition. Districts must ensure that programs for LEP students with a handicapping condition are coordinated with and are an integral part of the total instructional program.

The amendment to §77.361 requires teachers assigned to a bilingual education program to be fully certified teachers with a bilingual certificate or endorsement. The proposed rule also requires teachers assigned to an ESL program to be fully certified with an ESL or bilingual education certificate or endorsement.

The amendment to §77.365 changes Texas Education Agency to Central Education Agency. Central Education Agency staff trained in assessing bilingual education, ESL, and other special language programs must monitor on-site each school district in the state every three years. For purposes of the performance report required by the Texas Education Code, §21.258, the staff must determine the appropriateness and accuracy of the district's use of tests and other assessment procedures to ensure that they accurately reflect the academic progress of LEP students. The staff must also determine the appropriateness of expenditures of bilingual and special language program funds. If a district has been cited as being in noncompliance and has failed to proceed to remove variations or discrepancies within the time period specified the commissioner of education may take whatever action deemed appropriate under the Texas Education Code, §21.507, to modify the district's accreditation status.

New §77.366 requires all districts which conduct a bilingual education or English as a second language program to conduct periodic assessment and continuous diagnosis in the language of instruction for the purpose of completing the school district annual performance report. Districts must report such information in a form required by the commissioner of education.

These amendments and new section are adopted on an emergency basis to ensure districts will be able to plan for the coming school year and to ensure that students in bilingual education receive the same essential elements as other students.

These amendments and new section are adopted on an emergency basis under the Texas Education Code, Chapter 21, Subchapter L, which directs the State Board of Education to adopt rules for implementation of bilingual education and special language programs.

§77.351. Policy.

(a) It is the policy of the State Board of Education that every student in the state who has a home language other than English and who is identified as limited English proficient shall be provided a full opportunity to participate in a special language program. Each school district shall be responsible for identifying limited English proficient students based on criteria established by the State Board of Education, for providing special language programs which include modified methods of instruction, including dual language and English as a second language as integral parts of the regular program, and for actively seeking qualified teaching personnel, to ensure that limited English proficient students are afforded full opportunity for learning the essential elements required by Chapter 75 of this title (relating to Curriculum).

(b) The goal of bilingual education and other special language programs shall be to enable students of limited English proficiency to become competent in speaking, reading, writing, and comprehending the English language. Such programs shall emphasize the mastery of basic English language skills in order for students to be able to participate effectively in the regular program as soon as practicable. Limited English proficient students shall be provided a well-balanced curriculum and shall be instructed in the essential elements.

(c) (No change.)

§77.352. Required Bilingual Education and Special Language Programs.

(a) (No change.)

(b) Districts which are unable to offer bilingual education as required by subsection (a)(1) of this section shall request approval from the commissioner of education to offer an alternative program. Such approval shall be effective for one school year only. The request for approval for an alternative program shall be submitted at a date to be determined by the commissioner of education [by August 15 of each year] and shall include the following:

(1) (No change.)

(2) a description of the proposed alternative programs [program] to meet the language needs of the district's [students of] limited English proficient students, as well as the provision of the essential elements required by Chapter 75 of this title (relating to Curriculum) [proficiency]; and

(3) (No change.)

(c) Districts shall ensure that the alternative program addresses §77.353(c)(3) and (c)(5) of this title (relating to Program Content; Method of Instruction).

(d)[c] The commissioner of education may authorize the establishment of a bilingual education program in districts not required to provide such a program under subsection (a) of this section. Districts wishing to establish such a program shall request authorization from the commissioner of education.

(e)[d] School districts not required to provide a bilingual education or other special language program under Texas Education Code, §21.453, shall provide an English as a second language program to all students of limited English proficiency in grades kindergarten through 12. Such English as a second language programs shall be provided in accordance with the requirements in this subchapter.

(f) The commissioner of education shall be authorized to consider hardship cases in school districts required to provide an English as a second language program but which are unable to recruit an adequate number of English as a second language certified teachers. The same criteria in subsections (a)-(e) of this section shall apply in such instances.

§77.353. Program Content; Method of Instruction.

(a) Each school district required to offer a bilingual education or special language program shall provide each limited English proficient student the opportunity to be enrolled in the required program at his or her grade level, except that a limited English proficient student who is dominant in English may be provided only an English as a second language program as described in this subchapter, provided that the amount of time dedicated to English as a second language instruction fully meets the requirements for English language arts instruction established in Chapter 75 of this title (relating to Curriculum).

(b) Districts shall design instruction in bilingual education and English language arts programs by modifying methods, pacing, and/or materials to ensure the limited English proficient students have a full opportunity to master the essential elements of the required curriculum.

(c)[a] [Bilingual education is a methodology of dual language instruction.] Bilingual education programs provided under this subchapter shall be full-time programs of dual-language instruction including [include] the [following] six components in this subsection.

(1) (No change.)

(2) Basic skills of comprehending, speaking, reading, and writing shall be developed in the student's primary language. This component shall provide for a carefully structured and sequenced mastery of the essential elements in language arts in the primary language.

(3) Basic skills of comprehending, speaking, reading, and writing shall be developed in the English language using English as a second language methods. This component shall provide for a carefully structured and sequenced mastery of the essential elements in language arts in the English language.

(4) Subject matter and concepts shall be taught in the student's primary language. This component shall provide for mastery of the essential elements established for mathematics, science, and social studies.

(5) Subject matter and concepts shall be taugnt in the English language using English as a second language methods. This component shall provide for mastery of the essential elements established for mathematics, science, and social studies.

(6) Attention shall be given to instilling in the student confidence, self-assurance, and a positive identity with his or her cultural heritage. This component shall be an integral part of the total curriculum and not a separate subject. It shall address the

history and cultural heritage of the student's primary language and the history and culture of the United States.

[(b) The degree of emphasis in each component shall depend on the language proficiency, social, emotional, and achievement levels of the student. Such determinations regarding the instructional program shall be made by school district personnel based on all available information about the students in the program.

[(1) The amount of time and treatment accorded to the two languages shall be based on the student's proficiency in each. The program shall provide for a carefully structured and sequenced mastery of English language skills.

[(2) The amount of subject matter and the concepts to be taught in each language shall be planned based on the student's relative proficiency in the two languages. The content and objectives in mathematics, science, and social studies shall be the same regardless of the language of instruction.

[(3) The cultural component shall be an integral part of the total curriculum and not a separate subject area. It shall address the history and culture associated with the primary language of the student and the history and culture of the United States.]

(d) Limited English proficient students shall be placed in an appropriate curriculum sequence to ensure that students are challenged to perform at a level commensurate with their ability. For Spanish-speaking limited English proficiency students, districts shall use the most appropriate state-adopted Spanish texts in a modified instructional design as well as other curriculum adaptations which may be developed by districts. For limited English proficiency students who speak languages other than Spanish, districts shall use the most appropriate text and/or materials available. The time and treatment accorded in the two languages shall be based on the student's proficiency in both languages to ensure mastery of the essential elements required in each of the components of the bilingual education program. The amount of time dedicated to teaching each subject shall be that required in §75.141 of this title (relating to Description of a Well-Balanced Elementary Curriculum) and §75.142 of this title (relating to Description of a Well-Balanced Secondary Curriculum).

(e)[c] In subjects such as art, music, and physical education, the **limited English proficient** students shall participate fully with their English-speaking peers in regular classes provided in the subjects. The district shall ensure that student enrolled in the **bilingual education and English as a second language programs** [program] have a meaningful opportunity to participate fully with other students in all extracurricular activities, **subject to the provision of §97.113 of this title (relating to Student Absences for Extracurricular or Other Activities).**

[(d) The board of trustees of a district may designate courses, in addition to those required to be taught bilingually under law, to be taught in a language other than English.]

(f)[e] English as a second language **programs provided under this subchapter** shall be [an] intensive **programs** [program] of instruction with the purpose of developing competence in English. The district shall offer a developmental sequence of English instruction in the four language skills—listening, speaking, reading, and writing. **The most appropriate level of the state-adopted English as a second language systems shall be used in the modified instructional design.** [The cultural aspects of the student's background and his or her previous learning experiences shall be an integral part of the program. Pertinent cultural patterns of the United States shall be included.] The district shall ensure that planning and **coordination** [communication] occur between the English as a second language teacher and those who may have the student for other subject areas **to ensure that in all programs the essential elements are the focus of instruction.**

(g) In districts not required to provide a bilingual education program, the time allocations required for English as a second language shall be in accordance with this subsection.

(1) Time allocations for the elementary grades shall be from a minimum of one period daily to total immersion for the entire day, as described in §75.141(c)-(e) of this title (relating to Description of a Well-Balanced Elementary Curriculum).

(2) Time allocations for grades seven and eight shall be as described in §75.142(b)(5) and (9) of this title (relating to Description of a Well-Balanced Secondary Curriculum).

(3) Time allocations for grades nine-12 shall be as described in §75.151 of this title (relating to High School Graduation Requirements).

(4) The time allotted to each student for English as a second language instruction should be based on the English language proficiency of the student. Such instruction may vary from a minimum of one class period for the English dominant limited English proficient student to total immersion for the entire day for the primary language dominant student. English as a second language methodology will constitute a modified instructional program for limited English proficient students as required by §75.4 of this title (relating to Special Populations and Programs).

(5) Two of the four units in English required for high school graduation may be in English as a second language. After a student has earned credit for two units of English as a second language, further required instruction in English as a second language may be provided in correlated language arts classes by endorsed English as a second language teachers. English as a second language methodologies may also be provided in any of the courses or electives required for graduation, to assist the limited English proficient student with the mastering of the essential elements for such subjects. The use of English as a second language methodologies in a modified instructional design shall not impede the awarding of credit in such subjects toward meeting graduation requirements.

(h) Bilingual education and English as a second language programs are transitional; therefore, program content must be such as to develop students' cognitive ability and mastery of the essential elements to the extent necessary to allow:

(1) transfer of language arts skills developed in the primary language to English; and

(2) mastery of essential elements in the English language in mathematics, science, and social studies for their grade level at the time of reclassification as not limited English proficient.

[(f) The time allotted to each student for English as a second langauge instruction shall be based on the English language competency of the student. Such instruction may vary from a minimum of one class period per day to total immersion for the entire day. At the elementary level, the district shall implement an English language development program structure that best addresses the needs of the students. It may be taught in a regular classroom, a resource room, or a tutorial arrangement. It may be a part of the 260 clock hours in English which are required in grades seven and eight. A maximum of two of the three units in English required for high school graduation may be in English as a second language (or English for speakers of other languages).

[(g) Any district that desires to implement a transitional language instructional program other than bilingual education or English as a second language for grades post-elementary through eight shall submit a description to the agency. The commissioner shall approve or disapprove such a proposal based on its educational appropriateness.]

§77.354. Home Language Survey.

(a) Districts shall conduct a home language survey for each student **new to the district and for students previously enrolled** who **were not surveyed in the past but who may have a home language other than English** [enrolls in a Texas public school for the first time] Districts shall require that the survey be signed by the student's parent or guardian for **students in grades kindergarten-eight or the student in** [for] grades nine-12. The survey shall be kept with each student's permanent record.

(b) (No change.)

(c) [The commissioner of education shall distribute to each district a survey form setting out the minimum information required.] Additional information may be col-

lected by the district and recorded on the **home language survey.** [document. If the survey is not completed and returned within 10 days of the student's registration,] The district **shall** [must] contact the parent or guardian **if necessary** in order to complete the **survey within 10 days from date of enrollment** [document]. The **identification and placement of each limited English proficient student** [survey] shall be completed within four weeks of the student's enrollment. **The commissioner of education may distribute to each district sample forms to assist districts in the identification and assessment of limited English proficient students.**

(d) The survey **shall** [will] be used to identify and classify students who normally use a language other than English **in prekindergarten-grade 12.** An answer of a language other than English to either or both of the required questions identifies the student for language proficiency assessment **as described in §77.356 of this title (relating to Testing and Classification of Students).**

§77.355. Language Proficiency Assessment Committee.

[(a) The purpose of the Language Proficiency Assessment Committee shall be to allow professional education personnel and parents to be responsible for recommendations regarding the identification, instructional placement, and reclassification of limited English proficient students.]

(a)[(b)] Districts required to establish a bilingual education [or special language] program under this subchapter shall by local board policy establish and operate a Language Proficiency Assessment Committee. Districts not required to establish a bilingual education program under this subchapter shall designate one or more professional personnel to carry out the duties assigned to the **committee** [committees] under this subchapter.

(b) A district shall establish a sufficient number of language proficiency assessment committees to enable them to discharge their duties within the required four-week period for placement. The district shall be responsible for orientation and training of all members of the committee(s).

(c) (No change.)

(d) If the district does not have an individual in one or more of the school job classifications listed in subsection (c) of this section, the district shall select another professional staff member to serve on the language proficiency assessment committee. The district shall have discretion to add members to the committee.

(e)[(d)] All members of the Language Proficiency Assessment Committee, including parents, shall be acting for the school district and shall observe all laws and rules governing confidentiality of information concerning individual students.

[(e) If the district does not have an individual in one or more of the school job classifications listed in subsection (c) of this section, the district may select another staff member to serve on the Language Proficiency Assessmet Committee if desired. The district shall have discretion to add members to the committee.]

(f) The responsibility of the Language Proficiency Assessment Committee shall be to review all pertinent information on all students who have a language other than English for the purpose of identification and reclassification of limited English proficient students in grades prekindergarten-12 based upon the criteria in §77.356 of this title (relating to Testing and Classification of Students). The committee shall perform the following functions: [The Language Proficiency Assessment Committee may be established for each campus of the district or one committee may serve multiple campuses. The district shall be responsible for orientation of all members of the committee.]

(1) designate limited English proficiency status for all students in grades two-12 whose ability in English is so limited that the English written proficiency tests cannot be administered;

(2) designate limited English proficiency status for all students in grades prekindergarten-12 who score below the cutoff criteria on the agency-approved English language proficiency test;

(3) designate limited English proficiency status for all students (grades two-12) who score below the 23rd percentile on either the reading or language arts subtests of an agency-approved achievement test;

(4) determine whether or not the student is limited English proficient based on an oral English language proficiency test score in grades two-12 which is above the levels designated for indicating limited English proficiency and a score between the 23rd and 40th percentile on the written standardized test. The Lanugage Proficiency Assessment Committee shall also consider the following factors in making such determination:

(A) written recommendation and observation by current and previous teachers;

(B) nonmastery of the essential elements;

(C) nonmastery of the Texas Educational Assessment of Minimum Skills (TEAMS);

(D) grades from the current or previous years;

(E) written or oral recommendation of the parent concerning program placement;

(F) criterion-references test results and progress on continuum of skills or informal assessment measures; and

(G) student interview;

(5) designate as English proficient all students scoring above the 40th percentile on both the reading and langange arts subtests of an agency-approved achievement test; and

(6) review, at the discretion of the committee, other data in addition to oral language proficiency tests for students in prekindergarten-grade one who have no other academic records.

[(g) For each student who normally uses a language other than English and who has been administered appropriate language proficiency tests, the committee shall make determination whether the student is to be classified as limited English proficient based upon the criteria in §77.356 of this title (relating to Testing and Classification of Students). It shall recommend appropriate placement of each limited English proficient student in bilingual education, English as a second language or other special program. The committee may also recommend participation in a summer, extended day or extended week program which may be provided by the school district.

[(h) For each participant in a bilingual education or special language program, the committee shall annually determine whether the student is English proficient using the criteria in §77.356 of this title (relating to Testing and Classification of Students). It shall recommend reclassification and placement into an all-English curriculum of those students who are determined to be English proficient.]

(g)[(i)] For each student exited from the bilingual program, the committee **shall** conduct follow-up studies for two **years. The committee shall document that it has reviewed** [shall review] achievement and criterion referenced test scores, grades in all subjects or courses, written and oral teachers' evaluations, parental opinion, and other information as appropriate, **during the two-year period following the date of exit.** For those students who are not performing as desired in the all-English curriculum, the committee **shall** [may] prescribe participation in compensatory **education,** bilingual education, English as a second language, or other program that addresses the needs of the student.

(h)[(j)] The actual placement of a student into a program as defined in §77.353 of this title (relating to Program Content; Method of Instruction) shall be done in accordance with §77.360 of this title (relating to Parental Authority and Responsibility) [and Texas Education Code, §21.074, and §21.075].

(i) Documentation for all actions impacting the student with a language other than English, such as parent notification, evidence of parents' informed approval or denial prior to entering or exiting a limited English proficient student from the required program, shall be reflected in each student's permanent record folder.

§77.356. Testing and Classification of Students.

(a) Districts shall administer and English oral language proficiency test to each student in grades prekindergarten [kindergarten]-12 who has a language other

than English as identified on the home language survey. Districts shall select one or more of the tests approved by the State Board of Education. In districts required to offer a bilingual program, the Spanish version [section] of the oral language proficiency tests selected by the [a] district shall also be administered in prekindergarten [kindergarten] through the elementary grades to students whose home language is Spanish and who are limited English proficient. An English-speaking professional or paraprofessional trained in language proficiency testing shall administer the English version [portion] of the test. A Spanish-speaking professional or para-professional trained in language proficiency testing shall administer the Spanish version [portion] of the test. For languages other than Spanish, informal oral assessment measures in the home language shall be used. The grade levels and the scores on each test which shall identify a student as limited English proficient shall be established by the State Board of Education. The commissioner of education shall review the approved list of tests, grade levels, and scores at least annually and shall recommend changes to the board.

(b) Districts shall administer the English reading and English language arts sections of the [a] standardized achievement test used by the district to each student in grades two-12 who has a home language other than English as identified on the home language survey. Districts shall use one or more of the tests approved by the State Board of Education. Use of the most recent edition is recommended. For purposes of determining the limited or nonlimited English proficiency of students in grades two-12, districts shall use the criteria specified in subsection (d) of this section. The list of tests shall be reviewed at least annually by the commissioner of education and any needed changes shall be recommended to the board.

(c) Students entering after the fall norming period should be given the language proficiency test within four weeks of enrollment; however, the standardized test should not be administered until the next norming period, usually spring. All students in grades two-12 not assessed with a standardized achievement test shall be further assessed according to criteria listed in subsection (d) of this section. [All oral and written proficiency testing of students who enroll within five class days of the first day of school shall be completed no later than four weeks after the first day of school.]

(d) Districts shall use the criteria in this subsection [below] for classification of students whose primary language is other than English for program entry purposes.

[(1)] A student shall be identified as limited English proficient if [one or more of the following] criteria listed in paragraphs (1), (2), or (3) of this subsection are met.

(1)[(A)] Ability in English is so limited that the English written proficiency tests cannot be administered.

(2)[(B)] The score on the English oral language proficiency test for a student in grades prekindergarten [kindergarten] -12 is below the designated for indicating limited English proficiency in subsection (a) of this section.

(3)[(C)] The score on either the reading or the [and] English language arts section [sections] of the standardized achievement test for a student in grades two-12 is below the 23rd percentile.

(4) If the student's test score on the oral English language proficiency test in grades two-12 is above the levels designated for indicating limited English proficiency and he or she scores between the 23rd and 40th percentile on the written standardized test, the Language Proficiency Assessment Committee shall determine whether or not the student is limited English proficient based on other factors which include the following:

(A) written recommendation and observation by current and previous teachers;

(B) nonmastery of the essential elements in Chapter 75 of this title (relating to Curriculum);

(C) nonmastery of the basic skills tested in the Texas Educational Assessment of Minimum Skills (TEAMS);

(D) grades from the current or previous years;

(E) written or oral recommendation of the parent concerning program placement;

(F) criterion-referenced test results and progress on continuum of skills or informal assessment measures; and

(G) student interview.

[(2) If the oral English language proficiency test score of a student in grades two-12 is above the levels designated for indicating limited English proficiency in subsection (a) of this section and he or she scores between the 23rd and the 40th percentile on the written standardized test, the Language Proficiency Assessment Committee shall determine whether or not the student is limited English proficient based on other factors which may include:

[(A) written recommendation and observation by current and previous teachers;

[(B) grades from the current or previous years;

[(C) written or oral recommendation of the parent concerning program placement;

[(D) data regarding emotional or maturational levels;

[(E) criterion referenced test results and progress on continuum of skills or informal assessment measures;

[(F) student interview; and

[(G) other student information.

[(3) A student in grades two-12 shall not be classified as limited English proficient if he or she scores at or above the 40th percentile on the reading and English language arts sections of the standardized achievement test.]

(e) Annually, districts shall make available for review by the Language Proficiency Assessment Committee scores of the most current [administer an] English oral language proficiency test selected from the list approved by the State Board of Education for [in subsection (a) of this section to] each limited English proficient students in grades prekindergarten [kindergarten] -12 being considered for exiting from bilingual education programs. Districts shall also submit [administer] the reading and English language arts test scores on the [sections of a] standardized achievement test used by the district [selected] from the list approved by the State Board of Education for [in subsection (b) of this section to] each limited English proficient student in grades two-12. The criteria in paragraphs (1) and (2) [-4] of this subsection shall be used for reclassification of students for program exit purposes.

(1) The student in grades prekindergarten [kindergarten] -one may [shall] be classified as English proficient if the district can demonstrate that the student is proficient in the areas of listening, speaking, reading, and writing of the English language and can meet the district's promotion standards applicable to English proficient students [his or her score on the oral English proficiency test is above the levels designated for indicating limited English proficiency in subsection (a) of this section].

(2) The student in grades two-12 may [shall] be classified as English proficient if his or her score on the [oral English proficiency test is above the levels designated for indicating limited English proficiency in subsection (a) of this section; and the score on the] reading and English language arts sections of the standardized achievements tests is between the 23rd and the 40th percentile and the Language Proficiency Assessment Committee determines the student has sufficient English proficiency based on mastery in the English language of the essential elements as required by §75.192(a)-(c) of this title (relating to Promotion and Course Credit) [other factors listed in paragraph (2) of subsection (d) of this section].

(3) (No change.)

[(4) For the student in grades two-12 who has been enrolled in a bilingual education program for at least two years and has not achieved the 23rd percentile and has shown no significant improvement in relative English proficiency (relative to the primary language), the Language Proficiency Assessment Committee shall consider alternative bilingual programs or placements designed to strengthen and improve the student's language proficiency. Such an alternative program or placement may be in ad-

dition to the student's placement or a new placement.]

(f) Students who have transferred out of the program who are later determined to have inadequate English proficiency **and achievement shall be provided a modified instructional design as required by §75.4 of this title (relating to Special Populations and Programs) and §75.170(c) of this title (relating to School District Policy on Promotion, Retention, Remediation, and Placement)** [may be re-enrolled in the program in accordance with the Texas Education Code, §21.455(i) and this subchapter].

(g) All records pertaining to **testing and classification** [identification and assessment] of students for program participation purposes shall be **kept with each student's permanent record or in a campus master file.** [maintained for documentation. The Language Proficiency Assessment Committee shall be responsible for such records.]

§77.357. Eligible Handicapped Students.

(a) Districts shall identify and serve students eligible for programs provided under this subchapter in accordance with the Texas Education Code, §21.455(f), **and Chapter 75 of this title (relating to Curriculum).**

(b) Districts shall **develop and implement procedures which differentiate between assessment for language proficiency and diagnosis for handicapping conditions** [ensure adequate coordination between bilingual or other special language personnel and special education personnel]

(c) Districts shall establish procedures to ensure that a student is not refused instruction in a language other than English solely because the student has a handicapping condition. Districts shall ensure that the Language Proficiency Assessment Committee (LPAC) determines if the student is to be classified as limited English proficiency. Districts shall also ensure that the LPAC coordinates with the Admission, Review, and Dismissal (ARD) Committee as required by Chapter 89, Subchapter G, of this title (relating to Special Education), in the placement of limited English proficient (LEP) students with a handicapping condition so that the special needs and abilities of these students are addressed.

(d) Districts shall ensure that programs for LEP students with a handicapping condition are coordinated with and are an integral part of the total instructional program.

§77.361. Staffing and Staff Development.

(a) Teachers assigned to a bilingual education program shall be fully certified teachers with a bilingual certificate or endorsement.

(b) Teachers assigned to an English as a second language program shall be fully certified with an English as a second language or bilingual education certificate or endorsement.

(c)[(a)] School districts shall take all reasonable affirmative steps to secure [fully] certified bilingual education teachers **or English as a second language teachers, as appropriate.** [The phrase "endorsed bilingual teachers," as used in Texas Education Code, §21.453(f), shall be interpreted to mean certified teachers with bilingual specialization or endorsement.

[(b)] Districts which are unable to secure [fully] certified bilingual education teachers **or certified English as a second language teachers, as appropriate,** shall request emergency teaching permits or special assignment permits, as appropriate, in accordance with Subchapter N of Chapter 141 of this title (relating to Emergency Teaching Permits, Special Assignment Permits, and Temporary Classroom Assignment Permits).

[(c) Teachers assigned to an English as a second language program or other special language program must meet the requirements for assignment as set out in §97.117 of this title (relating to Requirements for Assignment of Teachers).]

(d)-(e) (No change.)

§77.365. Monitoring of Programs and Enforcing Law and State Board of Education Rules.

(a) **Central** [Texas] Education Agency staff who are trained in assessing bilingual education, English as a second language, and other special language programs shall monitor on site each school district in the state every three years. The commissioner of education shall develop a schedule annually which identifies the districts to be monitored. The commissioner may modify the schedule as necessary. **To the extent possible, on-site visits will be made in conjunction with regulary accreditation visits.**

(b) A standard monitoring instrument shall be used as basis for each on-site visit. The instrument shall identify each requirement of law and State Board of Education rules. Indicators, such as required documentation or conditions to be observed, shall be specified as a basis for determining whether the district is fulfilling each requirement. **Special attention will be directed to data that demonstrate that students are becoming proficient in the English language.**

(c) The **Central** [Texas] Education Agency shall determine through on-site monitoring whether the bilingual education, English as a second language or other special language program operates according to law and State Board of Education policy, **and demonstrates success in increasing English language proficiency.**

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

(4) The staff shall determine the adequacy of staffing assignments and ensure that the teacher-pupil ratios in the programs **do not exceed the maximum permitted** [are comparable to that of the regular school program]

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

(5) (No change.)

(6) For purposes of the performance report required by the Texas Education Code, §21.258, the staff shall determine the appropriateness and accuracy of the district's use of tests and other assessment procedures to ensure that they accurately reflect academic progress of limited English proficiency students.

(7)-(8) (No change.)

(9) The staff shall determine the appropriateness of expenditures of bilingual and special language program funds.

(d) A [The] preliminary monitoring report shall identify each discrepancy noted between the requirements of law and State Board of Education rules and the program operation. For each discrepancy, a recommended corrective action and date for completion shall be described. [Reports shall be mailed from the agency within 30 calendar days following the last day of the monitoring visit.] Districts shall be instructed to prepare specific corrective action responses and negotiate any problem areas directly with personnel of the Division of Bilingual Education. A copy of the report shall be filed with the Division of School Accreditation.

[(e) Districts shall be instructed to respond describing the corrective actions that will be taken within 30 calendar days of the date the report is mailed by the agency. If the district has evidence that is contrary to any of the preliminary findings reported by the monitoring team, such information shall be submitted within the 30 days provided. Should the preponderance of the evidence indicate that the identified discrepancy is invalid, the report shall be revised accordingly. At the end of the 30-calendar-day period, the report shall become final.]

(e)[(f)] If a school district has been cited as being in noncompliance, and has failed to proceed to remove variations or discrepancies within the time period specified, the commissioner of education may **take whatever action deemed appropriate under the Texas Education Code, §21.757, to modify the district's accreditation status.** [initiate steps to modify the district's accreditation status on a temporary basis until procedures for modifying the district's status can be applied. Such actions taken by the commissioner shall be reported to the State Board of Education at the earliest subsequent meeting. The process outlined in §97.74 of this title (relating to Establishment and Modification of a District's Accreditation Status) shall be effected in not more than 120 calendar days. If no acceptable solution has been reached by this time, the commissioner shall make a recommendation to the State Board of Education regarding the accreditation status of the district. All actions shall be in compliance with Subchapter D of Chapter 97 of this title (relating to Principles, Standards, and Procedures for Accreditation of School Districts).]

(f) Central Education Agency staff who monitor on-site special language programs shall evaluate and report the progress, success, and cost-effectiveness of each of such programs.

§77.366. Performance Report. All districts required to conduct a bilingual education or English as a second language program shall conduct periodic assessment and continuous diagnosis in the language of instruction for the purpose of completing an annual performance report. Districts shall report such information in a form required by the commissioner of education.

Issued in Austin, Texas, on July 19, 1985

TRD-856504 W N Kirby
Commissioner of Education

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

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Chapter 78. Occupational Education and Technology

Subchapter D. Secondary School Vocational Education

Vocational Program Approval

★19 TAC §78.63, §78.69

The Texas Education Agency adopts on an emergency basis amendments to §78.63 and §78.69, concerning secondary school vocational education, which would create the vocational technical education internship program. This training concept has been pilot-tested for two years, and the results indicate that this is a viable method of providing occupational training in high technology areas. The program will be a cooperative partnership with business and industry involved in high technology operations. Students are placed on the job as unpaid interns for a minimum of 10 hours per school week under the training supervision of competent technicians. Prerequisites for students accepted in the program will include two years of mathematics, including Algebra II or Geometry, two years of science, and appropriate pre-technical education.

The amendment to §78.63 sets forth the vocational program units for the technical education internship program.

The amendment to §78.69 would eliminate the requirements for vocational teachers to maintain contact hour registers, thus reducing the paperwork burden on school districts. Vocational education contact hours would be collected in accordance with §129.61, concerning requirements for student attendance accounting for state funding purposes.

These amendments are adopted on an emergency basis to enable school districts to plan for 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 §16.155, which includes vocational education as part of the Foundation School Program.

§78.63. Requirements for New, Additional, and Continuing Vocational Program Units.

(a) The minimum requirements for the approval of new and additional vocational program units are set forth in the following table:

REQUIREMENTS FOR NEW, ADDITIONAL, AND CONTINUING VOCATIONAL PROGRAM UNITS

	NUMBER OF PROGRAM UNITS	MINIMUM NUMBER OF STUDENTS FOR PROGRAM UNIT APPROVAL	NUMBER OF MONTHS SEE (g)	OTHER REQUIREMENTS AND LIMITATIONS
AGRICULTURE through PRE-TECHNICAL	No Change			
TECHNICAL EDUCATION INTERNSHIP	1	20	10 or 11	PROGRAM UNITS JUSTIFIED AND APPROVED FOR 11 MONTHS SHALL BE OPERATED FOR 202 DAYS BEGINNING 19 WORKING DAYS IN ADVANCE OF THE DATE ALL 10-MONTH TEACHERS REPORT FOR DUTY PRIOR TO THE BEGINNING OF THE SCHOOL TERM FOR THE DISTRICT AND ENDING NOT LATER THAN THE LAST DAY ALL 10-MONTH TEACHERS IN THE DISTRICT ARE ON DUTY FOR THE SCHOOL YEAR.

§78.69. Vocational Program Unit Funding.

(a) (No change.)

(b) In determining full-time equivalencies for students enrolled in cooperative **or technical** education **internship** programs, the units of credit designated for the program shall be considered as the number of class hours a student is present each day. Students in two-credit programs that are present for the entire week shall be counted as one-third full time equivalent, and students in three-credit programs present for the entire week shall be counted as one-half full-time equivalent.

[(c) For the 1984-1985 school year only, districts with an average daily attendance of 1,000 or less and with no more than two approved vocational program units may grant one contact hour for classroom instruction and one-half contact hour for participation in a required production agriculture supervised occupational experience or consumer and homemaking supervised extended learning program.]

(c)[(d)] New and additional vocational programs are required to enroll the minimum number of students as specified in §78.63 of this title (relating to Requirements for New, Additional, and Continuing Vocational Program Units). Vocational education allotment funds under the Texas Education Code, §16.155, may not be claimed for new or additional vocational programs having less than the minimum average daily attendance during the first official four weeks average daily attendance counting period after the program has been approved.

(d)[(e)] All vocational education allotments shall be subject to the availability of funds. If full funding of the vocational education allotment in accordance with the Texas Education Code, §16.155, requires the expenditure of funds in excess of funds appropriated, the commissioner of education shall proportionately reduce the allotments for each eligible school district.

(e)[(f)] Only those students enrolled in Central Education Agency-approved vocational program units may be counted for vocational education allotment purposes.

[(g) Vocational contact hour registers shall be maintained during the same eight weeks that attendance is taken for the regular program and full-time equivalent deductions shall be calculated on the same four weeks as those selected for average daily attendance for the regular program.]

(f)[(h)] New and existing program units that are not employed and operational by October 1 of each year will be canceled. Schools having approved units that are not employed by October 1 shall notify the Central Education Agency.

(g)[(i)] On or before October 7 each year, each local education agency shall submit a vocational program unit utilization report, on forms prescribed by the Central Education Agency. The report shall include the following information for each vocational unit allocated:

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

(h)[(j)] In accordance with the provisions in §89.250 of this title (relating to Special Education Funding) school districts which have placed handicapped students in vocational education for the handicapped (VEH) program units through the ARD process and have reduced the class size in these programs as compared to class size in regular vocational programs, shall utilize special education funds to pay a portion of VEH teacher salaries, as may be determined by the local district, to help offset the cost of such reduced class size in VEH programs.

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Vocational Students

★19 TAC §78.103

The Texas Education Agency adopts on an emergency basis an amendment to §78.103, concerning secondary school vocational education, to create the vocational Technical Education Internship Program. This training concept has been pilot-tested for two years, and the results indicate that this is a viable method of providing occupational training in high technology areas The program will be a cooperative partnership with business and industry involved in high technology operations Students are placed on the job as unpaid interns for a minimum of 10 hours per school week under the training supervision of competent technicians. Prerequisites for students accepted in the program will include two years of mathematics, including algebra II or geometry, two years of science, and appropriate pre-technical education

The amendment to §78.103 also eliminates the requirement for schools to submit cooperative education training plans to the Central Education Agency for approval. The training plans will be maintained on file in the local education agency and will be reviewed by the Central Education Agency staff during official vocational monitoring visits

This amendment is adopted on an emergency basis to enable districts to plan for the 1985-1986 school year.

This amendment is adopted 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 §16 155, which includes vocational education as part of the Foundation School Program.

§78.103. Student Eligibility—Specific Requirements.

(a) Specific requirements for students by vocational program area are shown in the following table. Subsections (b)-(e) of this section provide additional information about eligibility requirements for students.

ELIGIBILITY REQUIREMENTS FOR STUDENTS BY VOCATIONAL PROGRAM AREA

	GRADE RANGE	MINIMUM AGE	SUPERVISED OCCUPATIONAL EXPERIENCE	EMPLOYED IN APPROVED OCCUPATION	LABORATORY EXPERIENCE
AGRICULTURE through PRE-TECHNICAL		No Change			
TECHNICAL EDUCATION INTERNSHIP	12	16		SEE (g)	PREREQUISITE SEE (h)

(b) Each student, while enrolled, must be employed part time in one of the approved occupations listed under the appropriate program of vocational education. To receive three units of credit, a student must be employed 15 hours per school week; for two units of credit, the student must be employed 10 hours per school week. Districts shall identify cooperative program units as either two credit or three credit units. All students enrolled in the same cooperative program unit shall be eligible to receive the same units of credit. A student may be counted as an eligible student from the date of employment provided an approved training plan is on file with the Local [Central] Education Agency within three weeks after the date of employment Cooperative education training plans shall be developed by the cooperative training teacher/coordinator in consultation with the person responsible for providing on-the-job training experiences to the student involved. Training stations shall be reputable business or industrial establishments willing to provide each student with a broad range of meaningful training activities. Approvable training plans shall be competency based and shall include the appropriate essential elements identified in Chapter 75 of this title (relating to Curriculum).

(c)-(d) (No change.)

(g) Each student, while enrolled, must be serving as an unpaid part-time intern in an approved technical occupation. To receive three units of credit, a student must be in training 15 hours per week; at least 10 of the required 15 hours must be during the school week. For two units of credit, the student must be in training 10 hours per school week. Districts shall identify technical education internship program units as either two-credit or three-credit units. All students enrolled in the same technical education internship program unit shall be eligible to receive the same units of credit. A student may be counted as an eligible student from the date of placement as an intern provided an approved training plan is on file with the local education agency within three weeks after the date of placement. Technical education internship training plans shall be developed by the teacher/coordinator in consultation with the person responsible for providing intern training experiences to the student involved. Training stations shall be reputable business or industrial establishments willing to provide each student with a broad range of technical training activities. Approvable training plans shall be competency based and shall include the appropriate essential elements identified in Chapter 75 of this title (relating to Curriculum).

(h) Students enrolled in technical education internship must have previously completed:

(1) two years of mathematics, including algebra II or geometry;

(2) two years of science; and

(3) a program specifically related to the area of internship placement or a 30-hour (minimum) technical education internship summer program.

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Program Standards

★19 TAC §78.122

The Texas Education Agency adopts on an emergency basis an amendment to §78.122, concerning secondary school vocational education. The amendment would create the vocational technical education internship program. This training concept has been pilot-tested for two

ears, and the results indicate that this a viable method of providing occupational training in high technology areas. The program will be a cooperative partnership with business and industry involved in high technology operations. Students are placed on the job as unpaid interns for a minimum of 10 hours per school week under the training supervision of competent technicians. Prerequisites for students accepted in the program will include two years of mathematics, including algebra II or geometry, two years of science, and appropriate pretechnical education

The amendment sets out the specific program requirements for the technical education internship program units. Under this section, the units may be approved on a 10- or 11-month basis. This section sets out the criteria which teachers must meet and also contains information concerning scheduling for the internship class.

This amendment is adopted on an emergency basis to enable districts wishing to offer the program to plan for the 1985-1986 school year.

The amendment is 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 §16.155, which includes vocational education as part of the Foundation School Program.

§78.122. Specific Program Requirements.

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

(h) Technical education internship program units.

(1) Technical education internship program units may be approved on a 10- or 11-month basis. The additional month shall be utilized to secure training stations, place students, develop training plans, develop instructional materials and other activities directly related to and for the purpose of improving the program.

(2) Teachers assigned to technical education internship program units shall:

(A) file weekly itineraries with the appropriate local school administrators covering the periods of time when official activities are conducted away from the school campus;

(B) visit each student training station at least eight times each school year, including at least one visit during each student grading period; and

(C) be assigned specific times each day for the purpose of supervising the intern training of students enrolled. Up to two hours of intern supervision per day may, at the option of the local district, be counted as teaching to meet the minimum teaching duty requirement in the Texas Education Code, §13.907.

(3) At the option of the local district, the related technical education internship class may be scheduled for a period of three consecutive hours for a three-credit course and two consecutive hours for a two-credit course during one school day. The technical education internship teacher/coordinator must have as a minimum one other regularly scheduled classroom instructional period, per school day, and conduct a daily technical education internship organizational, instructional, and attendance reporting class for a period of not less than 30 minutes. Teacher-coordinators of districts utilizing this option meet the requirements of §143.1 of this title (relating to Minimum Teaching Duties).

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Chapter 85. Student Services
Subchapter B. Guidance Services

★19 TAC §85.22

The Texas Education Agency adopts on an emergency basis an amendment to §85.22, concerning school-community guidance centers. School-community guidance centers are alternative educational settings designed to locate and assist students with problems which interfere with their education. In the past, school districts or cooperatives with an average daily attendance of at least 6,000 were eligible to apply for school-community guidance center funds. However, the General Appropriations Act, 69th Legislature, 1985, directed the agency to focus the school-community guidance center program on those urban areas with high concentrations of adjudicated persons.

In addition, House Bill 72, 68th Legislature, Second Called Session, 1984, made several changes in the legislature authorization for the school-community guidance center program, including requirements for the development of a parental agreement that specifies the responsibilities of the parent of a student assigned to the center

The amendment implements the new provisions of House Bill 72 and the General Appropriations Act. The amendment also revises the qualifications for school-community guidance center staff to require that instructional staff have a valid Texas teacher certificate and that other personnel be appropriately certified for the services they provide. Each center must submit a staff development plan as part of its application for funds.

The amendment is adopted on an emergency basis so that districts can apply for funds and school-community guidance centers can be funded for the 1985-1986 school year.

The amendment is adopted on an emergency basis under the Texas Education Code, Chapter 21, Subchapter P, which authorizes the establishment of school-community guidance centers and directs the State Board of Education to make rules for training of personnel and performance of the required services at each center.

§85.22. School-Community Guidance Centers.

(a) (No change.)

(b) In accordance with the Texas Education Code, Chapter 21 [16], Subchapter P [I], a school-community guidance center **for urban areas reflecting high concentrations of adjudicated persons** may be established by school districts located **within counties having the highest juvenile population in the state. School districts or a cooperative of school districts shall have an average daily attendance of at least 6,000 students.**

[(1) a school district with an ADA of at least 6,000 students; or

[(2) a cooperative of school districts with a combined ADA of at least 6,000 students.]

(c) (No change.)

[(d) Personnel units shall be allocated to school-community guidance centers in accordance with the Texas Education Code, §16.403. A school district's total adjusted personnel units shall be reduced by an amount equal to one-half of the sum of the personnel unit values allocated for school-community guidance center personnel in accordance with the Texas Education Code, §16.102(g).]

(d)[(e)] State funds allocated under this section shall be used [only] for **purposes directly related to the** [salaries for] school-community guidance center **program such as salaries, purchased and contract services, supplies and materials, and other operating expenses limited to travel** [personnel] [All other expenses must be paid for from local district funds or other funding sources.]

(e)[(f)] **Instructional staff must have a valid Texas teacher certificate. Other personnel in school-community guidance centers must meet certification requirements consistent with the services they are delivering to students.** [Qualifications and pay grades for personnel in school-community guidance centers shall be as follows:

[(1) School-community guidance center teachers must have the following qualifications and abilities:

[(A) bachelor's degree (pay grade seven) or master's degree (pay grades eight, nine, or ten), and valid Texas teacher certificate;

[(B) the ability to assist students (including, but not limited to, juvenile offenders and those with severe behavioral problems or character disorders) and with

problems which interfere with their education;

[(C) the ability to identify and correct factors which adversely affect the education of children;

[(D) the ability to cooperate with guidance center staff and other community agency personnel;

[(E) the ability to coordinate the instructional program to support and reinforce the services of guidance center staff and community agency personnel; and

[(F) demonstrated competency in planning learning experiences for individual students based on identification of academic needs.

[(2) Attendance consultants in a school-community guidance center must have the following qualifications and abilities

[(A) bachelor's degree (pay grade seven) or master's degree (pay grades eight or ten) and valid Texas teacher certificate;

[(B) ability to interpret academic and personal information and data to staff, parents, students, and community agents and to assist in program development and revision;

[(C) demonstrated competence in developing effective working relationships with and among members of the guidance center staff and students, and the community;

[(D) demonstrated competence in forming and maintaining effective working relationships with members of all populations served; and

[(E) ability to assist parents in developing realistic perceptions of their children.

[(3) Educational aides in a school-community guidance center may be placed on pay grades one, two, or three.]

(f)[(g)] As provided in the Texas Education Code, (§16 401(a)), §21.601(a), centers shall coordinate the efforts of school district personnel and personnel of other local agencies who work with the same student population. Centers may enter into contracts and develop cooperative programs with state youth agencies as provided by the Texas Education Code, **§21.602 and §21.603** [§16.402 and §16 403].

(g) Before a student is admitted to a school-community guidance center, the school district must notify the student's parent or guardian verbally as to the reasons the student has been assigned to the center, and followed by written notification as soon as possible. The written notification must comply with the parental notice, consent, and access provisions in the Texas Education Code, §21.604, and the parental involvement agreement in the Texas Education Code, §21.606.

(h) A staff development plan for professional and paraprofessional personnel of school-community guidance centers shall be developed by each funded project and submitted for review as part of the standard application system. The staff development plan shall be of such quality to ensure that the objectives of the school-community guidance center are met.

(i)[(h)] While in attendance at a school-community guidance center, a student shall be counted only once in the average daily attendance of the school district.

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Subchapter H. Transportation Services

Transportation Administration

★19 TAC §85.214

The Texas Education Agency adopts on an emergency basis an amendment to §85 214(e), concerning the funding for school bus driver training State funding for school bus driver training was deleted from the next biennial appropriation

Texas Civil Statutes, Article 6687b, requires that all school bus drivers be trained in a course approved jointly by the Central Education Agency and the Texas Department of Public Safety

The amendment provides for the regional education service centers, which offer the training programs, to charge participating school districts for the course The amendment ensures continued compliance with the provisions of Texas Civil Statutes, Article 6678b, §5(a)

This amendment is adopted under Texas Civil Statutes, Article 6687b, §5(a), which requires that all school bus drivers be trained in a course approved jointly by the Central Education Agency and the Texas Department of Public Safety

§85.214. Operation of a School Bus.

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

(c) All drivers employed to transport school children shall.

(1)-(2) (No change)

(3) have undergone an annual physical examination completed on forms furnished by the **Central** [Texas] Education Agency which reveals the driver's physical and mental capabilities to operate a school bus safely;

(4) have an acceptable driving record in accordance with the standards developed jointly by the **Central** [Texas] Education Agency and the Texas Department of Public Safety; and

(5) (No change.)

(d) (No change.)

(e) School bus driver training shall be provided as follows:

(1) The curriculum for school bus driver training will be developed by **the Central** [Texas] Education Agency and the Texas Department of Public Safety; and

(2) (No change)

(3) **The cost of each training course will be determined annually by the commissioner of education. The cost of the course will be charged back to the participating school districts on a pro rata basis by the** regional education service centers [will be allocated funds on the basis of an approved program plan]

(4) The transportation section of the **Central** [Texas] Education Agency will monitor **the** [a] training program through surveys and reports submitted by each regional education service center.

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(Editor's note: A notice appeared in the July 26, 1985, issue of the Texas Register *indicating that the following two emergency adoptions would appear in this issue. Effective date of the documents is July 19, 1985.)*

Chapter 89. Adaptations for Special Populations

Subchapter G. Special Education Funding

★19 TAC §§89.250-89.253

The Texas Education Agency adopts on an emergency basis amendments to §§89 250-89 253, concerning special education The amendments implement the provisions of House Bill 72, 68th Legislature, 2nd Called Session, 1984, concerning special education funding.

The amendments to §89 250 include a section title change to "Special Education Funding (General)," since personnel units are no longer used in the state education funding system Subsection (a) provides that state special education funds will be distributed to school districts on the basis of full-time equivalents of eligible handicapped students served during the same weeks as districts report average daily attendance in accordance with §129 61 The amendments to subsection (b) describe the method to be used for converting special education contact hours to full-time equivalents for

funding purposes. Subsection (c) provides that the statewide distribution of state special education funds shall not exceed the total amount appropriated for special education by the Texas legislature. The commissioner of education may ratably reduce the allocations to remain within the sum certain. Under the provisions of subsection (d), the receipt of special education funds shall be contingent upon the operation of an approved comprehensive special education program in accordance with state and federal laws and rules. Subsection (e) provides that a special education fund balance may be carried over to the next fiscal year and expanded on the special education program State special education carryover funds must be used in the special education program and cannot be used for administrative costs.

Subsection (e) is redesignated as subsection (f) Subsection (d) is redesignated as subsection (g). There is no change in the text of either section.

Section 89 253, concerning special education personnel, is redesignated as §89.251. Subsection (a) provides that state special education funds may be used to employ or contract with special education personnel as defined in this chapter Under new subsection (b), state special education funds may be used to employ or contract with an aide (clerk) for that portion of time spent working directly in assessment Existing subsection (b) is redesignated as subsection (c), which provides for school districts to employ a special education director. Subsection (d) provides for special education personnel to be employed on extended contracts Special education teachers, instructional aides, and related service personnel employed on extended contracts must be engaged in student evaluations or in provided direct services to handicapped stuents. In subsection (e), all special education personnel funded with state special education funds must be paid according ot the district's local salary schedule If personnel are assigned to special education on less than a full-time basis, only that portion of time for which the personnel are assigned to eligible handicapped students may be paid from state special education funds

Section 89.251, concerning basic support allocation, is renumbered and renamed "§89 252. Allowable Expenditures with State Special Education Funds." This section details how the state special education funds may be used. Several editorial changes are made in the section for clarity. Subsection (c)(2) (previously subsection (d)(3)) is revised to clarify that, for transportation to residential placements, the state maximum transportation allowance for private transportation must be used before any federal funds can be used for this purpose. A new subsection (f) permits districts to use a maximum of 15% of state special education funds for general administrative costs.

Section 89.252, concerning supplemental unit allocations, is redesignated as §89.253, School Districts Serving Out-of-District Students Residing in Residential Care and Treatment Facilities. School districts having a Texas Department of Human Resources or Texas Department of Mental Helath and Mental Retardation approved residential care and treatment facility located within their boundaries must provide special education to eligible handicapped students residing in the facility if the facility does not have an education program. Funds to serve handicapped students residing in facilities described in subsection (1) of this section shall be generated by full-time equivalents based on the hospital class instructional arrangement if special education is provided at the facility. If special education is provided outside the facility, funds shall be generated based on the instructional arrangement in which the students are served in the school district special education program. Subsection (d) provides for the allocation of state special education funds to the South Texas Independent Sohool District, Windham Independent School District, and Moody State School Independent School District. School districts shall annually report the agency full-time equivalents by out-of-district handicapped students residing in care and treatment facilities. These full-time equivalents shall be reported separately from the full-time equivalents of in-district handicapped students.

These amendments are adopted on an emergency basis to enable districts to plan for the start of the school year for the new allocation system which will take effect with 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 §16.151, which includes special education as a part of the Foundation School Program.

§89.250. Special Education Funding (General).

(a) State special education funds will be distributed to school districts on the basis of full-time equivalents of eligible handicapped students served during the same weeks as districts report average daily attendance in accordance with §129.61 of this title (relating to Requirements for Student Attendance Accounting for State Funding Purposes). [For the 1984-1985 school year, a modified personnel unit allocation system shall be used for special education funding, based on the formulas in the Texas Education Code, §16.104, as they were effective for the 1983-1984 school year. The formulas shall be based on the preceeding year's refined average daily attendance (ADA). All allocations shall be subject to the availability of funds.]

[(1) The amount of special education funding which will be allocated to each district shall be determined as follows.

[(A) The Central Education Agency shall determine the special education personnel unit allocation for each special education program (using the 1983-1984 formula) for the 1984-1985 school year.

[(B) Although personnel employed must be paid according to each district's minimum salary schedule, the special education allocation shall be based on the following:

[*(i)* teacher aides—same state minimum salary schedule as 1983-1984;

[*(ii)* teachers—minimum salary as described in the Texas Education Code, §16.056(c), for 1984-1985;

[*(iii)* professional support and related services personnel-minimum salary as described in the Texas Education Code, §16.056(c), for 1984-1985.

[(C) The 10% limitation on extending contracts for personnel units (excluding the special education director and the cooperative aide) shall remain in effect only for purposes of the calculations in this subsection.

[(D) The basic support allocation and supplemental unit allocation shall be determined in accordance with the provisions of the Texas Education Code, §16.104, as they were in effect for the 1983-1984 school year, and the rules in this subchapter.

[(E) In accordance with §78.69(j) of this title (relating to Vocational Program Unit Funding), districts shall utilize a portion of their special education funds, authorized by this section, as may be determined by the local district, to pay a portion of vocational education for the handicapped (VEH) teachers' salaries when handicapped students are placed in VEH classes through the ARD process and the district has reduced class size in the VEH program as compared to class size in regular vocational programs.

[(2) All special education personnel funded under this system must be paid the minimum salary according to the district's local salary schedule.

[(3) In order to determine each district's equalization funds, all special education dollars shall be allocated to each participating member district in a special education cooperative. The amount of funds allocated to each member district shall be determined by multiplying the total amount of dollars allocated to the cooperative times the percentages indicated for each district in the 1983-1984 special education verification report. These percentages may be adjusted by the cooperative management board. The member districts shall be expected to flow the necessary funds back to the fiscal agent for the operation of the cooperative after deducting an amount to pay for special education personnel working only in that member district.

[(4) The receipt of special education funds is contingent upon the operation of an approvable comprehensive special education program in accordance with state and federal laws and rules. A district (or cooperative member district) may not divert special education funds for other purposes.

[(5) Contact-hour records for special education students shall be maintained by each district and contact-hour information shall be reported as required by the commissioner of education. Based on statewide average 1983-1984 estimated contact hours, the commissioner shall compute for each district an expected number of contact hours based on the number of special education units allocated to that district. If a district's actual reported contract hours differ significantly from the expected contact hours calculated by the commissioner, the commissioner may reduce the district's funding level accordingly.

[(6) All special education allocations shall be subject to the availability of funds. Should full funding of the formulas in this section require the expenditure of funds in excess of funds appropriated, the commissioner of education shall ratably reduce each district's allocation and shall make any additional adjustments in the allocation procedure which may be needed to reduce statewide disparities in the percentages of children served in special education programs.]

(b) The special education contact hours are converted to full-time equivalents. The full-time equivalent for each instructional arrangement is multiplied by the school district's adjusted basic allotment and then multiplied by the weight for the instructional arrangement as precribed in the Texas Education Code, §16.151(a). Contact hours for any one special education student may exceed six hours a day or 30 hours a week; however, excess contact hours are allowable only when generated beyond the regular school day and stipulated in the student's individual educational plan. The total contact hours generated per week will be divided by 30 to determine the full-time equivalents. Special education full-time equivalents generated (excluding full-time equivalents beyond the six-hour day or 30-hour week) will be deducted from the school district's average daily attendance for purposes of the regular education allotment. [In determining the percent of student served, only students receiving direct services from the district's special education instructional or related services personnel shall be counted.]

(c) The amount of state special education funds distributed statewide may not exceed the total amount appropriated for special education by the Texas legislature. The commissioner of education may ratably reduce allocations to remain within the sum certain.

(d) The receipt of special education funds shall be contingent upon the operation of an approved comprehensive special education program in accordance with state and federal laws and rules. No district may divert special education funds for other purposes with the exception of administrative costs as defined in §89.252(f) of this title (relating to Allowable Expenditures with State Special Education Funds). Funds generated by full-time equivalents in one instructional arrangement may be spent on the overall special education program and are not tied to the instructional arrangement in which they were generated. The district must maintain separate accountability for the total state special education program fund within the general fund.

(e) A special education fund balance may be carried over to the next fiscal year and expended on the special education program. State special education carryover funds must be used in the special education program and cannot be used for administrative costs.

(f)[(c)] Students who have reached their third birthday and have not reached their 21st birthday on September 1 of the current scholastic year who participate in the Regional Day School Program for the Deaf may be counted as part of the district's ADA if they receive instruction from the basic program for at least 50% of the school day.

(g)[(d)] Students from birth through age two who are visually handicapped or deaf or both and are served by the district shall be considered as eligible for ADA on the same basis as other special education students.

[(e) If the value for all special education units employed in a district from Foundation School Program funds exceeds the amount allocated, the excess shall be charged to the district's total personnel unit allocation at the regular personnel unit value.

[(f) The school district shall file a verification report as of the date established by the commissioner which gives the extent of special education programs and services activated. Unfilled personnel units may be recovered by the commissioner of education and reallocated to districts based on need. Authorized units shall be reflected on the final application—foundation funds.]

§89.251[§89.253]. Special Education Personnel.

(a) State special education funds may be used to employ or contract with special education personnel as defined in this chapter. [A minimum of 80% of the special education personnel units allocated shall be used for direct service personnel, including aides. This does not include directors, supervisors, or assessment personnel. In unusual circumstances, application may be made to the Texas Education Agency for waiver of this requirement for one school year. The waiver may be renewed upon demonstration of continued need.]

(b) State special education funds may be used to employ or contract with an aide (clerk) for that portion of time spent working directly in assessment.

(c) [(b)] School districts [and cooperatives] may employ [designate one of their supervisory personnel as] a special education director. [The special education director may be placed on a 12-month contract. The local district may place the director on any pay grade from grade 10 to one below that of the superintendnet. Special education directors in cooeprative programs may be placed on any pay grade from grade 10 to one pay grade below that of the fiscal agent superindentent. The management board of the cooperative shall determine the pay grade for the director.

[(c) Special education cooperatives shall receive a supplemental allocation of one aide II for administrative purposes. The aide may be placed on a 10-, 11-, or 12-month contract at the discretion of the district.]

(d) Special education personnel may be employed on extended contracts. [In addition to the director and cooperative aide, a school district may employ teachers, aides, professional support staff, and related service personnel on extended contracts to a maximum of 10% of the district's total special education personnel unit allocation activated, not including supplemental units.] **Special education teachers, instruction aides, and related services personnel employed on extended contracts** [All such personnel] must be engaged in student evaluations or in providing direct services to handicapped students.

(e) All special education personnel funded with state special education funds must be paid according to the district's local salary schedule. If personnel are assigned to special education on less than a full-time basis, only that portion of time in which the personnel are assigned to eligible handicapped students shall be paid from state special education funds.

§89.252[§89.251]. Allowable Expenditures with State Special Education Funds [Basic Support Allocation].

[(a) Support funds shall be allocated in accordance with the Texas Education Code, §16.104.

(a)[(b)] Special materials, supplies, and equipment.

(1) State special education funds [Funds allocated under this section] may be used for special materials, supplies, and equipment which are directly related to the development and implementation of individual educational plans of handicapped students and which are not ordinarily purchased for the regular classroom. A special education resource system shall be in operation to ensure efficient and cost-effective use of funds for this purpose.

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

(4) Special equipment shall include the following:

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

(C) computers used only by hand-

icapped students for [in special education student] instruction.

(5) Items which would be placed in any regular classroom, such as desks, tables, chairs, bulletin boards, or blackboards, shall not be purchased with state special education funds [allocated under this section].

(b)[(c)] Assessment. State special education funds [allocated under this section] may be used for materials and services required in the assessment process.

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

[(3) An aide (clerk) may be paid from assessment funds for that portion of time spend working directly in assessment.]

(c)[(d)] Other uses.

(1) State special education [A portion of the] funds [allocated under this section] may be used to conduct planning, staff development, and program evaluation. When such funds are used to contract with a consultant, the district shall;

(A)-(H) (No change.)

[(2) The school district may engage the services of personnel listed under special education personnel (special education teachers, special education professional support personnel, special education related services professional personnel, special education paraprofessional personnel) on a student-by-student or family-by-family basis. The district shall maintain a record of the service performed, the purpose of the service, the recipient of the service, the time spent, and the cost. The services may be paid for from the special education basic support funds or from federal funds.]

(2)[(3)] State special education [basic support] funds may be used for transportation only to and from residential placements as defined in §89.217(c)(2) [§89.217] of this title (relating to Related Services). Prior to using federal funds for transportation costs to and from a residential facility, a district must use state or local funds based on actual expenses up to the state transportation maximum for private transportation contracts.

(d)[(e)] Travel. State special education funds [allocated under this section] may be used for travel in accordance with this subsection.

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

[(3) Funds allocated under this section shall only be used for out-of-district travel, except that personnel in special education cooperatives may be reimbursed for travel within the cooperative.]

(3)[(4)] Records shall be kept by the local district documenting mileage, destination, and the purpose of all travel paid from state special education funds [under this section].

(4)[(5)] State special education funds [allocated under this section] may be used to pay travel of staff to attend meetings outside of the district for the purpose of improving performance in assigned positions. The purpose of attending must relate to the district's staff development plan and shall not include time spent in performing functions relating to professional organizations.

(e) Supplement versus supplant. Federal funds must be used to supplement and not supplant state and local education funds.

(f) Administrative cost. A maximum of 15% of state special education funds may be used by a school district for general administrative costs. General administrative costs include the special education program's share of: [Carryover. The basic support allocation need not be expended during the school year in which the funds were allocated. Fund balances may be carried over and spent during subsequent years in special education.]

(f) Administrative cost. A maximum of 15% of state special education funds may be used by a school district for general administrative costs. General administrative costs include the special education program's share of:

(1) district-wide special education program administration, including, but not limited to, the director of special education, clerical personnel, and cooperative aide if applicable;

(2) general district administration;

(3) plant operations;

(4) data processing costs;

(5) facilities costs; and

(6) other indirect costs.

§89.253[§98.252]. School Districts Serving Out-of-district Handicapped Students Residing in Residential Care and Treatment Facilities [Supplemental Unit Allocations].

(A) School districts [Any local district or special education cooperative] having a Texas Department of Human Resources or Texas Department of Mental Health and Mental Retardation approved residential care and treatment facility located within their [its] boundaries must provide special education to eligible handicapped students residing in the facility if the facility does not have an education program. [with school aged handicapped students in residence may apply to the commissioner of education for one or more supplemental special education personnel units to provide special education instruction to eligible handicapped students. The following students shall be eligible to be counted for supplemental units.

[(1) Eligible handicapped students whose legal residence is in Texas but outside the district which is applying for the unit.

[(2) Eligible handicapped students for whom the state is managing conservator.]

(b) These facilities offer care, treatment, and habilitative services as a first priority but do not offer approved educational programs.

(c)[(b)] Funds to serve handicapped students residing in facilities described in subsection (a) of this section shall be generated by full-time equivalents based on the hospital class instructional arrangement if special [who generate] education is provided at the facility, funds shall be generated based on the instructional arrangement in which the students are served in the school district special education program [through other units of state government shall not be eligible to be counted for the allocation of supplemental personnel units under this section].

[(c) Approved facilities for which suplemental units may be allocated are those which offer care, treatment, and habilitative services as a first priority but which do not offer approved educational programs.]

(d) State special education funds [Supplemental personnel units for non-ICF/MR facilities] shall be allocated for eligible handicapped students who are expected to reside in the following special schools [facility] a minimum of four consecutive weeks, as documented by an appropriate authority[, in accordance with the following].

(1) South Texas Independent School District (ISD) [One personnel unit shall be allocated for each six] eligible handicapped students shall generate full-time equivalents based on the multidistrict class instructional arrangement [except as provided in paragraphs (2)-(4) of this subsection].

(2) Windham ISD [One personnel unit shall be allocated for each six] eligible handicapped students shall generate full-time equivalents based on the community class instructional arrangement [served by South Texas ISD except for learning disabled and speech handicapped students for which units shall be allocated at one personnel unit for each 16 students. For transitional purposes, the commissioner is authorized to approve additional units for the 1983-1984 school year.]

(3) Moody State School ISD (including the University of Texas Medical Branch education component) [One personnel unit shall be allocated to Windham ISD for each 1\$8] eligible handicapped students shall generate full-time equivalents based on the hospital class instructional arrangement [participating in the special education program based on the average monthly enrollment and reported on the superintendent's annual report].

[(4) One personnel unit shall be allocated for each 16 learning disabled students.

[(5) One personnel unit shall be allocated for each 20 pregnant students.]

(e) Eligible handicapped students residing in these facilities [served by supplemental units allocated under this section] may be included in the average daily attendance of the district in the same way as all other special education students.

(f) School districts shall annually report to the agency full-time equivalents

by out-of-district handicapped students residing in care and treatment facilities. These full-time equivalents shall be reported separately from the full-time equivalents of in-district handicapped students [in which ICF/MR's are located may apply for supplemental special education personnel units in accordance with §89.243 of this title (relating to Provision of Services for Students Residing in Intermediate Care Facilities for the Mentally Retarded in Texas)].

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

TRD-856509 W. N. Kirby
Commissioner of Education

Effective date: July 19, 1985
Expiration date: November 16, 1985
For further information, please call (512) 475-7077.

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Chapter 121. Personnel Accounting for State Funding Purposes

Subchapter B. Personnel Records

★19 TAC §121.14

The Texas Education Agency adopts on an emergency basis an amendment to §121.14, concerning evidence of educational attainment. House Bill 72, 68th Legislature, Second Called Session, 1984, mandated a one-line salary schedule which made no provision for changing an individual's pay step when the assignment changed or a higher degree was earned. Once placed on the one-line salary schedule, an individual advances one step for each year of experience until step 10 is reached. The amendment establishes September 1, 1985, as the cut-off date for changes in an individual's assignment or the earning of a higher degree affecting that individual's pay step.

This amendment is adopted on an emergency basis to ensure that school districts have adequate notice before the start of the 1985-1986 school year.

This amendment is 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 §16.056, which establishes the Texas public education compensation plan.

§121.14. Evidence of Educational Attainment.

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

(j) **Beginning on September 1, 1985, a higher degree earned or a change in assignment will not affect an employee's pay step.**

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

TRD-856510 W. N. Kirby
Commissioner of Education

Effective date: July 19, 1985
Expiration date: November 16, 1985
For further information, please call (512) 475-7077.

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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

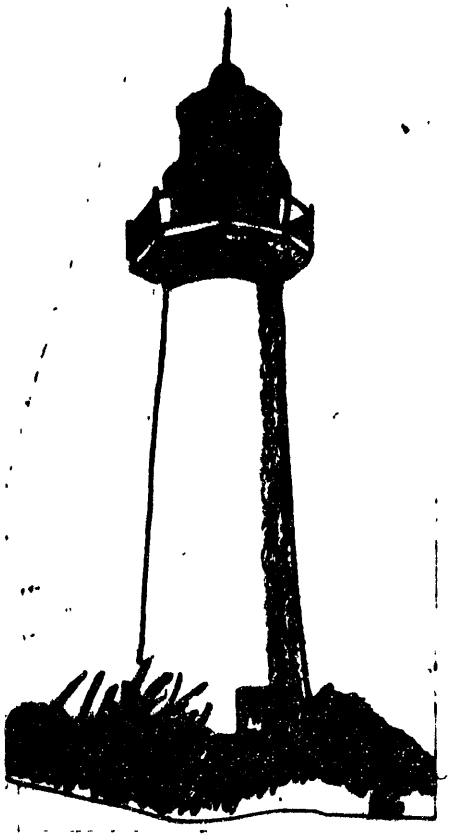
Chapter 65. Loans and Investments

The following proposals submitted by the Texas Savings and Loan Department will be serialized in the August 6, 1985, issue of the *Texas Register*. The earliest possible date of adoption for the documents is August 30, 1985.

§§65.1-65.13 (repeal)

§§65.1-65.16 (new)

★ ★ ★



TITLE 10. COMMUNITY DEVELOPMENT

Part IV. Texas Housing Agency

Chapter 147. 1985 Single Family Mortgage Purchase Program

★10 TAC §§147.1-147.22

The proposed new sections submitted by the Texas Housing Agency will be serialized in the August 6, 1985, issue of the *Texas Register*. The earliest possible date of adoption for the document is August 30, 1985.

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TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 3. Oil and Gas Division

Conservation Rules and Regulations

★16 TAC §3.75

The Railroad Commission of Texas proposes new §3.75, concerning discharges to waters of the state. Section 3.75 requires a permit for the point source discharge of pollutants into waters of the state and sets the standards and procedures for permit issuance, denial, modification, revocation and reissuance, and termination. The section applies to operations and activities associated with the exploration for and the development and production of oil, gas, or geothermal resources. These operations and activities include operations and activities associated with the drilling and operation of oil, gas, or geothermal resource wells; the operation of gasoline plants, natural gas or natural gas liquids processing plants, pressure maintenance plants, or repressurizing plants; the construction and operation of underground natural gas storage facilities or underground hydrocarbon storage facilities; the storage, transportation, and reclamation of oil before it enters a refinery; and the storage and transportation of gas before it is used in a manufacturing process or as a fuel.

Section 3.75 contains the provisions required by 40 Code of Federal Regulations Part 123 for the Railroad Commission of Texas to obtain approval to conduct a national pollutant discharge elimination system (NPDES) program, under the Clean Water Act, §402, (33 United States Code, §1342), applicable to operations and activities associated with the exploration for, and development and production of oil, gas, or geothermal resources. Some provisions of the federal NPDES regulations that are applicable to state NPDES programs are incorporated by reference in §3.75. Section 3.75 will not become effective until the Railroad Commission of Texas obtains approval of its NPDES program from the U.S. Environmental Protection Agency (EPA) pursuant to the Clean Water Act, §402(b), (33 United States Code, §1342(b)).

Included in §3.75 are provisions for the issuance of general permits, which are analogous to rules. A general permit would authorize a category of discharges within a designated geographic area. The Railroad Commission of Texas anticipates that general permits will prove to be an appropriate means of regulating many of the categories of discharges to which §3.75 applies. The EPA currently regulates some of these categories of discharges under general permits. The categories of discharges that the Railroad Commission of Texas may regulate under general permits include discharges from offshore oil and gas drilling rigs and production platforms; discharges from central crude oil storage facilities; discharges from gasoline plants, natural gas or natural gas liquids processing plants, pressure maintenance plants, and repressurizing plants; discharges by mobile reserve pit treaters; tidal discharges of produced water; and storm water discharges from inland oil and gas lease operations.

The Railroad Commission of Texas intends to issue general permits for several categories of discharges within the first 18 months after the effective date of §3.75. For this reason, §3.75 does not re-

quire persons who are permitted or authorized to discharge under existing §3.8, concerning water protection, to file a permit application until 18 months after the effective date of §3.75. Similarly, storm water dischargers are not required to file a permit application until 18 months after the effective date of this section. If, in the meantime, the Railroad Commission of Texas issues a general permit covering these persons, they will not need to file an application

The discharges that will be regulated under §3.75 are currently regulated under §3.8. The Railroad Commission of Texas will soon propose amendments to §3.8 to delete the provisions that apply to discharges that will be regulated under §3.75.

Lori Wrotenbery, Underground Injection Control Section of the Oil and Gas Division staff attorney, has determined that there will be fiscal implications for state government and small businesses as a result of enforcing or administering the rule There is no anticipated economic cost to local governement

The effect on state government for the first five-year period the rule will be in effect is an estimated additional cost of $90,000 each year in 1986-1990.

Any cost of compliance for small business will be minimal, because the permits required by this section are already requried under the NPDES program conducted by the EPA under the Clean Water Act, §402, (33 United States Code, §1342), and the section will not become effective until responsibility for the portion of the NPDES program that is covered by the section is transferred from the EPA to the Railroad Commission of Texas. The section adds no new permitting requirements that will have a significant effect on small businesses. The section should result in an overall decrease in the cost to small businesses of complying with discharge regulations by eliminating dual federal/state permitting.

The difference between the cost of compliance for small businesses and the cost of compliance for the largest business will also be minimal.

Ms. Wrotenbery also has determined that for each year of the first five years the rule as proposed is in effect the public benefits anticipated as a result of enforcing the rule as proposed will be more effective protection of surface and subsurface water as a result of more efficient regulation of discharges The possible economic cost to individuals who are required to comply with the rule as proposed will be minimal, for the same reasons that the cost to small businesses will be minimal

Comments on the proposal may be submitted to Lori Wrotenbery, Staff Attorney, Underground Injection Control Section, Oil and Gas Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711. Written comments will be received for 30 days from date of publication of the proposed new section. A public hearing on the proposed new section will be held on August 29, 1985, at 9 a.m. in either the William B. Travis Building, 1701 North Congress, Austin, or in the Railroad Commission Building, 1124 South IH 35, Austin, Texas. Persons planning to attend the hearing should call (512) 463-6790 or (512) 445-1373 immediately before the hearing date to determine where the hearing will be held. If a continuation is necessary, the hearing will continue, to the extent possible, on subsequent working days.

The new section is proposed under the Texas Natural Resource Code, §91.101 and §141.012, which provides the Railroad Commission of Texas with the authority to adopt rules to prevent the pollution of surface and subsurface water which might result from activities associated with the exploration for and the development and production of oil, gas, or geothermal resources.

§3.75. Discharges to Waters of the State.

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

(1) Affected person—A person who, as a result of the discharge sought to be permitted, has suffered or may suffer actual injury or economic damage other than as a member of the general public.

(2) Best management practices (BMPs)—Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

(3) Commission—The Railroad Commission of Texas.

(4) CWA—The Clear Water Act (33 United States Code, §1251 *et seq*).

(5) Director—The director of the Oil and Gas Division or a staff delegate designated in writing by the director of the Oil and Gas Division or the commission.

(6) Discharge or discharge of pollutants—Any addition of any pollutant or combination of pollutants from any point source to waters of the state. This definition includes indirect additions of pollutants to waters of the state through pipes, sewers, or other conveyances leading into publicly owned treatment works or privately owned treatment works.

(7) Effluent limitations—Restrictions imposed by the commission on discharge parameters, including quantities, discharge rates, and concentrations of pollutants.

(8) Effluent limitations guideline—A regulation adopted by the Environmental Protection Agency (EPA) under the Clean Water Act, §304(b), to establish or revise effluent limitations for a class or category of point sources, and adopted by reference in subsection (m) of this section.

(9) EPA—The United States Environmental Protection Agency.

(10) General permit—A permit issued by the commission under subsection (e) of this section authorizing a category of discharges within a designated area.

(11) Hazardous substance—Any substance designated by EPA as a hazardous substance in 40 Code of Federal Regulations, §116.4.

(12) Major source—Any source classified as such by the commission, in conjunction with the regional administrator, based upon the size, nature, and location of the discharge, and other relevant factors.

(13) New discharger—Any source, other than a new source, from which the discharge of pollutants did not begin at a particular site before August 13, 1979, and for which a permit authorizing discharges at that site has never been issued by EPA under the Clean Water Act, §402, or by the commission under this section. The term new discharger includes an existing mobile source, such as an existing mobile offshore oil and gas developmental drilling rig, that meets the criteria of this definition; however, it does not include an existing mobile offshore or coastal oil and gas exploratory drilling rig or an existing mobile coastal oil and gas developmental drilling rig that meets those criteria, unless pollutants from such rig are being discharged in an area determined by the commission to be an area of biological concern. In determining whether an area is an area of biological concern, the commission shall consider the factors specified in 40 Code of Federal Regulations, §125.122(a).

(14) New source—Any source the construction of which commences after EPA adopts new source performance standards that are applicable to such source, or after EPA proposes new source performance standards that are applicable to such source, but only if EPA adopts the standards within 120 days of their proposal. In determining whether a source is a new source, the commission shall consider the criteria specified in 40 Code of Federal Regulations, §122.29(b).

(15) New source performance standards—Standards adopted by EPA under the Clean Water Act, §306, and incorporated by reference into this section.

(16) Permit—A written authorization issued by the commission under this section for the discharge of pollutants. Permit includes a general permit.

(17) Person—A natural person, corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.

(18) Point source—Any discernible, confined, and discrete conveyance, including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or vessel or other floating craft, from which pollutants are or may be discharged. Point source includes a storm water point source.

(19) Pollutant—Any waste or other substance or material, including salt water, other mineralized water, sludge, drilling fluids, cuttings, completion fluids, and oil, that is associated with any operation or activity subject to regulation by the commission under the Texas Natural Resource Code, §91.101 or §141.012, and that is discharged into waters of the state.

(20) Pollution—The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any waters of the state or subsurface water that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

(22) Privately owned treatments works—Any device or system, other than a publicly owned treatment works, which is used to treat wastes from any source whose operator is not the operator of the treatment works, and from which there is or may be a discharge of pollutants.

(23) Publicly owned treatment works—Any device or system which is owned by a state or municipality and used to treat municipal sewage or industrial wastes, and from which there is or may be a discharge of pollutants.

(24) Recommencing discharger—A source that recommences discharge after terminating operations.

(25) Regional Administrator—The regional administrator of EPA Region VI, or his or her authorized representative.

(26) Schedule of compliance—A schedule of remedial measures, including a sequence of interim requirements, leading to compliance with this section.

(27) Sewage—Waterborne human waste and waste from domestic activities, such as washing, bathing, and food preparation, that is associated with an operation or activity subject to regulation by the commission under Texas Natural Resource Code, §91.101 or §141.012, and that is discharged into waters of the state.

(28) Source—Any building, structure, facility, or installation, including associated land, from which there is or may be a discharge of pollutants.

(29) Storm water point source—A conveyance or system of conveyances, including pipes, conduits, ditches, and channels, primarily used for collecting and conveying storm water runoff from sources subject to regulation by the commission under the Texas Natural Resource Code, §91.101 or §141.012.

(30) Subsurface water—Groundwater, percolating or otherwise.

(31) Water quality standards—Standards adopted by the Texas Water Commission pursuant to the Texas Water Code, §26.023.

(32) Toxic pollutant—Any pollutant listed as toxic in 40 Code of Federal Regulations, §401.15.

(33) Variance—A modification or waiver of generally applicable effluent limitation requirements or time deadlines of the CWA.

(34) Waters of the state—The Gulf of Mexico inside the territorial boundaries of the state, and all other bodies of surface water inside the territorial boundaries of the state that are waters of the United States as that term is defined in 40 Code of Federal Regulations, §122 2, including bays, estuaries, lakes, rivers, streams (including intermittent streams), playa lakes, and wetlands. Waters of the state does not include pits authorized or permitted under §3.8 of this title (relating to Water Protection).

(35) Wetlands—Swamps, marshes, bogs, and other areas that are inundated or saturated by water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

(b) Prohibitions.

(1) Discharging without a permit. No person may discharge any pollutant from a point source into waters of the state without obtaining a permit from the commission under this section. This prohibition does not apply to any discharge that is:

(A) authorized by a general permit issued by the commission under subsection (e) of this section;

(B) excluded under subsection (c)(1) of this section;

(C) authorized by a permit that was issued by the commission prior to the effective date of this section and that remains in effect under subsection (c)(2) of this section; or

(D) authorized by subsection (c)(3) or (c)(4) of this section.

(2) Falsifying documents and tampering with gauges. No person may knowingly make any false statement, representation, or certification in any application, report, record, or other document submitted or required to be maintained under this section or any permit issued pursuant to this section, or falsify, tamper with, or knowingly render inaccurate any monitoring device or method required to be maintained under this section or any permit issued pursuant to this section.

(3) Indirect discharges. No person may discharge any pollutant other than sewage through pipes, sewers, or other conveyances leading into a publicly owned treatment works.

(c) Exclusions and special provisions.

(1) Exclusions. The following discharges do not require a permit under this section:

(A) any discharge of sewage from vessels, including laundry, shower, and galley sink wastes, or effluent from properly functioning marine engines, or any other discharge incidental to the normal operation of a vessel. This exclusion does not apply to rubbish, trash, garbage, or other such materials discharged overboard, nor to other discharges when the vessel is operating other than as a means of transportation, such as when used as or secured to a storage facility, or when secured to the bed of waters of the state for the purpose of oil or gas exploration or development;

(B) discharges through pipes, sewers, or other conveyances leading into a privately owned treatment works subject to regulation by the commission, except as the commission may otherwise require under subsection (i)(9) of this section;

(C) discharges through pipes, sewers, or other conveyances leading into a privately owned treatment works subject to regulation by the Texas Water Commission, provided the owner or operator of the treatment works and the Texas Water Commission do not object to the discharge;

(D) discharges of sewage through pipes, sewers, or other conveyances leading into a publicly owned treatment works;

(E) discharges of dredged or fill material that are regulated by the United States Army Corps of Engineers under the Clean Water Act, §404;

(F) discharges in compliance with the instructions of an on-scene coordinator pursuant to 40 Code of Federal Regulations Part 300 (The National Oil and Hazardous Substances Pollution Plan) or 33 Code of Federal Regulations, §153.10(e) (Pollution by Oil and Hazardous Substances).

(2) Existing permits.

(A) Except as provided in subparagraph (B) of this paragraph, each permit for a discharge of pollutants issued by the commission prior to the effective date of this section will expire 18 months after the effective date of this section, or, if the permittee makes timely and sufficient application under this section for a permit for the discharge, when the commission takes final action granting or denying the permit application.

(B) If the commission issues a general permit covering a discharge authorized by a permit issued by the commission prior to the effective date of this section, the existing permit will expire upon the effective date of the general permit.

(3) Existing authorizations by rule.

(A) Except as provided in subparagraph (B) of this paragraph, a person who, as of the effective date of this section, is discharging pollutants under the authority of §3.8(e) of this title (relating to Water Protection) may continue to discharge in accor-

dance with the provisions of §3.8(e), as they existed prior to the effective date of this section, until the date 18 months after the effective date of this section, or, if the person makes timely and sufficient application under this section for a permit for the discharge, until the commission takes final action granting or denying the permit application.

(B) If the commission issues a general permit covering a discharge authorized by subparagraph (A) of this paragraph, the applicability of subparagraph (A) to the discharge will cease upon the effective date of the general permit.

(4) Storm water discharges.

(A) Except as provided in subparagraph (B) of this paragraph, a person may discharge storm water from a storm water point source under the authority of this paragraph until the date 18 months after the effective date of this section, or, if the person makes timely and sufficient application under this section for a permit for the discharge, until the commission takes final action granting or denying the permit application.

(B) If the commission issues a general permit covering a discharge authorized by subparagraph (A) of this paragraph, the applicability of subparagraph (A) to the discharge will cease upon the effective date of the general permit.

(d) Standards for permit issuance.

(1) General standard. A permit may be issued only if the commission determines that the discharge will not result in the pollution of waters of the state or subsurface water.

(2) Permit conditions. All permits issued under this section will contain the conditions required by subsections (h) and *(l)* of this section, and all other conditions reasonably necessary to prevent the pollution of waters of the state and subsurface water.

(3) Prohibited permits. No permit may be issued when:

(A) the discharge will cause a violation of water quality standards. A new source or new discharger proposing to discharge into a water segment which has been classified as water quality limited in the State of Texas Water Quality Inventory prepared pursuant to the Clean Water Act, §305(b), and for which the Texas Water Commission has performed a pollutants load allocation for the pollutant to be discharged, must demonstrate that:

(i) there are sufficient remaining pollutant load allocations to allow for the discharge; and

(ii) the existing dischargers into that segment are subject to compliance schedules designed to bring the segment into compliance with applicable water quality standards;

(B) the discharge would be inconsistent with a water quality management plan approved under the Clean Water Act, §208(b);

(C) the regional administrator has objected to issuance of the permit under 40 Code of Federal Regulations, §123.44;

(D) the conditions of the permit do not provide for compliance with the applicable water quality requirements of all states whose waters would be affected by the discharge;

(E) the discharge would contain any radiological, chemical, or biological warfare agent or high-level radioactive waste;

(F) insufficient information exists to make a reasonable judgment whether the discharge complies with the ocean discharge criteria contained in 40 Code of Federal Regulations Part 125, Subpart M, if applicable;

(G) the United States Army Corps of Engineers has advised the commission in writing that the discharge would substantially impair anchorage or navigation in or on any of the waters of the United States. Review or appeal of a permit denial under this subparagraph shall be made through the applicable procedures of the corps of engineers.

(4) Conditions requested by other agencies.

(A) If the United States Army Corps of Engineers advises the commission in writing that the imposition of specified conditions upon the permit is necessary to avoid any substantial impairment of anchorage or navigation in or on any of the waters of the United States, the commission will include the specified conditions in the permit. Review or appeal of conditions specified by the corps of engineers shall be made through the applicable procedures of the corps of engineers.

(B) If a state or federal agency with jurisdiction over fish, wildlife, or public health advises the commission in writing that specific conditions need to be imposed upon the permit to avoid substantial impairment of fish, shellfish, or wildlife resources, the commission may include the specified conditions in the permit to the extent they are determined necessary to carry out the provisions of the CWA.

(e) General permits.

(1) Coverage. A general permit may be written to regulate, within an area corresponding to existing geographic or political boundaries, a category of point sources, including a category of storm water point sources, if the point sources all:

(A) involve the same or substantially similar types of operations;

(B) discharge the same types of wastes;

(C) require the same effluent limitations or operating conditions;

(D) require the same or similar monitoring; and

(E) in the commission's opinion, are more appropriately controlled under a general permit than under individual permits.

(2) Relation to individual permits.

(A) A general permit will not apply to any discharge authorized by an individual permit issued under this section.

(B) Any person excluded from the coverage of a general permit solely because the person already has an individual permit may request that the individual permit be revoked. Upon revocation of the individual permit, the general permit will apply.

(C) Any person covered by a general permit may request to be excluded from the coverage of the general permit by applying for an individual permit. A permit application, with reasons supporting the request for exclusion from the general permit, must be submitted to the commission within 90 days after publication of the final general permit in the *Texas Register*. If an individual permit is issued, the applicability of the general permit to the individual permittee will terminate automatically upon the effective date of the individual permit.

(3) Requiring an individual permit.

(A) The commission may require any person covered by a general permit to apply for and obtain an individual permit. Any interested person may petition the commission to take action under this subparagraph. Cases where an individual permit may be required include the following:

(i) the commission determines that the discharge is a significant contributor of pollution to waters of the state or subsurface water, considering the location, size, and nature of the discharge, and other relevant factors;

(ii) the discharger is not in compliance with the conditions of the general permit;

(iii) a change has occurred in the availability to the discharger of demonstrated technology or practices for the control or abatement of pollutants;

(iv) effluent limitations guidelines for point sources covered by the general permit are adopted by EPA and incorporated by reference into this section;

(v) a water quality management plan containing requirements applicable to the point source is approved under the Clean Water Act, §208(b); or

(vi) the requirements of paragraph (1) of this subsection are not met.

(B) If the commission decides to require a person covered by a general permit to obtain an individual permit, the commission will notify the person in writing that a permit application is required. The notice will include a brief statement of the reasons for the decision, an application form, and a statement setting a time for filing the application. The commission may extend the time for filing the application on request of the applicant. Upon the effective date of the individual permit, the applicability of the general permit to the individual permittee will terminate automatically.

(f) Permit application.

(1) Duty to apply. Except for persons whose discharges are excluded under subsection (c)(1) of this section, or authorized by a general permit issued under subsection (e) of this section, any person who discharges or proposes to discharge pollutants from a point source into waters of the state, and who does not have a permit issued by the commission under this section, shall file a permit application with the commission in Austin within the time provided in paragraph (2) of this subsection. The applicant shall mail or deliver a copy of the application to the appropriate district office on the same day the application is mailed or delivered to the commission in Austin. A permit application shall be considered filed with the commission on the date it is received by the commission in Austin.

(2) Time to apply.

(A) Any person who is discharging under the authority of subsection (c)(3) or (c)(4) of this section, or under a permit that was issued by the commission prior to the effective date of this section and that remains in effect under subsection (c)(2) of this section, shall file a permit application within 18 months of the effective date of this section, but not sooner than one year after the effective date of this section.

(B) Any person proposing a new discharge, other than a discharge authorized by subsection (c)(4) of this section, shall file a permit application at least 180 days before the date on which the discharge is to commence, unless a later date has been authorized by the director.

(C) Any person who has obtained a permit under this section and who wishes to continue to discharge after the permit expires shall file an application for a new permit at least 180 days before the existing permit expires, except that:

(i) the director may extend the deadline for filing an application, but not later than the permit expiration date; and

(ii) the director may grant permission to submit the information required by paragraph (5)(F), (G), and (H) of this subsection after the permit expiration date.

(3) Who applies. When a source is owned by one person but is operated by another person, it is the operator's duty to file an application for a permit.

(4) Application requirements for all applicants. All applicants shall submit the following information, using application forms supplied by the commission:

(A) the activities conducted by the applicant that require it to obtain a permit;

(B) name, mailing address, and location of the source for which the application is submitted;

(C) a brief description of the nature of the business;

(D) up to four standard industrial classification (SIC) codes that best reflect the principal products or services provided by the source;

(E) the operator's name, mailing address, telephone number, and status as federal, state, private, public, or other entity, and a statement indicating whether the operator is the owner of the source;

(F) a listing of all permits or construction approvals for the source received or applied for under any of the following programs:

(i) Hazardous Waste Management Program under the Resource Conservation and Recovery Act, as amended;

(ii) Underground Injection Control Program under the Safe Drinking Water Act;

(iii) National Pollutant Discharge Elimination System Program under the CWA;

(iv) Prevention of Significant Deterioration Program under the Clean Air Act;

(v) Nonattainment Program under the Clean Air Act;

(vi) National Emission Standards for Hazardous Pollutants Program under the Clean Air Act;

(vii) Ocean Dumping Program under the Marine Protection Research and Sanctuaries Act;

(viii) Dredge or Fill Program under the CWA, §404;

(ix) other federal or state environmental programs;

(G) a topographic map, or other map if a topographic map is unavailable, extending one mile beyond the property boundaries of the source, depicting the source: each of its intake and discharge structures; each of its hazardous waste treatment, storage, or disposal facilities; each well where fluids from the source are injected underground; and those wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant in the map area;

(H) if the application is for a discharge into a watercourse, a map showing the surface ownership of the tracts of land between the discharge point and ½ mile downstream of the discharge point. On the map, or on a separate sheet attached to the map, the applicant shall list the names and addresses of the surface owners, as determined from the current county tax rolls or other reliable sources, and shall identify the source of the list. If the director determines that, after diligent efforts, the applicant has been unable to ascertain the name and address of one or more surface owners, the director may waive the requirements of this subparagraph with respect to those surface owners.

(5) Application requirements for existing dischargers. Existing dischargers applying for permits shall submit the following additional information on application forms supplied by the commission:

(A) the latitude and longitude of each outfall location to the nearest 15 seconds and the name of the receiving water;

(B) a line drawing of the water flow through the source with a water balance, showing operations contributing wastewater to the effluent and treatment units. The water balance must show approximate average flows at intake and discharge points and between units. If a water balance cannot be determined, the applicant may provide instead a pictorial description of the nature and amount of any water sources and any collection and treatment measures;

(C) a narrative identification of each type of process, operation, or production area that contributes wastewater to the effluent for each outfall, including process wastewater, cooling water, and storm water runoff; the average flow that each process contributes; a description of the treatment that the wastewater receives, including the ultimate disposal of any solid or fluid wastes other than by discharge; and, if any of the discharges are intermittent or seasonal, a description of the frequency, duration, and flow rate of each discharge occurrence, except for storm water runoff, spillage, or leaks. Storm water dischargers may estimate the average flow of their discharge and must indicate the rainfall event and the method of estimation that the estimate is based on;

(D) if an effluent limitations guideline applies to the applicant and is expressed in terms of production or other measure of operation, a reasonable measure of the applicant's actual production reported in the units used in the applicable effluent limitations guideline and calculated in accordance with 40 Code of Federal Regulations, §122.45(b)(2);

(E) a description of any present requirements or compliance schedules for construction, upgrading, or operation of waste treatment equipment, including a listing of the required and projected final compliance dates;

(F) information specified in this subparagraph on the discharge from each outfall. When quantitative data are required, the applicant must collect a sample of effluent and analyze it in accordance with methods approved under 40 Code of Federal Regulations Part 136. When no analytical method is approved, the applicant may use any suitable method but must provide a description of the method. When an applicant has two or more outfalls with substantially identical effluents, the director may allow the applicant to test only one outfall and report that the quantitative data also apply to the substantially identical outfalls. Grab samples must be used for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, and fecal coliform. For all other pollutants, composite samples must be used. However, a minimum of one grab sample may be taken for effluents from holding ponds or other impoundments with a retention period greater than 24 hours. In addition, the director may waive composite sampling for any outfall

for which the applicant demonstrates that the use of an automatic sampler is infeasible and that a representative sample of the effluent may be obtained by taking one grab sample in the first hour or less of discharge and one additional grab sample in each succeeding hour of discharge up to a minimum of four grab samples for discharges lasting four or more hours;

(i) each applicant must report quantitative data for the following pollutants and parameters: biochemical oxygen demand (BOD5), chemical oxygen demand, total organic carbon, total suspended solids, ammonia (as N), temperature (summer and winter), pH, inorganic chlorides, and oil and grease. The director may waive the reporting requirements for individual point sources or for a class or category of point sources for one or more of these pollutants or parameters if the director determines that a waiver is appropriate because sufficient information to support issuance of a permit can be obtained with less stringent requirements;

(ii) except for applicants for permits to discharge storm water from storm water point sources, each applicant must report quantitative data for each pollutant listed in 40 Code of Federal Regulations Part 122, Appendix D, Table III;

(iii) each applicant for a permit to discharge storm water from a storm water point source must indicate whether it knows or has reason to believe that any of the pollutants listed in 40 Code of Federal Regulations Part 122, Appendix D, Table III is discharged. For every pollutant expected to be discharged in concentrations of 10 parts per billion (ppb) or greater, the applicant must report quantitative data. For every pollutant expected to be discharged in concentrations less than 10 ppb, the applicant must either report quantitative data or briefly describe the reasons that the pollutant is expected to be discharged;

(vi) each applicant must report quantitative data for each pollutant listed in 40 Code of Federal Regulations Part 122, Appendix D, Table IV, other than oil and grease, if the applicant knows or has reason to believe that the pollutant is discharged;

(v) each applicant must indicate whether it knows or has reason to believe that any of the pollutants listed in 40 Code of Federal Regulations Part 122, Appendix D, Table II is discharged. For every pollutant expected to be discharged in concentrations of 10 ppb or greater, the applicant must report quantitative data. For every pollutant expected to be discharged in concentrations less than 10 ppb, the applicant must either report quantitative data or briefly describe the reasons that the pollutant is expected to be discharged;

(vi) each applicant must indicate whether it knows or has reason to believe that any of the pollutants listed in 40 Code of Federal Regulations Part 122, Appendix D, Table V, are discharged. For every pollutant expected to be discharged, the applicant must briefly describe the reasons that the pollutant is expected to be discharged, and report any existing quantitative data for the pollutant;

(G) a listing of any pollutant that is listed as toxic in 40 Code of Federal Regulations, §401.15 and that the applicant currently uses or manufactures as an intermediate or final product or by-product. The director may waive or modify this requirement for any applicant if the applicant demonstrates that it would be unduly burdensome to identify each toxic pollutant and the commission has adequate information to issue the permit;

(H) a description of the expected levels of and the reasons for any discharges of pollutants or any discharge parameters that the applicant knows or has reason to believe will, over the next five years, exceed two times the values reported under subparagraph (F) of this paragraph;

(I) the identity of any biological toxicity tests that the applicant knows or has reason to believe have been made within the last three years on any of the discharges or on a receiving water in proximity to a discharge;

(J) if a contract laboratory or consulting firm performed any of the analyses required by subparagraph (F) of this paragraph, the identity of each laboratory or firm and the analyses performed.

(6) Additional information. The applicant shall submit any other information required on the application form supplied by the commission. In addition to the information reported on the application form, the applicant shall submit, at the director's request, any other information the commission may reasonably require to assess the discharges of the source and to determine whether to issue a permit.

(7) BMP program. The applicant must submit a BMP program as part of the application if necessary under 40 Code of Federal Regulations §125.102.

(g) Signatories to applications and reports.

(1) Applications. All applications shall be signed as follows:

(A) for a corporation, by a responsible corporate officer. A responsible corporate officer means:

(i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy-making or decision-making functions for the corporation; or

(ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign such documents has been assigned or delegated to the manager in accordance with corporate procedures;

(B) for a partnership or sole proprietorship, by a general partner or the proprietor, respectively;

(C) for a municipality, state, federal, or other public agency, by either a principal executive officer or ranking elected official. A principal executive officer of a federal agency includes the chief executive officer of the agency or a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

(2) Reports. All reports required by permits and other information requested by the commission shall be signed by a person described in paragraph (1) of this subsection or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(A) an authorization is made in writing by a person described in paragraph (1) of this subsection;

(B) the authorization specifies an individual or position having responsibility for the overall operation of the regulated activity or an individual or position having overall responsibility for environmental matters for the company; and

(C) the authorization is submitted to the commission before or together with any report or information signed by the authorized representative.

(3) Certification. Any person signing a document under paragraph (1) or (2) of this subsection shall make the following certification:

> I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or who are directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information.

(h) Conditions applicable to all permits. The conditions specified in this subsection apply to all permits.

(1) Duty to comply. The permittee shall comply with all conditions of the permit. Any permit noncompliance is grounds for enforcement action, for permit termination, revocation and reissuance, or modification, or for denial of a permit renewal application. The permittee shall comply with effluent standards or prohibitions for toxic pollutants established by EPA under the CWA, §307(a), and adopted by reference in subsection (m) of this section within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate them.

(2) Duty to reapply. If the permittee wishes to continue a permitted activity after the expiration date of the permit, the permittee must apply for and obtain a new permit.

(3) Need to halt or reduce activity not a defense. It is not a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce

the permitted activity in order to maintain compliance with the conditions of the permit.

(4) Duty to mitigate. The permittee shall take all reasonable steps to prevent or minimize any discharge in violation of the permit.

(5) Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control, and related appurtenances, that are installed or used by the permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

(6) Permit actions. The permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

(7) Property rights. The permit does not convey any property rights of any sort, or any exclusive privilege.

(8) Duty to provide information. The permittee shall furnish to the commission, within a reasonable time, any information that the commission may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit, or to determine compliance with the permit. The permittee shall also furnish to the commission, upon request, copies of records required to be kept under the conditions of the permit.

(9) Inspection and entry. The permittee shall allow any member or employee of the commission, on proper identification, to:

(A) enter upon the permittee's premises where a regulated activity is conducted, or where records must be kept under the conditions of the permit;

(B) have access to and copy, during reasonable working hours, any records required to be kept under the conditions of the permit;

(C) inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under the permit; and

(D) sample or monitor any substance or parameter for the purpose of assuring compliance with the permit or as otherwise authorized by Texas Natural Resource Code, §91.1012 or §141.013.

(10) Monitoring and records.

(A) Samples and measurements taken for the purpose of monitoring must be representative of the monitored activity.

(B) Monitoring must be conducted according to test procedures approved under 40 Code of Federal Regulations Part 136, unless other test procedures have been specified in the permit.

(C) The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, copies of all reports required by the permit, and records of all data used to complete the permit application, for at least three years from the date of the sample, measurement, report, or application. This period may be extended by request of the commission at any time.

(D) Records of monitoring information must include the date, exact place, and time of the sampling or measurements; the individual(s) who performed the sampling or measurements; the date(s) analyses were performed; the individual(s) who performed the analyses; the analytical techniques or methods used; and the results of the analyses.

(11) Signatory requirement. All reports and other information submitted to the commission must be signed and certified in accordance with subsection (g) of this section.

(12) Reporting requirements.

(A) The permittee shall notify the commission as soon as possible of any planned physical alteration or addition to the source if the alteration or addition:

(i) may create a new source under the criteria specified in 40 Code of Federal Regulations §122.29(b); or

(ii) could significantly change the nature or increase the quantity of pollutants discharged, unless the pollutants are subject to effluent limitations in the permit or notification requirements under subparagraph (G) of this paragraph.

(B) The permittee shall give advance notice to the commission of any planned changes to the source that may result in noncompliance with permit requirements.

(C) Monitoring results shall be reported at the intervals specified in the permit on a Discharge Monitoring Report (DMR) form prescribed by the commission. If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 Code of Federal Regulations Part 136 or specified in the permit, the results shall be included in the calculation and reporting of data in the DMR. Calculations for all limitations that require averaging of measurements must use an arithmetic mean unless the permit specifies otherwise.

(D) Reports of compliance or noncompliance with the requirements contained in any compliance schedule of the permit shall be submitted no later than 14 days after each scheduled date.

(E) The permittee shall report to the commission any noncompliance that may endanger health or the environment as follows.

(i) An oral report shall be made to the appropriate district office within 24 hours from the time the permittee becomes aware of the noncompliance. A written report shall also be filed with the appropriate district office and with the Austin office within five days of the time the permittee becomes aware of the noncompliance. The written report must contain the following information:

(I) a description of the noncompliance and its cause;

(II) the period of noncompliance, including exact dates and times, and, if the noncompliance has not been corrected, the anticipated time it is expected to continue; and

(III) steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

(ii) Information that must be reported under this subparagraph includes the following:

(I) any unanticipated bypass that causes any effluent limitation in the permit to be exceeded;

(II) any upset; and

(III) any violation of a maximum daily discharge limitation specifically required by the permit to be reported within 24 hours.

(F) The permittee shall report any noncompliance not reported under subparagraphs (C), (D), and (E) of this paragraph at the time monitoring reports are submitted. The report must contain the information listed in subparagraph (E)(i) of this paragraph.

(G) The permittee shall notify the commission as soon as the permittee knows or has reason to believe:

(i) that any activity has occurred or will occur that would result in the discharge, on a routine or frequent basis, of a toxic pollutant not limited in the permit if the discharge will exceed the highest of the following notification levels:

(I) one hundred micrograms per liter (100 ug/l);

(II) one milligram per liter (1 mg/l) for antimony;

(III) five times the maximum concentration value reported for that pollutant in the permit application; or

(IV) the level established by the commission in accordance with subsection (i)(5) of this section; or

(ii) that any activity has occurred or will occur that would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant not limited in the permit if the discharge will exceed the highest of the following notification levels:

(I) five hundred micrograms per liter (500 ug/l);

(II) one milligram per liter (1 mg/l) for antimony;

(III) 10 times the maximum concentration value reported for that pollutant in the permit application; or

(IV) the level established by the commission in accordance with subsection (i)(5) of this section.

(H) If the permittee becomes aware that it failed to submit any relevant facts or submitted incorrect information in a permit application or a report to the commission, the permittee shall promptly submit the relevant facts or correct information.

(13) Transfers. The permit is not transferable to any person except by modification, or revocation and reissuance, to change the name of the permittee and incorporate other necessary requirements.

(14) Bypass. Bypass means the intentional diversion of waste streams from any portion of a treatment facility. Severe property damage means substantial physical damage to property, damage to treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production, nor does it mean loss of productive capacity caused by the shutting in of an oil or gas well.

(A) The permittee may allow a bypass that does not cause effluent limitations to be exceeded, but only for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of subparagraphs (B) and (C) of this paragraph.

(B) Bypass is prohibited unless:

(i) bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(ii) the permittee gave notice of the bypass as required by subparagraph (C) of this paragraph; and

(iii) there was no feasible alternative to the bypass, such as use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance.

(C) If the permittee knows in advance of the need for a bypass, the permittee shall notify the appropriate district office and the Austin office at least 10 days before the anticipated bypass if possible. The commission may approve an anticipated bypass, after considering its adverse effects, if the commission determines that the bypass will meet the conditions listed in subparagraph (F) of this paragraph. The permittee shall report an unanticipated bypass that causes effluent limitations to be exceeded in accordance with paragraph (12)(E) of this subsection.

(15) Upset. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. Upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(A) An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of subparagraph (B) of this paragraph are met. The permittee seeking to establish the occurrence of an upset has the burden of proof. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

(B) A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence, that:

(i) an upset occurred and the permittee can identify the cause(s) of the upset;

(ii) the treatment facility was at the time being properly operated;

(iii) the permittee submitted notice of the upset in accordance with paragraph (12)(E) of this subsection; and

(iv) the permittee complied with any remedial measures required under paragraph (4) of this subsection.

(i) Other permit conditions. In addition to the conditions required in all permits, the commission will establish conditions, as required on a case-by-case basis, to provide for and assure compliance with the requirements specified in this subsection.

(1) Duration. Permits will be effective for a fixed term not to exceed five years.

(2) Schedules of compliance.

(A) The permit may, when appropriate, specify a schedule of remedial measures leading to compliance with this section. The schedule of compliance will require compliance as soon as possible, but not later than an applicable statutory deadline under the CWA. If the schedule of compliance exceeds one year from the date of permit issuance, the schedule will specify interim requirements and the dates for their achievement. The time between interim dates will not exceed one year. The permit will require the permittee to submit a written compliance report within 14 days after each interim date and the final compliance date.

(B) The first permit issued to a new source or a new discharger may contain a schedule of compliance only when necessary to allow a reasonable opportunity to attain compliance with requirements issued or revised by EPA after commencement of construction but less than three years before commencement of discharge. For recommencing dischargers, a schedule of compliance may be included in the permit only when necessary to allow a reasonable opportunity to attain compliance with requirements issued or revised by EPA less than three years before recommencement of discharge.

(3) Monitoring. All permits will specify the following requirements:

(A) requirements concerning the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods, including biological monitoring methods when appropriate;

(B) requirements concerning the type, intervals, and frequency of monitoring sufficient to yield data representative of the monitored activity, including continuous monitoring when appropriate;

(C) requirements to monitor:

(i) the mass, or other measurement specified in the permit, of each pollutant limited in the permit;

(ii) the volume of effluent discharged from each outfall;

(iii) other measurements as appropriate to assure compliance with permit limitations, including measurements of pollutants in internal waste streams subject to limitation under 40 Code of Federal Regulations, §122.45(i), the frequency and rate of non-continuous discharges subject to limitation under 40 Code of Federal Regulations, §122.45(e), and pollutants subject to notification requirements under subsection (h)(12)(G) of this section;

(D) requirements to monitor according to test procedures approved under 40 Code of Federal Regulations Part 136, for the analyses of pollutants having approved test procedures under that part, and according to test procedures specified in the permit for pollutants with no approved test procedures;

(E) requirements to report monitoring results with a frequency dependent on the nature and effect of the discharge, but in no case less than once a year.

(4) Effluent limitations and standards. Permits will include conditions meeting the requirements of this paragraph, when applicable. To determine what conditions must be included in permits under this paragraph, the commission will use the guidelines, standards, and criteria contained in the federal regulations located at 40 Code of Federal Regulations Part 125, Subparts A and M; Part 129; Part 401; and Part 435. These permit conditions will be calculated as outlined in 40 Code of Federal Regulations, §122.45 and §122.50, when applicable. The following conditions must be included in permits, when applicable:

(A) technology-based effluent limitations and standards based on effluent limitations guidelines or new source performance standards, on case-by-case determinations, or on a combination of the two, in accordance with 40 Code of Federal Regulations, §125.3. For new sources or new

dischargers, these technology-based limitations and standards are subject to the protection period provided in 40 Code of Federal Regulations, §122.29(d)(1)-(3);

(B) other effluent limitations and standards under the CWA, §§301, 303, and 307;

(C) any requirements in addition to, or more stringent than, promulgated effluent limitations guidelines or standards under the CWA, §§301, 304, 306, or 307 necessary to:

(i) achieve water quality standards;

(ii) ensure consistency with the requirements of a water quality management plan approved under the CWA, §208(b);

(iii) incorporate CWA, §403(c), criteria for ocean discharges under 40 Code of Federal Regulations Part 125, Subpart M; or

(iv) incorporate alternate effluent limitations or standards where warranted by fundamentally different factors under 40 Code of Federal Regulations Part 125, Subpart D;

(D) limitations established under subparagraphs (A), (B), or (C) of this paragraph to control pollutants described in subparagraph (D)(i) of this paragraph. Limitations will be established in accordance with subparagraph (D)(ii) of this paragraph;

(i) limitations must control all toxic pollutants that the commission determines, based on information reported in a permit application under subsection (f)(5)(F) or (H) of this section or in a notification under subsection (h)(12)(G) of this section, or on other information, are or may be discharged at a level greater than the level that can be achieved by the technology-based treatment requirements appropriate to the permittee under 40 Code of Federal Regulations, §125.3(c);

(ii) the requirement that the limitations control the pollutants described in subparagraph (D)(i) of this paragraph will be satisfied by:

(I) limitations on those pollutants, or

(II) limitations on other pollutants if, in the commission's judgment, the limitations on other pollutants will provide treatment of the pollutants described in subparagraph (D)(i) of this paragraph to the levels required by 40 Code of Federal Regulations, §125.3(c).

(5) Notification level. Permits may contain a notification level that exceeds the notification level of subsection (h)(12)(G) of this section, upon petition from the permittee or on the commission's initiative. This new notification level may not exceed the level that can be achieved by the technology-based treatment requirements appropriate to the permittee under 40 Code of Federal Regulations, §125.3(c).

(6) Twenty-four hour reporting. Pollutants for which the permittee must report violations of maximum daily discharge limitations within 24 hours will be listed in the permit. This list will include any toxic pollutant or hazardous substance, or any pollutant specifically identified as the method to control a toxic pollutant or hazardous substance.

(7) Best management practices. Permits will specify BMPs to control or abate the discharge of pollutants when:

(A) the practices are authorized under CWA, §304(e), to control ancillary industrial activities that may contribute significant amounts of toxic pollutants or hazardous substances to waters of the state. These BMPs will be incorporated into permits in accordance with the criteria and standards set forth in 40 Code of Federal Regulations Part 125, Subpart K;

(B) numeric effluent limitations are infeasible;

(C) the practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the CWA.

(8) Reissued Permits.

(A) Except as provided in subparagraph (B) of this paragraph, a renewed or reissued permit will include limitations, standards, and conditions that are at least as stringent as the limitations, standards, and conditions in the previous permit, unless the circumstances on which the previous permit was based have materially and substantially changed since the time the previous permit was issued, and the changed circumstances would constitute cause for permit modification, or revocation and reissuance, under subsection (j) of this section.

(B) When effluent limitations were imposed on a case-by-case basis in accordance with 40 Code of Federal Regulations, §125.3(c) in a previously issued permit, and these limitations are more stringent than required by a subsequently promulgated effluent limitations guideline, this paragraph will apply unless:

(i) the discharger has installed the treatment facilities required to meet the effluent limitations in the previous permit and has properly operated and maintained the facilities, but has nevertheless been unable to achieve those effluent limitations, in which case the limitations in the renewed or reissued permit may reflect the level of pollutant control actually achieved, but may not be less stringent than required by the subsequently promulgated effluent limitations guideline;

(ii) the subsequently promulgated effluent limitations guideline is based on best conventional pollutant control technology; or

(iii) there is increased production at the facility that results in a significant reduction in treatment efficiency, in which case the permit limitations will be adjusted to reflect any decreased efficiency resulting from increased production and raw waste loads, but in no event may permit limitations be less stringent than those required by the subsequently promulgated effluent limitations guideline.

(9) Privately owned treatment works. A permit for a privately owned treatment works will contain any conditions expressly applicable to any user, as a limited co-permittee, that are necessary to ensure compliance with this section. Alternatively, the commission may issue separate permits to the treatment works and to its users, or may require a separate permit application from any user.

(10) Coast Guard regulations. When a permit is issued for a source that may operate at certain times as a means of transportation over water, the permit will contain a condition that the permittee shall comply with any applicable regulations promulgated by the Coast Guard that establish specifications for safe transportation, handling, carriage, and storage of pollutants.

(j) Modification, revocation and reissuance, and termination of permits. A permit may be modified, revoked and reissued, or terminated by the commission either upon the written request of any interested person, including the permittee, or upon the commission's initiative, but only for the reasons and under the conditions specified in this subsection. Except for minor modifications made under paragraph (4) of this subsection, the commission will follow the applicable procedures in subsection (k) of this section. In the case of a modification, the commission may request additional information or an updated application. In the case of a revocation and reissuance, the commission will require a new application. If a permit is modified, only the conditions subject to modification are reopened. The term of a permit may not be extended by modification. If a permit is revoked and reissued, the entire permit is reopened and subject to revision, and the permit is reissued for a new term.

(1) Modification. The following are causes for modification, but not revocation and reissuance, unless the permittee requests or agrees:

(A) material and substantial alterations or additions to the source occurred after permit issuance and justify permit conditions that are different or absent in the existing permit;

(B) the commission receives information, other than revised regulations, guidance, or test methods, that was not available at the time of permit issuance and that would have justified different permit conditions at the time of permit issuance. For general permits, this cause includes any information indicating that cumulative effects on the environment are unacceptable;

(C) the standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued. Permits may be modified during their terms for this cause only as follows:

(i) for promulgation of amended standards or regulations, when:

(I) the permit condition to be modified was based on an effluent limitations guideline or an EPA-approved water quality standard; and

(II) EPA revises that portion of the effluent limitations guideline on which the permit condition was based and the commission subsequently incorporates that revision into this section by reference, or EPA approves a change in a water quality standard on which the permit condition was based;

(ii) for judicial decisions, a court of competent jurisdiction has remanded and stayed EPA promulgated regulations or effluent limitations guidelines, if the remand and stay concern a portion of the regulations or guidelines which has been incorporated into this section and on which the permit condition to be modified was based;

(D) the commission determines good cause exists for modifying a compliance schedule, such as an act of God, strike, flood, materials shortage, or other event over which the permittee has little or no control and for which there is no reasonably available remedy. However, no modification may extend a compliance schedule beyond an applicable CWA statutory deadline;

(E) the permittee has filed a timely request for a variance under subsection (l)(1) of this section;

(F) an applicable toxic effluent standard or prohibition, including any schedule of compliance specified in the standard or prohibition, is adopted by EPA under the CWA, §307(a), and adopted by reference in subsection (m) of this section, and that standard or prohibition is more stringent than any limitation in the permit. For this cause, the commission must institute proceedings to modify, or revoke and reissue, the permit to incorporate the toxic effluent standard or prohibition;

(G) the commission failed to notify a state whose waters may be affected by the permitted discharge;

(H) the level of discharge of any pollutant that is not limited in the permit exceeds the level that can be achieved by the technology-based treatment requirements appropriate to the permittee under 40 Code of Federal Regulations, §125.3(c);

(I) a notification level is to be established as provided in subsection (i)(5) of this section;

(J) the permittee's effluent limitations were imposed on a case-by-case basis in accordance with 40 Code of Federal Regulations, §125.3(c) and the permittee demonstrates operation and maintenance costs that are totally disproportionate to the operation and maintenance costs considered in the development of a subsequently promulgated effluent limitations guideline. However, the limitations in the modified permit may not be less stringent than required by the subsequent guideline;

(K) the discharger has installed the treatment technology considered by the commission in setting effluent limitations on a case-by-case basis in accordance with 40 Code of Federal Regulations, §125.3(c) and has properly operated and maintained the facilities, but nevertheless has been unable to achieve those effluent limitations. In this case, the limitations in the modified permit may reflect the level of pollutant control actually achieved, but may not be less stringent than required by a subsequently promulgated effluent limitations guideline;

(L) technical mistakes, such as errors in calculation, or mistaken interpretations of law, were made in determining permit conditions.

(2) Modification or revocation and reissuance. The following are causes for modification, or revocation and reissuance.

(A) Cause exists for terminating a permit under paragraph (4) of this subsection, and the commission determines that modification, or revocation and reissuance, is appropriate.

(B) A transfer of the permit is proposed.

(3) Minor modifications. With the permittee's consent, the direcor may make minor modifications to a permit administratively, without following the procedures of subsection (k) of this section. Minor modifications may only:

(A) correct clerical or typographical errors, or clarify any description or provision in the permit, provided that the description or provision is not changed substantively;

(B) require more frequent monitoring or reporting;

(C) change an interim compliance date in a schedule of compliance, provided the interim date is not extended more than 120 days and the extension will not interfere with the attainment of final compliance by the original final compliance date;

(D) allow a transfer of the permit where the director determines that no change in the permit is necessary other than a change in the name of the permittee, provided that a written agreement between the current permittee and the new permittee containing a specific date for the transfer of permit responsibility, coverage, and liability has been submitted to the commission;

(E) change the construction schedule for a discharger that is a new source, provided the owner or operator will have all pollution control equipment required to meet permit conditions installed and operating before discharge commences;

(F) delete a point source outfall when the discharge from the outfall is terminated and any resulting discharge of pollutants from other outfalls does not exceed permit limitations.

(4) Termination. The following are causes for terminating a permit during its term, or for denying a permit renewal application.

(A) The permittee fails to comply with any condition of the permit or this section.

(B) The permittee fails to disclose fully all relevant facts in the permit application or during the permit issuance process, or misrepresents any relevant fact at any time.

(C) A change in any condition requires a temporary or permanent reduction or elimination of any discharge controlled by the permit.

(D) The commission determines that the permitted discharge endangers human health or the environment, or that pollution of waters of the state or subsurface water is occurring or is likely to occur as a result of the permitted discharge.

(k) Permitting procedures.

(1) Review of applications. Upon receipt of an application for a permit, the director will review the application for completeness. Within 30 days after receipt of the application, the director will notify the applicant in writing whether the application is complete or deficient. A notice of deficiency will state the additional information necessary to complete the application, and a date for submitting this information. The application will be deemed withdrawn if the necessary information is not received by the specified date, unless the director has extended this date upon request of the applicant. Upon timely receipt of the necessary information, the director will notify the applicant that the application is complete The director will not begin processing a permit until the application is complete.

(2) Permit denial. If the director administratively denies a permit application, the applicant will be so notified and will have a right to a hearing on request. If, after hearing, the commission decides that the decision to deny the application was incorrect, the director will prepare a draft permit under paragraph (3) of this subsection.

(3) Draft permits.

(A) A draft permit will be prepared when the director tentatively decides:

(i) to issue a permit;

(ii) to modify, or revoke and reissue, a permit; or

(iii) to terminate a permit, in which case the director will prepare a notice of intent to terminate, which is a type of draft permit.

(B) A draft permit will contain all permit conditions, including all conditions applicable to all permits, any compliance schedules, all monitoring requirements, all effluent limitations, standards, and prohibitions, and any variances.

(4) Fact sheets.

(A) The director will prepare a fact sheet to accompany the following draft permits:

(i) every draft general permit;

(ii) every draft permit for a major source;

(iii) every draft permit for a privately owned treatment works;

(iv) every draft permit that includes a variance, limitations to control toxic pollutants under subsection (i)(4)(D) of this section, limitations on internal waste streams under 40 Code of Federal Regulations, §122.45(i), limitations on indicator pollutants under 40 Code of Federal Regulations, §125.3(g), or limitations set on a case-by-case basis in accordance with 40 Code of Federal Regulations, §125.3(c); and

(v) every draft permit that the director finds is the subject of widespread public interest or raises important issues.

(B) The fact sheet will briefly set forth the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing the draft permit. The fact sheet will include information satisfying the requirements of 40 Code of Federal Regulations, §124.8(b) and §124.56.

(5) Notice.

(A) The commission will give notice when a draft permit is prepared under paragraph (3) of this subsection, and when a hearing is scheduled under paragraph (7) of this subsection.

(B) Notice will be given by the methods specified in this subparagraph.

(i) For all permits, a copy of the notice will be mailed to the following persons:

(I) any agency that the commission knows has issued or is required to issue a permit for the same source under any program identified in subsection (f)(4)(F) of this section;

(II) the Texas Water Commission, the Texas Water Development Board, the Texas Department of Health, the Texas Parks and Wildlife Department, EPA, the United States Army Corps of Engineers, the United States Fish and Wildlife Service, the National Marine Fisheries Service, other state and federal agencies with jurisdiction over fish, shellfish, and wildlife resources and over coastal zone management plans, the Advisory Council on Historic Preservation, state historic preservation officers, and other appropriate government authorities, including any state whose waters may be affected by the discharge;

(III) persons on a mailing list developed according to 40 Code of Federal Regulations, §124.10(c)(1)(viii); and

(IV) any unit of local government having jurisdiction over the area where the source is or is proposed to be located, and each state agency having any authority under state law with respect to the construction or operation of the source.

(ii) For an individual permit, a copy of the notice will be mailed to:

(I) the applicant;

(II) any user identified in the permit application if the applicant is a privately owned treatment works; and

(III) the surface owners of each waterfront tract between the discharge point and ½ mile downstream of the discharge point, if the discharge is into a watercourse. If the director determines that, after diligent efforts, the applicant has been unable to ascertain the name and address of one or more surface owners required by this subclause to be notified, then the director may authorize the applicant to notify such persons by publishing the notice of the application. The notice shall be published by the applicant once each week for two consecutive weeks in a newspaper of general circulation in the area affected by the discharge. The applicant shall file proof of publication with the commission in Austin.

(iii) For a permit for a major source, the notice shall be published by the applicant at least once each week for two consecutive weeks in a newspaper of general circulation in the area affected by the discharge. The applicant shall file proof of publication with the commission in Austin.

(iv) For a general permit, the commission will publish the notice at least once in a daily or weekly newspaper of general circulation within the area covered by the general permit, and in the *Texas Register*.

(C) Notices will include information satisfying the requirements of 40 Code of Federal Regulations, §124.10(d) and §124.62(d), and the Administrative Procedure and Texas Register Act.

(D) A copy of any draft permit, fact sheet, and application will be mailed to the persons identified in subparagraph (B)(i)(I) and (II) of this paragraph, and to any other person upon request. The applicant will be mailed a copy of any draft permit and fact sheet.

(6) Comments and requests for hearing. Notice of a draft permit will allow at least 30 days for public comment. During the public comment period any interested person may submit written comments on the draft permit and may request a hearing if one has not already been scheduled.

(7) Hearings on draft permits.

(A) A hearing will be held:

(i) when the director finds, on the basis of requests, a significant degree of public interest in a draft permit;

(ii) when an affected person requests a hearing on a draft permit; and

(iii) on draft general permits, when required by the Administrative Procedure and Texas Register Act, §5(c).

(B) The commission may hold a hearing at its discretion, for instance, when a hearing might clarify one or more issues involved in the permit decision.

(C) Notice of a hearing will be given at least 30 days before the hearing. The public comment period under paragraph (6) of this subsection will automatically be extended to the close of any hearing under this paragraph.

(8) Administrative approval. After the public comment period, the director may issue, modify, revoke and reissue, or terminate a permit administratively if no hearing is required under paragraph (7) of this subsection.

(9) Response to comments. When a final permit is issued, the commission will respond in writing to comments received during the public comment period. The response will be made available to the public and will:

(A) specify which provisions, if any, of the draft permit have been changed in the final permit, and the reasons for the changes, and

(B) briefly describe and respond to all significant comments on the draft permit raised during the public comment period, or during any hearing on the draft permit.

(l) Variances.

(1) Requests for variances.

(A) A discharger may request an extension under CWA, §301(k), from the statutory deadline of CWA, §301(b)(2)(A) for the application of best available technology, based on the use of innovative technology. The request shall be submitted to the commission in Austin no later than the close of the public comment period for a discharger's initial permit requiring the application of best available technology, and shall explain how the requirements of 40 Code of Federal Regulations Part 125, Subpart C have been met.

(B) A discharger may request a variance under CWA, §316(a) from effluent limitations for the thermal component of a discharge. The request must be filed with a timely application for a permit under this subsection, except that if the thermal effluent limitations are developed on a case-by-case basis in accordance with 40 Code of Federal Regulations, §125.3(c) or are based on water quality standards, the request for a variance may be filed by the close of the public comment period for the permit. The request shall contain the information required by 40 Code of Federal Regulations Part 125, Subpart H.

(C) A discharger may request a variance, based on the presence of fundamentally different factors from those on which an applicable effluent limitations guideline was based, from effluent limitations required by the effluent limitations guideline. The request shall be submitted to the commission in Austin by the close of the public comment period for the permit in which the variance is requested to be incorporated and shall explain how the requirements of 40 Code of Federal Regulations Part 125, Subpart D have been met.

(D) A discharger may request a variance from effluent limitations for CWA, §301(b)(2)(F) pollutants (commonly called non-conventional pollutants) that require the application of best available technology, pursuant to CWA, §301(c) because of the economic capability of the

owner or operator or pursuant to CWA, §301(g) because of certain environmental considerations. If those effluent limitations are based on effluent limitations guidelines, the request must comply with clauses (i) and (ii) of this subparagraph. If those effluent limitations are not based on effluent limitations guidelines, the request need only comply with clause (ii) of this subparagraph.

(i) An initial request must be submitted to the commission in Austin and to the regional administrator not later than 270 days after adoption by EPA of an applicable effluent limitations guideline. This request must state the name of the discharger, the permit number, the outfall number(s), the applicable effluent limitations guideline, and whether the discharger is requesting a CWA, §301(c) or §301(g) variance, or both.

(ii) A complete request explaining the basis for the request must be submitted to the commission in Austin no later than the close of the public comment period for the permit in which the variance is requested to be incorporated. The director may grant an extension of time to submit a complete request under this clause, provided the extension may not exceed six months in duration.

(2) Decisions on variances.

(A) The commission may grant or deny requests for the following variances, subject to EPA objection under 40 Code of Federal Regulations, §123.44:

(i) after consultation with the regional administrator, as defined in 40 Code of Federal Regulations, §124.2, extensions under CWA, §301(k) based on the use of innovative technology; or

(ii) variances under CWA, §316(a) from effluent limitations for the thermal component of a discharge.

(B) The commission may deny, or forward to the regional administrator with a written concurrence, or submit to the regional administrator without recommendation, a completed request for:

(i) a variance based on the presence of fundamentally different factors from those on which an effluent limitations guideline was based;

(ii) a variance under CWA, §301(c) based on the economic capability of the applicant; or

(iii) a variance under CWA, §301(g) based upon certain water quality factors.

(m) Federal regulations. The following federal regulations are adopted by reference and can be obtained at the William B. Travis Building, 1701 North Congress, Austin, Texas 78711: 40 Code of Federal Regulations, §116.4; 40 Code of Federal Regulations, §122.2; 40 Code of Federal Regulations, §122.29(b) as amended at 49 FedReg 38048 (September 26, 1984); 40 Code of Federal Regulations, §122.29(d)(1)-(3); 40 Code of Federal Regulations, §122.45 as amended at 49 FedReg 38049 (September 26, 1984); 40 Code of Federal Regulations, §122.50 as amended at 49 FedReg 38049 (September 26, 1984); 40 Code of Federal Regulations Part 122, Appendix D, Tables II, II, IV, and V; 40 Code of Federal Regulations, §123.44., 40 Code of Federal Regulations, §124.2; 40 Code of Federal Regulations, §124.8(b); 40 Code of Federal Regulations, §124.10(c)(1)(viii); 40 Code of Federal Regulations §124.10(d); 40 Code of Federal Regulations, §124.56 as amended at 49 FedReg 38051 (September 26, 1984); 40 Code of Federal Regulations, §124.57(a); 40 Code of Federal Regulations, §124.62(d); 40 Code of Federal Regulations Part 125, Subpart A as amended at 49 FedReg 38052 (September 26, 1984); 40 Code of Federal Regulations Part 125, Subparts C, D, H, K, and M; 40 Code of Federal Regulations Part 129; 40 Code of Federal Regulations Part 136 as amended at 49 FedReg 43234 (October 26, 1984); and 40 Code of Federal Regulations Parts 401 and 435. Words and terms used in the incorporated federal regulations shall have the meanings given in the incorporated federal regulations or in 40 Code of Federal Regulations, §122.2, unless otherwise defined in this section. Where the word directed is used in the incorporated federal regulations, it should be interpreted to mean commission.

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

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

TRD-856594 Walter Earl Lille
Special Counsel
Railroad Commission of Texas

Proposed date of adoption:
September 30, 1985
For further information, please call (512) 445-1186.

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Part IV. Texas Department of Labor and Standards

The following proposals submitted by the Texas Department of Labor and Standards will be serialized in the August 6, 1985, issue of the *Texas Register*. The earliest possible date of adoption for the documents is August 30, 1985.

Chapter 77. Health Spa Act/Labor, Licensing, and Enforcement Procedures
§§77.1, 77.5, 77.9, 77.13, 77.17, 77.21 (new)

Chapter 79. Vehicle Storage Facility Act/Labor, Licensing, and Enforcement
§§79.1, 79.5, 79.9, 79.13, 79.17, 79.21, 79.25, 79.29, 79.33, 79.37, 79.41 (new)

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TITLE 19. EDUCATION

Part I. Texas Education Agency

Chapter 69. Proprietary Schools and Veterans Education

★19 TAC §69.125, §69.127

(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 §69.125 and §69.127, concerning certificates of approval and permits for representatives and minimum standards for operation of proprietary schools.

The 69th Legislature, 1985, passed House Bill 1593, which changed the fee structure of the Texas Proprietary School Act. These proposed amendments implement and clarify these mandated changes.

The amendment to §69.125 outline the documents which comprise a complete application for renewal. It is necessary to specify what constitutes a complete application, since the Texas Education Code, §32.34, now requires the agency to charge a fee of at least $100 for late renewals.

The amendment to §69.127(b)(11) requires schools to submit information on the gross amount of annual student tuition and fees. The annual renewal fee for school is based on the gross amount of student tuition and fees

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 clarification concerning compliance requirements for the new fee structure for proprietary schools. 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, §32.22, which directs the State Board of Education to make rules for the implementation of the Texas Proprietary School Act.

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-856578 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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★19 TAC §69.126

(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 amendments is published in the Emergency Rules section of this issue.)

The Texas Education Agency proposes new §69.126 concerning the fee structure of the Texas Proprietary School Act. The 69th Legislature, 1985, passed House Bill 1593, which changed the fee structure. This proposed new section implements these mandated changes, clarifies that the fee for a change in ownership is $1,000, requires documentation necessary to establish the gross amount of annual student tuition and fees, and establishes a late renewal fee of $100.

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 fiscal implications as a result of enforcing or administering the rule.

The effect on state government for the first five-year period the rules will be in effect is an estimated increase in revenue of $220,485 each year in 1986-1990.

There is no anticipated fiscal effect on local government for the first five-year period the rules is in effect.

The cost of compliance with the rule for small businesses will be an initial fee for a school of $1,000 and an annual renewal fee for a school based on the gross amount of annual student tuition and fees. The annual renewal fee is $500 per school when the annual student tuition and fees is more than $50,000; $600 when the amount is more than $50,000, but not more than $100,000; $700 when the amount is more than $100,000, but not more than $250,000; $800 when the amount is more than $250,000, but not more than $500,000; $900 when the amount is more than $500,000, but not more than $750,000; $1,000 when the amount is more than $750,000, but not more than $1 million; and $1,100 when the amount is more than $1 million. The small school fee is approximately $1 per $100 of tuition and fees; the largest is approximately $.10 per $100.

The possible economic cost to individuals (individuals refers, in this instance, to proprietary schools) is the same as those indicated previously for small businesses.

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 agency rules are consistent with current law.

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, §32.22, which directs the State Board of Education to make rules for the implementation of the Proprietary School Act.

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-856579 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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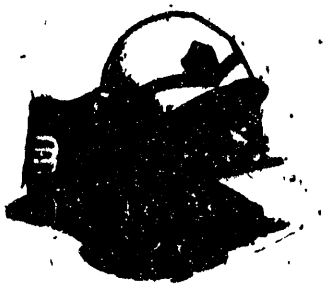

(Editor's note: A notice appeared in the July 26, 1985, issue of the Texas Register *indicating that the following five proposed documents would appear in this issue. The earliest possible date of adoption for the documents is August 26, 1985.)*

Chapter 77. Comprehensive Instruction

Subchapter R. Bilingual Education and Other Special Language Programs

★19 TAC §77.351-77.357, 77.361, 77.365, 77.366

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

The Texas Education Agency proposes amendments to §§77.351-77.357, 77.361, 77.365, and new 77 366, concerning bilingual education and other special language programs. The proposed amendments reflect changes to complement the requirements mandated under House Bill 72, 68th Legislature, Second Called Session, 1984, and Chapter 75, concerning curriculum. These proposed new requirements address the new performance report required for each program by campus, correlation of the essential elements in program content, and methods of instruction.

Under the proposed amendment to §77.351, limited English proficient (LEP) students are to be provided special language programs which include modified methods of instruction, including dual language and English as a second language (ESL) as integral parts of the regular program, and to be taught by qualified teaching personnel, to ensure the LEP students are afforded full opportunity for learning the essential elements required by Chapter 75.

The proposed amendment to §77.352, concerns districts which are unable to offer bilingual education as required. Such districts must request approval from the commissioner of education to offer an alternative program. Such approval is effective for one school year only. The items to be included in the request for approval are also detailed. The proposed amendments include a provision for the commissioner of education to consider hardship cases in school districts required to provide an ESL program but which are unable to recruit an adequate number of ESL certified teachers.

The proposed amendment to §77.353 provides the flexibility to offer bilingual education or ESL to LEP students in school districts that are required to offer bilingual education. The proposed amendment also incorporates mastery of

the essential elements as described in Chapter 75.

The amendment to §77.354 provides for districts to conduct a home language survey for each student new to the district and for students previously enrolled who were not surveyed in the past but who may have a home language other than English. The survey must be completed within 10 days from the date of enrollment. The commissioner of education may distribute to each district sample forms to assist districts in the identification and assessment of LEP students. The survey must be used to identify and classify students who normally use a language other than English in pre-kindergarten through grade 12.

The proposed amendment to §77.355 clarifies how the Language Proficiency Assessment Committee (LPAC) is to be utilized. The responsibility of the LPAC is to review all pertinent information on all students who have a language other than English for the purpose of identification and reclassification of LEP students

The proposed amendment to §77.356 requires districts to administer an English oral language proficiency test to each student in grades pre-kindergarten through grade 12 who has a language other than English as identified on the home language survey, using one or more of the tests approved by the State Board of Education. Students entering after the fall norming period should be given the language proficiency test within four weeks of enrollment; however, the standardized test should not be administered until the next norming period, usually spring. If the student's test score on the oral English language proficiency test in grades two-12 is above the levels designated for indicating LEP and he or she scores between the 23rd and 40th percentile on the written standardized test, the language proficieny assessment committee must determine whether or not the student is LEP based on criteria set out in the section.

The proposed amendment to §77.357 directs districts to identify and serve students eligible for programs provided under this subchapter in accordance with law and Chapter 75. Districts must establish procedures to ensure that a student is not refused instruction in a language other than English solely because the student has a handicapping condition. Districts must ensure that programs for LEP students with a handicapping condition are coordinated with and are an integral part of the total instructional program.

The proposed amendment to §77.361 requires teachers assigned to a bilingual education program to be fully certified teachers with a bilingual certificate or endorsement. The proposed rule also requires teachers assigned to an ESL program to be fully certified with an ESL or bilingual education certificate or endorsement.

The proposed amendment to §77.365 changes Texas Education Agency to Central Education Agency. Central Education Agency staff trained in assessing bilingual education, ESL, and other special language programs must monitor on-site each school district in the state every three years. For purposes of the performance report required by the Texas Education Code, §21 258, the staff must determine the appropriateness and accuracy of the district's use of tests and other assessment procedures to ensure that they accurately reflect the academic progress of LEP students. The staff must also determine the appropriateness of expenditures of bilingual and special language program funds. If a district has been cited as being in noncompliance and has failed to proceed to remove variations or discrepancies within the time period specified, the commissioner of education may take whatever action deemed appropriate under the Texas Education Code, §21 507, to modify the district's accreditation status.

Proposed new §77.366 requires all districts which conduct a bilingual education or English as a second language program to conduct periodic assessment and continuous diagnosis in the language of instruction for the purpose of completing the school district annual performance report. Districts must report such information in a form required by the commissioner of education.

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 no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rules.

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 greater flexibility for school districts in providing bilingual education and special language programs and greater assurance that limited English proficient students will be taught the state mandated curriculum. 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 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 and new section are proposed under the Texas Education Code, Chapter 21, Subchapter L, which directs the State Board of Education to adopt rules for implementation of bilingual education and special education.

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-856511 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 78. Occupational Education and Technology

Subchapter D. Secondary School Vocational Education

(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 §78.63 and §78.69, concerning secondary school vocational education, which would create the Vocational Technical Education Internship Program. This training concept has been pilot-tested for two years, and the results indicate that this is a viable method of providing occupational training in high technology areas. The program will be a cooperative partnership with business and industry involved in high technology operations. Students are placed on the job as unpaid interns for a minimum of 10 hours per school week under the training supervision of competent technicians. Prerequisites for students accepted in the program will include two years of mathematics, including algebra II or geometry, two years of science, and appropriate pre-technical education.

The proposed amendment to §78.63 sets forth the vocational program units for the Technical Education Internship Program.

The proposed amendment to §78.69 eliminates the requirements for vocational teachers to maintain contact hour registers, thus reducing the paperwork burden on school districts. Vocational education contact hours would be collected in accordance with §129.61, concerning requirements for student attendance accounting for state funding purposes.

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 no fiscal im-

plications for state or local government or small businesses as a result of enforcing or administering the rules.

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 the availability of the technical education internship to more students and a reduction in paperwork requirements for teachers. 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 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 and §16.155, which includes vocational education as part 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 19, 1985.

TRD-856512 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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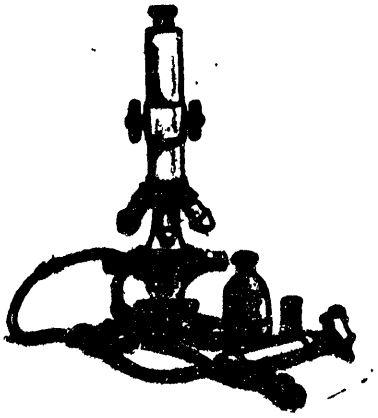

Vocational Students

★19 TAC §78.103

(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 an amendment to §78.103, concerning secondary school vocational education, to create the Vocational Education Internship Program. This training concept has been pilot-tested for two years, and the results indicate that this is a viable method of providing occupational training in high technology areas. The program will be a cooperative partnership with business and industry involved in high technology operations. Students are placed on the job as unpaid interns for a minimum of 10 hours per school week under the training supervision of competent technicians. Prerequisites for students accepted in the program will include two years of mathematics, including algebra II or geometry, two years of science, and appropriate pre-technical education.

The proposed amendment to §78.103 also eliminates the requirement for schools to submit cooperative education training plans to the Central Education Agency for approval. The training plans will be maintained on file in the local education agency and will be reviewed by the Central Education Agency staff during official vocational monitoring visits.

Richard Bennett, association 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 availability of the Technical Education Internship Program to more students and a reduction in the paperwork which must be submitted to the agency. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

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

This amendment is proposed under the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for administration of the Foundation School Program and §16.155, which includes vocational education as part 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 19, 1985.

TRD-856513 W. N. Kirby
Commissioner of Education

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

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Program Standards

★19 TAC §78.122

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

The Texas Education Agency proposes an amendment to §78.122, concerning secondary school vocational education. The amendment would create the Vocational Technical Education Internship Program. This training concept has been pilot-tested for two years, and the results indicate that this is a viable method of providing occupational training in high technology areas. The program will be a cooperative partnership with business and industry involved in high technology operations. Students are placed on the job as unpaid interns for a minimum of 10 hours per school week under the training supervision of competent technicians. Prerequisites for students accepted in the program will include two years of mathematics, including algebra II or geometry, two years of science, and appropriate pre-technical education.

The proposed amendment sets out the specific program requirements for the technical education internship program units. Under this section the units may be approved on a 10- or 11-month basis. This section sets out the criteria which teachers must meet and also contains information concerning scheduling for the internship class.

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 availability of the Technology Internship Program to more 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.*

The amendment is 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 and §16.155, which includes vocational education as part 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 19, 1985.

TRD-856514 W. N. Kirby
Commissioner of Education

Proposed date of adoption:
October 12, 1985
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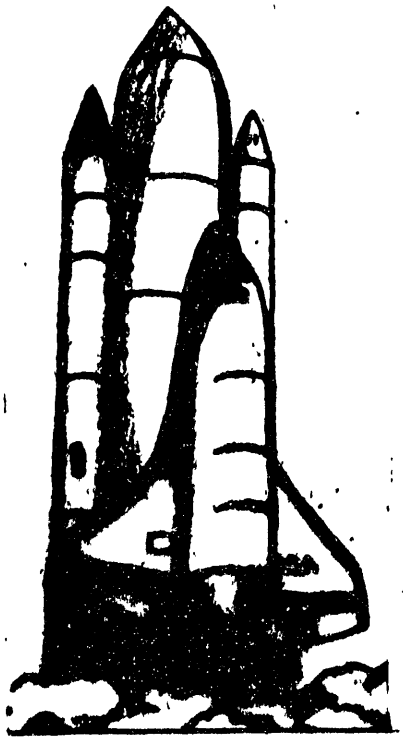

Chapter 85. Student Services

Subchapter B. Guidance Services

★19 TAC §85.22

(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 §85.22, concerning school-community guidance centers. School-community guidance centers are alternative educational settings designed to locate and assist students with problems which interfere with their education. In the past, school districts or cooperative with an average daily attendance of at least 6,000 were eligible to apply for school-community guidance center funds. However, the General Appropriations Act, 69th Legislature, 1985, directed the agency to focus the school-community guidance center program on those urban areas with high concentrations of adjudicated persons.

In addition, House Bill 72, 69th Legislature, Second Called Session, 1984, made several changes to the legislative authorization for the school-community guidance center program, including requirements for the development of a parental agreement that specifies the responsibilities of the parent of a student assigned to the center.

The proposed amendments implement the new provisions of House Bill 72 and the General Appropriations Act. The amendments also revise the qualifications for school-community guidance center staff to require that instructional staff have a valid Texas teacher certificate and that other personnel be appropriately certified for the services they provide. Each center must submit a staff development plan as part of its application for funds.

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 concentration of school-community guidance centers in those areas where the need seems greatest. 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, Chapter 21, Subchapter P, which authorizes the establishment of school-community guidance centers and directs the State Board of Education to make rules for training of personnel and performance of the required services at each center.

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-856515 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: A notice appeared in the July 26, 1985, issue of the Texas Register *indicating that the following two proposed documents would appear in this issue. The earliest possible date of adoption for the documents is August 26, 1985.)*

Subchapter H. Transportation Services

Transportation Administration

★19 TAC §85.214

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

The Texas Education Agency proposes an amendment to §85.214(e), concerning the funding for school bus driver training. State funding for school bus driver training was deleted from the next biennial appropriation.

Texas Civil Statutes, Article 6687b, requires that all school bus drivers be trained in a course approved jointly by the Central Education Agency and the Texas Department of Public Safety.

The proposed amendment provides for the regional education service centers, which offer the training programs, to charge participating school districts for the course. The proposed amendment

ensures continued compliance with the provisions of Texas Civil Statutes, Article 6678b, §5(a).

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 government or small businesses as a result of enforcing or administering the rule.

The effect on local government for the first five-year period the rule will be in effect is an estimated additional cost of $500,000 each year in 1986-1990.

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 training for school bus drivers will continue despite the fact that state funding is no longer provided. 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 amendments is proposed under Texas Civil Statutes, Article 6687b, §5(a), which requires that all school bus drivers be trained in a course approved jointly by the Central Education Agency and the Texas Department of Public Safety.

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-856580 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 89. Adaptations for Special Populations

Subchapter G. Special Education Funding

★19 TAC §§89.250-89.253

(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 §§89.250-89.253, concerning special education. The proposed amendments implement the provisions of House Bill 72, 68th Legislature, Second Called Session, 1984, concerning special education funding.

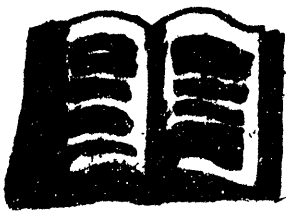
The proposed amendments to §89.250 include a proposed section title change to "Special Education Funding (General)," since personnel units are no longer used in the state education funding system. Subsection (a) provides that state special education funds will be distributed to school districts on the basis of full-time equivalents of eligible handicapped students served during the same weeks as districts report average daily attendance in accordance with §129.61. The proposed amendments to subsection (b) describe the method to be used for converting special education contact hours to full-time equivalents for funding purposes. Subsection (c) provides that the statewide distribution of state special education funds shall not exceed the total amount appropriated for special education by the Texas legislature. The commissioner of education may ratably reduce the allocations to remain within the sum certain. Under the provisions of subsection (d), the receipt of special education funds shall be contingent upon the operation of an approved comprehensive special education program in accordance with state and federal laws and rules. Subsection (e) provides that a special education fund balance may be carried over to the next fiscal year and expended on the special education program. State special education carryover funds must be used in the special education program and cannot be used for administrative costs.

Subsection (e) is redesignated as subsection (f). Subsection (d) is redesignated as subsection (g). There is no change in the text of either section.

It is proposed that §89.253, concerning special education personnel, be redesignated as §89.251. Subsection (a) provides that state special education funds may be used to employ or contract with special education personnel as defined in this chapter. Under proposed new subsection (b), state special education funds may be used to employ or contract with an aide (clerk) for that portion of time spent working directly in assessment. Existing subsection (b) is redesignated as subsection (c), which provides for school districts to employ a special education director. Subsection (d) provides for special education personnel to be employed on extended contracts. Special education teachers, instructional aides, and related service personnel employed on extended contracts must be engaged in student evaluations or in provided direct services to handicapped students. In subsection (e), all special education personnel funded with state special education funds must be paid according to the district's local salary schedule. If personnel are assigned to special education on less than a full-time basis, only that portion of time for which the personnel are assigned to eligible handicapped students may be paid from state special education funds.

Section 89.251, concerning basic support allocation, is renumbered and renamed §89.252 "Allowable Expenditures with State Special Education Funds." This section details how the state special education funds may be used. Several editorial changes are made in the section for clarity. Subsection (c)(2) (previously subsection (d)(3)) is revised to clarify that, for transportation to residential placements, the state maximum transportation allowance for private transportation must be used before any federal funds can be used for this purpose. A new subsection (f) permits districts to use a maximum of 15% of state special education funds for general administrative costs.

Section 89.252, concerning supplemental unit allocations, is redesignated as §89.253, " School Districts Serving Out-of-District Students Residing in Residential Care and Treatment Facilities." School districts having a Texas Department of Human Resources or Texas Department of Mental Health and Mental Retardation approved residential care and treatment facility located within their boundaries must provide special education to eligible handicapped students residing in the facility if the facility does not have an education program. Funds to serve handicapped students residing in facilities described in subsection (1) of this section shall be generated by full-time equivalents based on the hospital class instructional arrangement if special education is provided at the facility. If special education is provided outside the facility, funds shall be generated based on the instructional arrangement in which the students are served in the school district special education program. Subsection (d) provides for the allocation of state special education funds to the South Texas Independent School District, Windham Independent School District, and Moody State School Independent School District. School districts shall annually



report the agency full-time equivalents by out-of-district handicapped students residing in care and treatment facilities. These full-time equivalents shall be reported separately from the full-time equivalents of in-district handicapped students.

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.

The effect on state government for the first five-year period the rules will be in effect is an estimated increase of $1.2 million each year from 1986-1990. Increased revenue to TSB and TSD is based on $2,000 ADA for 600 ADA.

The effect on local government for the first five-year period the rule will be in effect is an estimated additional cost of $1.2 million each year in 1986-1990.

There is no anticipated fiscal implications for small businesses as a result of enforcing or administering the rules as proposed.

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 as proposed will be clarification concerning the allocation system and authorized uses for state special education funds. 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 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 and §16.151, which includes special education as a part 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 19, 1985.

TRD-856516 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 121. Personnel Accounting for State Funding Purposes

Subchapter B. Personnel Records

(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 §121.14, concerning evidence of educational attainment. House Bill 72, 68th Legislature, Second Called Session, 1984, mandated a one-line salary schedule which made no provision for changing an individual's pay step when the assignment changed or a higher degree was earned. Once placed on the one-line salary schedule, an individual advances one step for each year of experience until step 10 is reached. This proposed amendment establishes September 1, 1985, as the cut-off date for changes in an individual's assignment or the earning of a higher degree affecting that individual's pay step.

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. There will be some additional expense to districts for administrators returning to teaching and some savings for districts for teachers earning advanced degrees, but the costs cannot be estimated.

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 phase-in procedures for the new salary schedule mandated by House Bill 72. 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 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; and §16.056, which establishes the Texas public education compensation plan.

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-856517 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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TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 217. Milk and Dairy Fees

★25 TAC §217.81

The Texas Department of Health proposes new §217.81, concerning milk and milk product fees. The section will cover definitions; issuance, renewal and revocation of permits; permit and inspectional fees; and hearing procedures.

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 will be an estimated increase in revenue of $553,500 each year for the years 1986-1990. There will be no effect on local government. The cost of compliance with the rule for small businesses will be the fees as set out in the rule. Since the fees are primarily based on volume of milk processed, and it is anticipated that number of employees, number of labor hours, and gross income will vary with the volume of milk processed, there would be no material difference between cost for a small business and cost for a large business.

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 to require the milk and dairy industry to bear more of

the cost to the state of regulating milk and milk products. 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 Kirmon C. Smith, Director, Division of Milk and Dairy Products, Texas Department of Health, 1100 West 49th Street, Austin, Texas, 78756. Comments will be received for 60 days after publication of this proposed rule in the *Register*. In addition, the department will conduct a public hearing on the proposed rule in the Texas Department of Health auditorium, 1100 West 49th Street, Austin, Texas, 78756 beginning at 9 a.m. on September 17, 1985.

The new section is proposed under Texas Civil Statutes, Article 165-3, §2 and §2a, which provide the Texas Department of Health with the authority to adopt rules covering milk and milk products; §§3, 4, and 6, which provide the board with the authority to issue and revoke permits; and House Bill 1593, §43, 69th Legislature, 1985, which provides the board with authority to set fees on milk and milk products.

§217.81. Milk and Milk Product Fees.

(a) Purpose. The purpose of this section is to provide for the uniform collection of fees covering milk and milk products. Included in this section are requirements covering the issuance and revocation of permits, the prescribing of fees for permits and inspections, and the availability of hearing procedures in the event of proposed revocation of permits.

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

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

(2) Distributor—Any person who offers for sale or sells to another any milk or milk products.

(3) Milk—The lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows, which contains not less than 8¼% milk solids-not-fat and not less than 3¼% milkfat.

(4) Milk plant—Any place, premises, or establishment where milk or milk products are collected, handled, processed, dried, stored, pasteurized, ultrapasteurized, bottled, or prepared for distribution. This term also means processing plant, manufacturing plant or bottling plant in these sections.

(5) Milk products—Includes cream, light cream, light whipping cream, heavy cream, heavy whipping cream, whipped cream, whipped light cream, sour cream, acidified sour cream, cultured sour cream, half-and-half, sour half-and-half, acidified sour half and half, cultured half-and-half, reconstituted or recombined milk and milk products, concentrated milk, concentrated milk products, skim milk, lowfat milk, frozen milk concentrate, eggnog, buttermilk, cultured buttermilk, acidified buttermilk, cultured milk, cultured lowfat milk, yogurt, lowfat yogurt, nonfat yogurt, acidified milk, acidified lowfat milk, low-sodium milk, low-sodium lowfat milk, low-sodium skim milk, lactose-reduced milk, lactose-reduced lowfat milk, lactose-reduced skim milk, milk, lowfat milk, or skim milk with added safe and suitable microbial organisms. This also includes butter, cottage cheese, lowfat cottage cheese, cream cheese, all soft and hard cheeses, whey, and dry milk products.

(6) Milk transport tanker—A vehicle including the truck and tank used by a milk hauler to transport bulk shipments of milk from a transfer station, receiving station, or milk plant to another transfer station, receiving station, or milk plant.

(7) Producer dairy farm—Any place or premises where one or more cows or goats are kept, and from which a part or all of the milk or milk product(s) is provided, sold, or offered for sale to a milk plant, transfer station, or receiving station.

(8) Receiving station—Any place, premises, or establishment where raw milk is received, collected, handled, stored, or cooled and prepared for further transporting.

(9) Sale—

(A) the manufacture, production, processing, packing, exposure, offer, or holding of any milk, and milk product for sale;

(B) the sale, dispensing, or giving of any milk, milk product or frozen dessert product; or

(C) the supplying or applying of any milk or milk product, in the conduct of any retail establishment.

(10) Transfer station—Any place, premises, or establishment where milk or milk products are transferred directly from one milk transport tanker to another.

(c) Permits.

(1) Issuance of permits. Every producer dairy farm, milk plant, receiving station, transfer station, and milk transport tanker located in the State of Texas, and every milk plant that exports milk or milk products into the State of Texas, are required to secure a permit from the department in accordance with the requirements of this section. The beginning of a permit year is September 1.

(2) Renewals. Permits are renewable on September 1 of each year.

(3) Nontransferability. Permits are not transferable or assignable. This restriction also applies in the event of a change of ownership of a milk facility or operation.

(4) Revocation. The department may revoke a permit for noncompliance with the requirements of this section or for the nonpayment of fees. Before the department makes a final decision to revoke a permit, the department shall give the permit holder the opportunity for a hearing in accordance with the requirements of subsection (f) of this section.

(d) Permit fees.

(1) Permitted milk facilities and operations in Texas shall pay the following annual fees:

(A) milk plant—$200 per annum;

(B) producer dairy farm—$50 per annum;

(C) receiving and transfer station—$200 per annum;

(D) milk transport tanker—$100 per annum.

(2) Permit fees are due for all new permit applications. If applications are made after September 1 of each year, the fee will be prorated on a semiannual basis. All milk product facilities and operations shall be billed for renewal prior to September 1 each year.

(e) Inspection fees.

(1) All milk and milk products processed, manufactured, or bottled by milk plants located in the State of Texas shall be assessed a $ .01 per hundredweight inspectional fee. This fee shall be assessed on a monthly basis and shall be computed by the Texas Department of Health using official U.S. Department of Agriculture/Milk Market Administrators' monthly accounting figures for each plant. The milk plants not regulated by the USDA/Milk Market Administrator shall submit monthly production data to the Texas Department of Health no later than 15 days after the end of each reporting month accompanied by the remittance fee required by this subsection. These reports shall be maintained by the Texas Department of Health for a five-year period. Also, each milk plant is required to furnish, upon request from the department, production records for the preceding three years for auditing purposes. This fee shall be considered delinquent if it is not received by the Texas Department of Health 30 days after the end of the reporting month.

(2) All milk and milk products processed, manufactured, or bottled by milk plants located outside the legal boundaries of the State of Texas that export milk and milk products into the State of Texas for sale or distribution shall be assessed a $ .01 per hundredweight inspectional fee or $100 per month, whichever is greater. Also, the actual cost of analyzing samples of milk and milk products shall be assessed out-of-state milk plants that qualify for the minimum $100 per month inspectional fee. This fee shall be assessed on a monthly basis and shall be computed by the Texas Department of Health using official U.S. Department of Agriculture/Milk Market Administrators' monthly accounting figures for each plant. The milk plants not regulated by the USDA/Milk Market Administrator shall submit monthly production data to the Texas Department of Health no later than

15 days after the end of each reporting month accompanied by the required remittance fee. These reports shall be maintained by the Texas Department of Health for a five-year period. Also, each plant will be required to furnish, upon request, production records for the preceding three years for auditing purposes. This fee shall be considered delinquent if it is not received by the Texas Department of Health 30 days after the end of the reporting month.

(f) Hearings. Before the department makes a final decision denying application for a permit or revoking a permit, the department shall give the applicant or permittee an opportunity for a hearing. The hearing procedure will be in accordance with the 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 24, 1985.

TRD-856627 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed date of adoption:
October 19, 1985
For further information, please call (512) 458-7281.

★ ★ ★

★25 TAC §217.82

The Texas Department of Health proposes new §217.82, concerning frozen dessert fees. The section will cover definitions; the issuance, renewal, and revocation of permits; permit and inspectional fees; and hearing procedures.

Stephen Seale, chief accountant III, has determined that for the first five-year period the rule will be in effect there will be fiscal implications as a result of enforcing or administering the rule. The effect on state government will be an estimated increase in revenue of $42,600 each year for 1986-1990. There will be no effect on local government. The cost of compliance with the rule for small businesses will be the fees as set out in §217.82. The comparative cost for compliance for small businesses will be as follows. Since the fees are primarily based on volume of frozen desserts processed, and it is anticipated that number of employees, number of labor hours, and gross income will vary with the volume of frozen desserts processed, there would be no material difference between cost for a small business and cost for a large business.

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 that the frozen dessert industry will bear a greater portion of the cost to the state of providing regulatory services in the frozen dessert area. 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 Kirmon C. Smith, Director, Division of Milk and Dairy Products, Texas Department of Health, 1100 West 49th Street, Austin, Texas, 78756 Comments will be accepted for 30 days after publication. In addition, there will be a public hearing on the proposed rules in the Texas Department of Health auditorium, 1100 West 49th Street, Austin, beginning at 9 a.m. on August 15, 1985.

The new section is proposed under Texas Civil Statutes, Article 4476-2a, §5, which provides the Texas Department of Health with the authority to adopt rules concerning frozen desserts and §8, as amended by House Bill 1593, §49, 69th Legislature, 1985, which provides the department with the authority to set fees concerning frozen desserts.

§217.82. Frozen Dessert Fees.

(a) Introduction. This section provides for the uniform collection of fees covering frozen dessert manufacturers. This section also covers the issuance and revocation of permits and provides a hearing process for an aggrieved permittee.

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

(1) Distributor—Any person who offers for sale or sells to another any frozen dessert product.

(2) Frozen desserts—Any of the following: ice cream, ice milk, fruit sherbert, water ice, nonfruit sherbert, nonfruit water ice, frozen dietary dairy dessert, frozen yogurt, quiescently frozen confection, quiescently frozen dairy confection, mellorine, lorine, parevine, freezer-made milk shake, freezer-made shake, or nondairy frozen dessert. The term includes the mix used in the freezing of one of those frozen desserts.

(3) Frozen desserts manufacturer—A person who manufactures, processes, converts, partially freezes or freezes any mix, be it dairy, nondairy, imitation, pasteurized or unpasteurized, frozen desserts, imitation frozen desserts, or nondairy frozen desserts for distribution or sale at wholesale; provided, however, that this definition shall not include a frozen dessert retail establishment.

(4) Milk—The lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows. The word "milk" used herein includes only milk for manufacturing purposes in frozen desserts plants.

(5) Permit—When used in this section shall mean license.

(6) Sale—

(A) the manufacture, production, processing, packing, exposure, offer, or holding of any frozen dessert product for sale;

(B) the sale, dispensing, or giving of any frozen dessert product; or

(C) the supplying or applying of any frozen dessert product in the conduct of any retail establishment.

(c) Issuance of permits. Every frozen desserts manufacturing plant located in the State of Texas and every frozen desserts manufacturing plant that exports frozen desserts into the State of Texas shall secure a permit. Only those facilities and operations that comply with the requirements of this section and Texas Civil Statutes, Article 4476-2a, shall be entitled to receive and retain such a permit. Permits shall not be transferrable in the event of changes of ownership of these operations or facilities.

(d) Permit fees. Frozen desserts manufacturing plants located in the State of Texas shall be permitted at the prescribed annual rate of $200. These permits are renewable each September 1, and fees shall be prorated on a semiannual basis. Permit fees for renewals not received by the Texas Department of Health by September 1 shall be considered delinquent.

(e) Inspectional fees.

(1) All frozen desserts manufactured by frozen dessert manufacturing plants located in the State of Texas shall be assessed a $ .01 per hundredweight inspectional fee. This fee shall be assessed on a monthly basis. These manufacturers shall submit monthly production data to the Texas Department of Health no later than 15 days after the end of each reporting month accompanied by the required remittance fee. These reports shall be maintained by the Texas Department of Health for a five-year period. Also, each plant will be required to furnish, upon request, production records for the preceding three years for auditing purposes. This fee shall be considered delinquent if it is not received by the Texas Department of Health 30 days after the end of the reporting month.

(2) All frozen desserts manufactured by frozen desserts manufacturing plants located outside the legal boundaries of the State of Texas that export frozen desserts into the State of Texas for sale or distribution shall be assessed a $ .01 per hundredweight inspectional fee or $100 per month, whichever is greater. Also, the actual cost of laboratory analysis of frozen desserts shall be assessed to out-of-state plants that qualify for the minimum $100 per month inspectional fee. This fee shall be assessed on a monthly basis. These manufacturers shall submit monthly production data to the Texas Department of Health no later than 15 days after the end of each reporting month accompanied by the required remittance fee. These reports shall be maintained by the Texas Depart-

ment of Health for a five-year period. Also, each plant will be required to furnish, upon request, production records for the preceding three years for auditing purposes. This fee shall be considered delinquent if it is not received by the Texas Department of Health thirty days after the end of the reporting month.

(f) Revocation of permits. The Texas Department of Health may revoke a permit if the permittee is delinquent in the remittance of either the annual permit fee, the monthly inspectional fee, or the laboratory analysis fee as is required in subsections (d) and (e) of this section. The procedure for the revocation of a permit shall be governed by Texas Department of Health rules for a contested case hearing, §§1.21-1.32 of this title (relating to Formal Hearing Procedures) and by the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a. Prior to making a final decision denying application for a permit or revoking a permit, the department shall give the applicant or permittee an opportunity for a hearing.

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 24, 1985.

TRD-856628 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed date of adoption:
September 14, 1985
For further information, please call (512) 458-7281.

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Chapter 337. Water Hygiene
Registration of Professional Sanitarians

The Texas Department of Health proposes amendments to §337.181, the repeal of and new §337.182, and new §337.187, concerning the registration of professional sanitarians. The amendments to §337.181 clarify and update the definitions. Proposed new §337.182 modifies the establishment of the Sanitarian Advisory Committee and the terms of the committee members and new §337.187 will establish department requirements on examinations for professional sanitarians.

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 rules.

Mr. Seale also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed will be the update and clarification of definitions and requirements on the Sanitarian Advisory Committee and the department requirements concerning the examination for professional sanitarians. 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 Charles E. McEntire, R.S., Chief, Certification and Registration Branch, Division of Water Hygiene, 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.*

★25 TAC §337.181

The amendments are proposed under Texas Civil Statutes, Article 4477-3, §5, which provide the Texas Board of Health with the authority to adopt rules on the examination and registration of professional sanitarians; §8, which provide the bard with the authority to establish a Sanitarian Advisory Committee; and Article 4414b, §1.05, which provides the board with the authority to delegate duties to the commissioner of health and to adopt rules concerning its duties relating to professional sanitarians and a Sanitarian Advisory Committee.

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

Commissioner—The commissioner of health or his or her designated representative.

Committee—The Advisory Committee for Sanitarian Registration.

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

Examination—The Sanitarian Registration [I] Examination given by the department [Texas Merit System Council] or any other examination approved by the [Texas] department [of Health Resources].

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 24, 1985.

TRD-856629 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed date of adoption:
September 14, 1985
For further information, please call (512) 458-7536.

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★25 TAC §337.182

The repeal is proposed under Texas Civil Statutes, Article 4477-3, §8, which provide the Texas Board of Health with the authority to establish a Sanitarian Advisory Committee and Article 4414b, §1.05, which authorize the board to adopt rules concerning its duties relating to the Sanitarians Advisory Committee.

§337.182. Sanitarian Advisory Committee.

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 24, 1985.

TRD-856630 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed date of adoption
September 14, 1985
For further information, please call (512) 458-7536.

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★25 TAC §337.182, §337.187

The new sections are proposed under Texas Civil Statutes, Article 4477-3, §8, which provide the Texas Board of Health with the authority to establish a Sanitarian Advisory Committee, §5, which provide the board with the authority to adopt rules concerning the examination and registration of professional sanitarians; and Article 4414b, §1.05, which provide the board with the authority to delegate duties to the commissioner and to adopt rules concerning the board's duties as relating to professional sanitarians and a Sanitarian Advisory Committee.

§337.182. Sanitarian Advisory Committee. The committee shall consist of five members appointed by the board upon recommendation by the Environmental Health Committee giving consideration to geographic distribution. The term of committee membership shall be three years, and no member shall serve more than two consecutive terms. The board shall appoint the committee chairman from among the members, and the committee shall select from among its members such other officers as may be needed. The committee shall assist in establishing rules and regulations, determining the eligibility of applicants for registration, conduct hearings and make recommendations to revoke certificates, recommend changes in renewal fees, and promote and encourage the registration of qualified individuals. Committee members shall be eligible for reimbursement of travel expenses at the same rate as state employees.

§337.187. Examinations. After presenting qualifications acceptable to the depart-

ment, an applicant shall pass a written examination prescribed by the department under the supervision of a person designated by the department. The applicant must make a score of 70% or better on the entire examination and in case of failure, the applicant may repeat the examination after a period of three months. Each examinee shall be notified of the examination results no later than 30 days from the date of the licensing examination. Each person failing the registration examination will be furnished with an analysis of his or her performance on the examination.

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 24, 1985

TRD-856631 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed date of adoption:
September 14, 1985
For further information, please call (512) 458-7536.

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TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter O. State Sales and Use Tax

★34 TAC §3.323

The Comptroller of Public Accounts proposes new §3.323, concerning imports and exports. The old section on imports and exports is proposed for repeal. The new section is necessary because of changes to the sales tax made by the last legislative session. The changes show the types of acceptable documents required to show proof of export. The Texas proof of export form will no longer be allowed as proof of export. Neither will certifications by forwarding agents be allowed as proof of export.

Billy Hamilton, director of revenue estimating for the comptroller, has determined that for the first five-year period the rule will be in effect the fiscal implications for state or local government as a result of enforcing or administering the rule will be those contained in the fiscal analysis of Senate Bill 1409, 69th Legislature, 1985. 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 the 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 new section is proposed under the Texas Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the sales tax.

§3.323. Imports and Exports.

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

(1) Consignee—Person named in bill of lading to whom or to whose order the bill promises delivery

(2) Consignor—Person named in the bill of lading as the person from whom the goods have been received for shipment.

(3) Licensed and certificated carrier—A person authorized by the appropriate United States agency or by the appropriate state agency within the United States to operate an aircraft, vessel, train, motor vehicle, or pipeline as a common or contract carrier. Certificates of inspection or airworthiness certificates are not the appropriate documents for authorizing a person to operate as a common or contract carrier. These documents relate to the carrier device itself rather than a person's right to operate a carrier business.

(b) U.S. Constitution. On the basis of the import and export clause of the United States Constitution, Article 1, §10, clause 2, tangible personal property imported into or exported from Texas is exempt from taxation by the Texas Tax Code, §151.307 and §151.330, so long as the property retains its character as an import or export.

(c) Exports.

(1) When an exemption is claimed because tangible personal property is exported beyond the territorial limits of the United States, proof of export may be shown only by:

(A) a copy of a bill of lading issued by a licensed and certificated carrier of persons or property authorized to conduct business in the country shown as the destination of the property showing the seller as consignor, the buyer as consignee, and a delivery point outside the territorial limits of the United States;

(B) documentation provided by a licensed United States Customs broker certifying that delivery was made to a point outside the territorial limits of the United States;

(C) formal entry documents from the country of destination showing that the property was imported into a country other than the United States. For the country of Mexico, the formal entry document would be the pedimento de importaciones document with a computerized, certified number issued by Mexican customs officials; or

(D) a copy of the original airway, ocean, or railroad bill of lading which describes the items being exported and a copy of the freight forwarder's receipt if the freight forwarder takes possession of the property in Texas.

(2) The retailer is responsible for obtaining proof of exportation. Exemption certificates, affidavits, or statements from the purchaser that the goods will be or have been exported are not sufficient to exempt the sale as an export. The Texas proof of export form is no longer acceptable as proof of export. A passport number taken by a seller from a passport issued by a foreign country is not acceptable as proof of export.

(3) Storing property in Texas prior to exportation is a use of that property in Texas. Property stored in Texas loses its exemption as an export. Sufficient time will be allowed to arrange for shipping. Property in Texas longer than a month from date of purchase will be presumed to have been stored. Any use of the property in Texas prior to export also causes the loss of the export exemption.

(4) The sale of property to military personnel is taxable unless proof of export is maintained as outlined in paragraph (1) of this subsection.

(d) Imports. Property imported into Texas from another country is exempt from Texas use tax as long as the property retains its character as an import. When transit ceases in Texas, the import becomes subject to the Texas use tax.

(e) Refunds.

(1) A retailer who collects sales tax on a taxable item which qualifies for exemption under subsection (b) of this section may refund the sales tax collected upon presentation by the purchaser of proof of export as required by subsection (c) of this section.

(2) The refund may be made by certified check, company check, money order, credit memo, or cash. If the refund is made, the retailer must receive from the purchaser of the exported item at the time the refund is made a receipt showing a description of the item purchased, the amount and date of the refund, the name, address, and signature of the purchaser.

(3) A copy of the certified check, company check, money order, credit memo, or signed cash receipt must be attached to a copy of the export documents and maintained in the seller's files. In an audit, the auditor must be able to tie the export documents to the original taxable transaction. Refunds made pursuant to undocumented

export exemptions will be assessed against the seller.

(f) Records. Please refer to §3.281 of this title (relating to Records Required, Information Required) and §3.282 of this title (relating to Auditing Taxpayer's Records).

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 24, 1985.

TRD-856636 Bob Bullock
Comptroller of Public Accounts

Earliest possible date of adoption:
August 30, 1985
For further information, please call (512) 475-1913.

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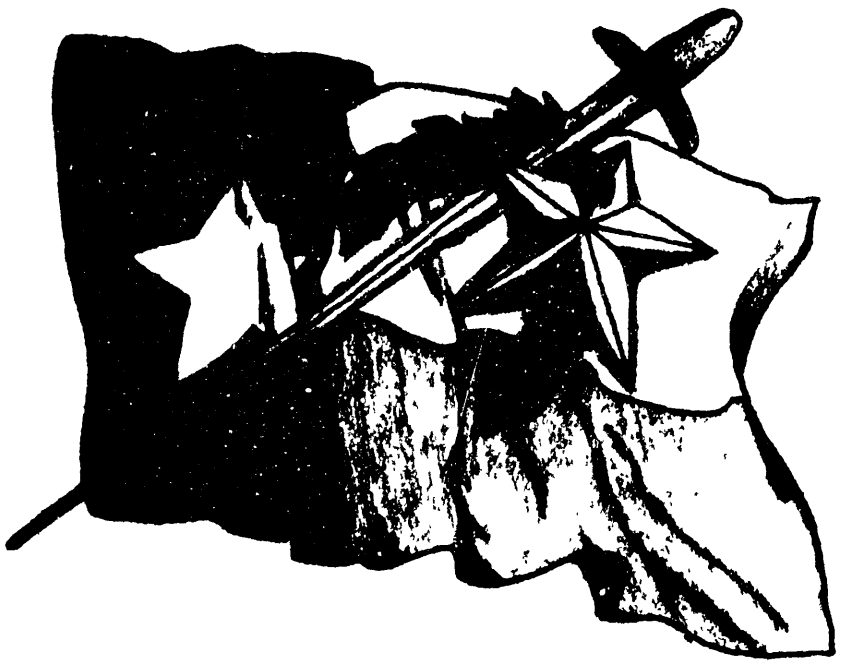

Withdrawn Rules

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

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter Q. Franchise Tax

★34 TAC §3.391

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed amendments to §3.391, submitted by the Comptroller of Public Accounts, have been automatically withdrawn, effective July 23, 1985. The amendments as proposed appeared in the January 22, 1985, issue of the *Texas Register* (10 TexReg 238).

TRD-856673
Filed: July 23, 1985

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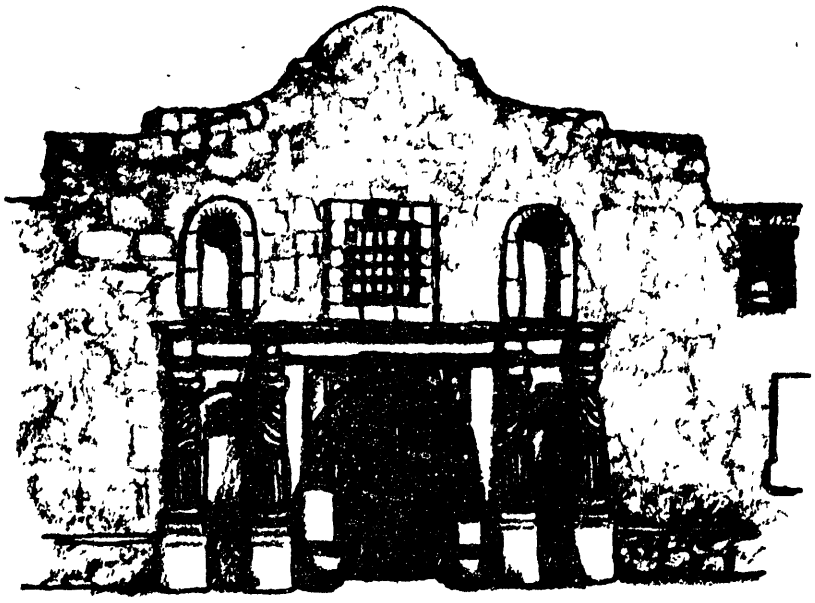

Adopted Rules

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

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

TITLE 10. COMMUNITY DEVELOPMENT
Part IV. Texas Housing Agency
Chapter 145. Federal National Mortgage Association Pass-Through Certificate Program

★10 TAC §§145.1-145.11

The Texas Housing Agency adopts new §§145.1-145.11 without changes to the proposed text published in the January 29, 1985, issue of the *Texas Register* (10 TexReg 314).

The new sections are adopted to establish procedures for administering the Federal National Mortgage Association Pass-Through Certificate Program.

The new sections provide guidelines and procedures under which this agency will administer the program.

No comments were received regarding adoption of these new sections.

These new sections are adopted under the Texas Housing Agency Act, Texas Civil Statutes, Article 1269-6, which authorizes this agency to adopt rules governing the administration of the agency and its 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-856592 Earline Jewett
Executive Administrator
Texas Housing Agency

Effective date: August 13, 1985
Proposal publication date: January 29, 1985
For further information, please call (512) 475-0812.

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TITLE 19. EDUCATION
Part II. Texas Education Agency
Chapter 75. Curriculum

The following adoptions submitted by the Texas Education Agency will be serialized in the August 6, 1985, issue of the *Texas Register*. The effective date for the documents is August 13, 1985.

Subchapter D. Essential Elements—Grades Nine-12
Essential Elements for English Language Arts; Other Languages; Mathematics; Science; Health; Physical Education; Fine Arts; Social Studies; Texas and United States History; Economics with Emphasis on the Free Enterprise System and its Benefits; and Business Education
§§75.62, 75.66, 75.67
(amendments)

Other Courses
§75.121, §75.122
(repeal)

§§75.121-75.124
(new and amendment)

Subchapter F. Graduation Requirements
§75.153
(amendment)

Subchapter G. Other Provisions
§75.164
(amendment)

TITLE 22. EXAMINING BOARDS
Part III. Texas Board of Chiropractic Examiners
Chapter 73. Licenses and Renewals

★22 TAC §73.3

The Texas Board of Chiropractic Examiners adopts the repeal of §73.3 without changes to proposal published in the March 29, 1985, issue of the *Texas Register* (10 TexReg 1060).

The board is adopting the repeal of this section, because it is no longer applicable. A new section has been proposed that will ensure a higher quality of doctors practicing in Texas through the establishment of more precise guidelines for the license renewal continuing education process.

The repeal is necessary to adopt a new section which describes what qualifications a renewal seminar must have to meet board approval.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 4512b, and Senate Bill 109, Acts of the 67th Legislature, 1981, §5, which provide the Texas Chiropractic Board with the authority to promulgate procedural rules as deemed necessary.

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

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

TRD-856588 Bobbye Ferris
Executive Secretary
Texas Board of Chiropractic Examiners

Effective date: August 13, 1985
Proposal publication date: March 29, 1985
For further information, please call (512) 835-2006.

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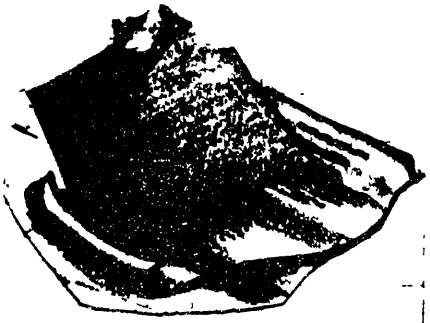

The Texas Board of Chiropractic Examiners adopts new §73.3 with changes to proposed text published in the March 29, 1985, issue of the *Texas Register* (10 TexReg 1060).

The board has acted to ensure a higher quality of doctors practicing in Texas through the establishment of more precise guidelines for the license renewal continuing education process.

The new section describes what qualifications a renewal seminar must have to meet board approval.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 4512b, and Senate Bill 109, §5, Acts of the 67th Legislature, 1981, which provide the Texas Chiropractic Board with the authority to promulgate procedural rules as deemed necessary.

§73.3. *Refresher Courses.* Regarding continuing education courses for license renewal:

(1) Qualfication requirements.

(A) The board may approve those continuing education license renewal courses sponsored by state and national chiropractic associations and chiropractic colleges offering any three of the following seven categories of subject matter during a consecutive two-day course with 10 total hours of course work being presented by two or more qualified speakers;

(i) general or spinal anatomy;

(ii) neuro-muscular-skeletal diagnosis;

(iii) radiology or radiographic and interpretation;

(iv) pathology;

(v) public health;

(vi) chiropractic adjusting technique;

(vii) chiropractic philosophy.

(B) Speakers at such courses shall possess the training and expertise required of faculty members at chiropractic colleges approved by the board under §71.5 of this title (relating to Approved Chiropractic Schools and Colleges).

(2) Filing with the board. The state and national associations of chiropractic colleges that desire approval of their continuing education courses shall submit annually prior to regularly scheduled board meetings their proposed curriculum, speakers, attendance rules, and registration fees to the Texas Board of Chiropractic Examiners for its consideration before it approves a proposed course.

(3) Proof of out-of-state course work. A chiropractor who holds a Texas license but does not practice in Texas during 12 months immediately preceding his Texas license renewal date may submit certification of attendance of 12 hours at a course or courses sponsored by a chiropractic association or chiropractic college so long as:

(A) the course work attended is approved by the licensing board of the state in which he practices; or

(B) the course work attended is approved by the Council of Chiropractic Education if the state in which the doctor practices does not have continuing education requirements; and

(C) the doctor forwards to the Texas Board of Chiropractic Examiners, prior to the license renewal date;

(i) certification of approval of the seminar by one of the agencies listed in subparagraph (a) or subparagraph (b) of this paragraph; and

(ii) certification of attendance at the seminar.

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-856587 Bobbye Ferris
Executive Secretary
Texas Board of
Chiropractic
Examiners

Effective date: August 13, 1985
Proposal publication date: March 29, 1985
For further information, please call (512) 835-2006.

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Part VI. Texas State Board of Registration for Professional Engineers

Chapter 131. Practice and Procedure

Application for Registration

★22 TAC §131.59

The Texas State Board of Registration for Professional Engineers adopts new §131.59 without changes to the proposed text published in the May 21, 1985, issue of the *Texas Register* (10 TexReg 1606).

The section is adopted to establish procedures and conditions which may permit an application to be withdrawn from consideration by the board.

Adoption of this section sets out specific steps an applicant must follow in order to have his or her application for registration withdrawn from consideration by the board.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 3271a, §8, which authorize the Texas State Board of Registration for Professional Engineers to make rules in keeping with the purpose and intent of the 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 22, 1985.

TRD-856589 Kenneth J. Bartosh, P.E.
Executive Director
Texas State Board of
Registration for
Professional
Engineers

Effective date: August 13, 1985
Proposal publication date: May 21, 1985
For further information, please call (512) 475-3141.

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Professional Conduct and Ethics

★22 TAC §131.151

The Texas State Board of Registration for Professional Engineers adopts an amendment to §131.151 without changes o the proposed text published in the May '1, 1985, issue of the *Texas Register* (10 TexReg 1607).

The amendment is adopted to delete Disciplinary Rule 5.5 in Canon V, as it has been determined to be vague and unenforceable. Its deletion provides a clearer interpretation of the section and viable enforcement by the board.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 3271a, §8, which authorize the Texas State Board of Registration for Professional Engineers to make rules in keeping with the purpose and intent of the 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 23, 1985.

TRD-856590 Kenneth J. Bartosh, P.E.
Executive Director
Texas State Board of
Registration for
Professional
Engineers

Effective date: August 13, 1985
Proposal publication date: May 21, 1985
For further information, please call (512) 475-3141.

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TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter Q. Franchise Tax

★34 TAC §3.411

The Comptroller of Public Accounts adopts new §3.411, without changes to the proposed text published in the May 7, 1985, edition of the *Texas Register* (10 TexReg 1405).

The new section reflect changes to the Franchise Tax Act made by the legislature. The franchise tax exemption for banks was repealed, and banks are subject to the franchise tax beginning May 1, 1985. Banks are subject to the same franchise tax rules as other corporations unless specified otherwise. A major change for banks that does not apply to other corporations is that dividends and interest received by a bank will be allocated to the commercial domicile of the bank. In addition to reports required to be filed by other corporations, banks will be required to file a supplemental report showing the allocation of the franchise tax for the taxing units in which the bank's principal office in Texas is located. The comptroller and taxing units will have certain time limits and responsibilities and the enforcement of the franchise tax for banks will differ from the enforcement for other corporations.

A comment was received from Steven C. Salch of Fulbright and Jaworski to the effect that the section should clarify the doing business concept as it applies to representative offices of non-Texas banks, and should also define the terms "commercial domicile" and "principal office." The comptroller's response was that non-Texas banks are subject to the same doing business rules as all other non-Texas corporations. Any non-Texas corporation with an office and/or employees in Texas performing any functions that are part of its ordinary business is doing business in Texas. It is not necessary to define the terms "commercial domicile" and "principal office" since Texas does not allow interstate banking.

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

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

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

TRD-856636 Bob Bullock
Comptroller of Public Accounts

Effective date: August 14, 1985
Proposal publication date: May 7, 1985
For further information, please call (512) 475-1913.

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Part VIII. State Depository Board

Chapter 171. Collateral Transactions

★34 TAC §171.3

The Texas State Depository Board adopts new §171.3, without changes to the proposed text published in the February 8, 1985, issue of the *Texas Register* (10 TexReg 463).

The new section sets forth reporting procedure to be followed by custodian banks. The rules requires a bank, acting as a custodian of securities pledged by a state depository, to file collateral reports with the state treasurer on June 30 and December 31 of each year on forms provided by the state treasurer.

The section would allow the treasury to gather information that would verify collateral on a regular basis without performing an audit.

No comments were received regarding adoption of this new section.

The new section is adopted under Texas Civil Statutes, Article 2525, which authorizes the State Depository Board to adopt rules governing the investment of state funds as the public interest may require.

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 23, 1985.

TRD-856606 J. Stephen Ravel
General Counsel
State Depository Board

Effective date: August 13, 1985
Proposal publication date: February 8, 1985
For further information, please call (512) 463-5971.

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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 Adult Probation Commission

Committees of the Texas Adult Probation Commission will meet in Suite 600, Building B, 8100 Cameron Road, Austin. Days, times, and agendas follow.

Thursday, August 1, 1985, 9 a.m. The Program Committee will consider restitution center budget adjustments for fiscal year 1985 for Bexar, Cameron, Cass, Dallas, Ector, El Paso, Harris, Jefferson I, Jefferson II, Midland, Tarrant, and Taylor Counties; residential service budget adjustments for fiscal year 1985 for Harris, McLennan, and San Patricio Counties; intensive supervision appeal for Falls County; funding requests for fiscal year 1986 supplemental and special program funding charts; supplemental funding applications for fiscal year 1986 for Ector, Hale, and McCulloch Counties; special program funding budget adjustment for fiscal year 1985 for Moore, Pecos, San Patricio, Uvalde, Webb, Wheeler, and Wood Counties; Court Residential Treatment Center Program progress report for June 1985; court residential treatment center applications for fiscal year 1986 for El Paso, Harris, McLennan, and Tarrant Counties; contract and residential service applications for fiscal year 1986 for Bexar, Grayson, San Patricio, and Travis Counties; specialized caseloads applications for fiscal year 1986 for group I: Harris, San Patricio, Tarrant, and Travis Counties; group II: Bexar, McLennan, Nueces, and Taylor Counties; group III: Brazos, Falls, and Webb Counties; restitution center program progress report June 1985; Restitution Center Program information for fiscal year 1986 applications chart; restitution center applications for fiscal year 1986 for Bexar, Cameron, Cass, Dallas, Ector, El Paso I, El Paso II, Harris (Little York), Harris (New Directions), Hidalgo, Jefferson (male), Jefferson (female), Midland, Tarrant, Taylor, and Travis Counties; and waivers for Brazos County 321.6-a-minimum facilities, and Midland County 321.2-a-waiver of experience.

Thursday, August 1, 1985, 2 p.m. The Audit Review Committee will consider fiscal audit reports; final reviews for Tom Green, Collin, Guadalupe, Upshur, Coryell, Cameron, Brazos, Polk, Gregg, Val Verde, Ector, Uvalde, Anderson, Wheeler, Midland, Lubbock, Montgomery, Jefferson, Cooke, Nacogdoches, Comanche, Cherokee, Potter, and Gray Counties; initial review for Denton, Galveston, Ellis, Taylor, Wood, Mason, Moore, Dallas, Dickens, Palo Pinto, Johnson, and Eastland Counties; monitoring reviews; and initial reviews for Hall and Moore Counties.

Friday, August 2, 1985, 9 a.m. The full commission will approve minutes and consider financial report; program service report; restitution center budget adjustments for fiscal year 1985 for Bexar, Cameron, Cass, Dallas, Ector, El Paso, Harris (Little York), Jefferson I, Jefferson II, Midland, Tarrant, and Taylor Counties; residential services budget adjustments for fiscal year 1985 for Harris, McLennan, and San Patricio Counties; intensive supervision appeal for Falls County; funding requests for fiscal year 1986 supplemental and special program funding charts; supplemental funding applications for fiscal year 1986 for Ector, Hale, and McCulloch Counties; special program funding budget adjustment for fiscal year 1985 for Moore, Pecos, San Patricio, Uvalde, Webb, Wheeler, and Wood Counties; Court Residential Treatment Center Program progress report for June 1985; court residential treatment center applications for fiscal year 1986 for El Paso, Harris, McLennan, and Tarrant Counties; contract residential services applications for fiscal year 1986 for Bexar, Grayson, San Patricio, and Travis Counties; specialized caseloads applications for fiscal year 1986 for Group I: Harris, San Patricio, Tarrant, and Travis Counties; Group II: Bexar, McLennan, Nueces and Taylor Counties; Group III: Brazos, Falls, and Webb Counties; Restitution Center Program progress report for June 1985; Retitution Center Program information for fiscal year 1986 applications chart; restitution center applications for fiscal year 1986 for Bexar, Cameron, Cass, Dallas, Ector, El Paso I, El Paso II, Harris (Little York), Harris (New Directions), Hidalgo, Jefferson (male), Jefferson (female), Midland, Tarrant, Taylor, and Travis Counties; waivers for Brazos County 321.6-a-minimum facilities and Midland County 321.2-a-waiver of experience; data services report; statistical reports; fiscal services report; budget fiscal year 1986; executive directors report; legislative issues and update; standards; date and site of next meeting.

Contact: Virginia Grote, 8100 Cameron Road, Suite 600, Building B, Austin, Texas 78753, (512) 834-8188.

Filed: July 23, 1985, 3:10 p.m.
TRD-856613-856615

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Texas Commission for the Deaf

Friday, August 2, 1985, 6 p.m. The Board for Evaluation of Interpreters of the Texas Commission for the Deaf will take action on previous meeting minutes, and hear the chairperson's report. The Board will also discuss evaluation dates and location, and review certification applications and evaluations in executive session.

Contact: Larry Evans, 1102 South Congress, Austin, Texas 78704, (512) 475-2492.

Filed: July 23, 1985, 3:41 p.m.
TRD-856612

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Texas Economic Development Commission

Wednesday, July 24, 1985, 3:30 p.m. The Personnel Committee of the Texas Economic Development Commision met in

emergency session in the conference room, second floor, Love Field, 8008 Cedar Springs, Dallas. According to the agenda, the committee discussed personnel matters in executive session under Article 6252-17, §§2(e) and (g)(no formal business discussion was planned) The committee reconvened into open session to act on personnel matters discussed in executive session. The emergency status was necessary because action needed to be taken on agency personnel matters.

Contact: Alexa Richter, P.O. Box 12728, Austin, Texas 78711, (512) 472-5059.

Filed: July 23, 1985, 2:22 p.m.
TRD-856602

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Office of the Governor

Thursday, August 1, 1985, 10 a.m. The Task Force on Advancement of Labor Management Relations of the Office of the Governor will meet in the Southwestern Bell Building, 1010 North St. Mary's Street, San Antonio. Items on the agenda include a presentation by Corey Rose, National Center for Employee Ownership executive director entitled "New Alternatives for Management Ownership of Business;" a presentation by Mimi Purnell, Governor's Office of Economic Development director, entitled "Update on Rapid Response;" briefings by Allen Parker concerning the Governor's Job Injury Task Force and by Bill Grossenbacher concerning worksharing implementation; a recommendation for task force action on the import issue by Phil Johnson and Steve Spinner; reports from the Area Labor Management Committee, the Texas Win Subcommittee, the Labor-Management Conference Subcommittee, and the Brochure Funding Committee; and an update on the brochure entitled "Texas Works."

Contact: Paul Hilgers, P.O. Box 13561, Sam Houston Building, Room 412, 201 East 14th Street, Austin, Texas 78701, (512) 475-1147.

Filed: July 24, 1985, 4:22 p.m.
TRD-856661

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Texas Housing Agency

Thursday, August 1, 1985, 3 p.m. The Finance and Audit Committee of the Texas Housing Agency (THA) will meet in the THA Conference Room, Suite 700, 411 East 13th Street, Austin. According to the agenda, the committee will consider and possibly act on the THA budget for fiscal year 1986, the status report from Coopers and Lybrand, and the agency's financial advisory contract.

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

Filed: July 24, 1985, 4:25 p.m.
TRD-856663

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Texas Commission on Law Enforcement Officer Standards and Education

Wednesday, August 7, 1985, 10 a.m. The Texas Commission on Law Enforcement Officer Standards and Education will meet in the conference room, 1606 Headway Circle, Austin. According to the agenda, the Commission will read the minutes; consider a Bexar County Sherriff's Department application for academy certification; a grant of authorization as per Article 5, §36, General Appropriations Bill; a records management plan for the agency; the entry of final orders in contested cases pending before the Commission; and the staff activity reports.

Contact: Alfredo Villarreal, 1606 Headway Circle, Suite 100, Austin, Texas 78701, (512) 834-9222.

Filed: July 23, 1985, 3:31 p.m.
TRD-856611

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Texas Department of Mental Health and Mental Retardation

Committees of the Texas Board of Mental Health and Mental Retardation (TBMHMR) of the Texas Department of Mental Health and Mental Retardation will meet at 909 West 45th Street, Austin. Days, times, rooms, committees and agendas follow.

Thursday, August 1, 1985, 1:15 p.m. The Executive Committee will meet in the central office to discuss the Task Force to Study Current Licensing Standards of Personal Care Homes; the Citizen's Planning Committee; and TRIMS lease and transfer, director of operations.

Thursday, August 1, 1985, 2 p.m. The Business Committee will meet in the auditorium, to hear a presentation by Tropical Texas Community Center; a report from the Ad Hoc Committee on MIS; and a briefing on telecommunications by the attorney general's office. The Committee will also discuss selection of an engineer for emergency electrical repairs at Denton State School, adjustment of charges to employees for lodging, and transfers of funds; and quarterly budget additions and revisions.

Thursday, August 1, 1985, 2:45 p.m. The Personnel Committee will meet in the central office to consider appointment of a superintendent of Austin State Hospital and a director of El Paso State Center.

Friday, August 2, 1985, 9 a.m. The Board will meet in the central office to approve the June 14 minutes and discuss the commissioner's calendar; consider recommendations for the board from the Executive Committee, the Business Committee, and the Personnel Committee; citizens' comments; and the status of pending or contemplated litigation.

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

Filed: July 23, 1985, 4:39 p.m.
TRD-856622-856625

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Texas Parks and Wildlife Department

Wednesday, July 31, 1985. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department met in Building B, Parks and Wildlife Headquarters Complex, 4200 Smith School Road, Austin Times and agendas follow.

9 a.m. The commission approved the June 13, 1985, public hearing court reporter minutes and considered a presentation of retirement certificates and service plaques; early season migratory game bird proclamation, 1985-1986; the annual operation plan for Matagorda Island State Park and Wildlife Managment Area; permanent rules relating to marking of oyster leases; a concession contract, Lake Arrowhead State Recreation Area, Clay County; a request for water pipeline easement, Inks Lake State Park, Burnet County; an easement renewal, water pipeline, Possum Kingdom State Recreation Area, Palo Pinto County; an easement renewal ratification, Buescher State Park, Bastrop County; Jeff Davis State Recreation Area, Hill County; an alligator harvest contract, J. D. Murphree Wildlife Management Area; San Marcos Hatchery Development; a land offer relating to Goose Island State Recreation Area, Aransas County; a white-winged dove habitat acquisition, Presidio County; and pending land offers.

Addition to the previous agenda:

The commission considered the fiscal year 1986 operating budget; the Ray Roberts Lake status report, Denton, Cooke, and Grayson Counties; and revision of the state endangered and protected nongame animal lists.

Noon. The commission met in executive session to discuss potential acquisitions, set-

tlement of pending litigation matters, and personnel matters.

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

Filed: July 23, 1985, 2:23 p.m.
TRD-856599, 856600, 856601

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Texas State Board of Public Accountancy

Thursday and Friday, August 1 and 2, 1985, 8:30 a.m. and 9 a.m. respectively. The Examination Committee and Executive Committee of the Texas State Board of Public Accountancy will meet jointly in Suite 340, 1033 La Posada, Austin. According to the agenda summary, the committees will audit grades from the May 1985 uniform certified public accountant examination; discuss committee reports, consent orders, proposals for decisions; and take action as appropriate on recommendations and other items. The committees also will meet in executive session to discuss confidential material.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78785, (512) 451-0241.

Filed: July 24, 1985, 4:21 p.m.
TRD-856662

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Public Utility Commission of Texas

Monday, July 29, 1985, 1:30 p.m. The Hearings Division of the Public Utility Commission of Texas submitted an emergency rescheduled agenda for a meeting held in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the division conducted a prehearing conference in Docket 5914—application of Travis Water Control and Improvement District for a water utility certificate of convenience and necessity. The emergency status was necessary because of scheduling conflicts. The meeting originally was scheduled for Monday, July 22, 1985, at 1:30 p.m. as published at 10 TexReg 2334.

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

Filed: July 22, 1985, 2:50 p.m.
TRD-856616

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

Friday, August 2, 1985, 10 a.m. A prehearing conference in Docket 6396—petition of Medina Electric Cooperative, Inc., for authority to implement a fuel overrecovery refund and to reduce its fixed fuel factor.

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

Filed: July 24, 1985, 3:13 p.m.
TRD-856652

Monday, August 5, 1985, 10 a.m. A prehearing conference in Docket 6397—application of Texas-New Mexico Power Company for notice of intent for certificate of convenience and necessity for a proposed generating station/unit (coal-fired).

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

Filed: July 24, 1985, 3:14 p.m.
TRD-856653

Monday, August 12, 1985, 10 a.m. A hearing in Docket 6390—customers protest in the matter of §43(h) rate increase of Deer Creek Ranch Water System in Hays and Travis Counties.

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

Filed: July 23, 1985, 2:37 p.m.
TRD-856608

Monday, September 9, 1985, 10 a.m. A hearing on the merits in Dockets 6117, 6170, 6171, and 6172—application of Texas Utilities Electric Company to obtain a certificate of convenience and necessity for the Trophy Club Coppell-Euless 138kk transmission line; appeals of Brazos Electric Power Cooperative, Inc., Tri-County Electric Cooperative, Inc.; and Texas Utilities Electric of an ordinance of the Town of Westlake.

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

Filed: July 23, 1985, 2:37 p.m.
TRD-856609

Monday, September 23, 1985, 10 a.m. A hearing on the merits in Docket 5642—inquiry of the Public Utility Commission of Texas into service rendered and rates charged by Martin Utility Company.

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

Filed: July 24, 1985, 3:11 p.m.
TRD-856654

Wednesday, October 16, 1985, 10 a.m. A hearing on the merits in Docket 6092—application of Chaparral Water System to transfer certificate of convenience and necessity to Larry Pyka.

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

Filed: July 24, 1985, 3:13 p.m.
TRD-856655

Thursday, October 17, 1985, 10 a.m. A hearing on the merits in Docket 6293—complaint of West Texas Wholesale Supply Company against Southwestern Bell Telephone Company.

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

Filed: July 23, 1985, 2:27 p.m.
TRD-856610

Monday, October 28, 1985, 10 a.m. A hearing on the merits in Docket 6386—application of General Telephone Company of the Southwest to revise its airport telephone service tariff.

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

Filed: July 24, 1985, 3:12 p.m.
TRD-856656

Monday, October 28, 1985, 1:30 p.m. A hearing on the merits in Docket 6387—application of General Telephone Company of the Southwest to revise its ecentrix tariff.

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

Filed: July 23, 1985, 3:11 p.m.
TRD-856657

Wednesday, October 30, 1985, 10 a.m. A hearing on the merits in Docket 6374—application of Continental Telephone Company of Texas to change its tariff to regularize base rate areas and to establish special rate areas.

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

Filed: July 24, 1985, 3:12 p.m.
TRD-856658

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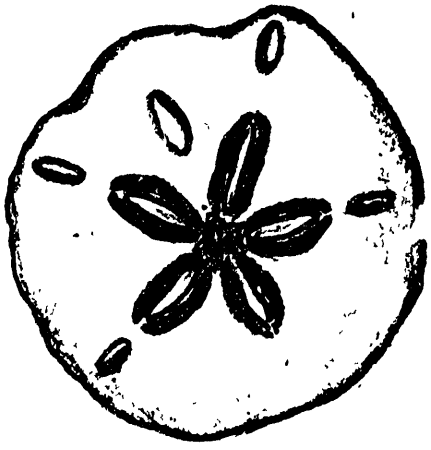

Boards for Lease of State-Owned Lands

Wednesday, July 31, 1985, 4:30 p.m. The Board for Lease of Texas Parks and Wildlife Department of the Boards for Lease of State-Owned Lands will meet in Room 833, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Items on the agenda include approval of the previous board meeting minutes; renewal easement application; easement application; consideration of a nomination fee for oil, gas, and other minerals lease sale.

Contact: Linda K. Fisher, 1700 North Congress, Room 837, Austin, Texas 78701, (512) 475-0219.

Filed: July 23, 1985, 4:49 p.m.
TRD-856626

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Texas Savings and Loan Department

Monday, August 5, 1985, 10 a.m. The Savings and Loan Section of the Texas Savings and Loan Department will meet at the Hyatt Regency Hotel, 208 Barton Springs Road, Austin. According to the agenda, the section will hear and consider comments in regard to the proposed repeal of Chapter 65, relating to loans and investments, and proposed new Chapter 65, relating to loans and investments, including §65.1, relating to types of loans, letters of credit, and investments authorized; §65.2, relating to definitions; §65.3, relating to limitations on loans to one borrower; §65.4, relating to residential real estate loans; §65.5, relating to commerical real estate loans; §65.6, relating to unimproved real estate loans; §65.7, relating to personal property loans; §65.8, relating to oil and gas loans; §65.11, relating to wrap-around real estate loans; §65.10, relating to loans to officers, directors, and employers; §65.11, relating to unsecured loans; §65.12, relating to loan documentation; §65.13, relating to letters of credit; §65.14, relating to investments in real property; §65.15, relating to investment in deferred payment obligations; §65.16, investments and securities, liability and expense fund-payment before opening for business; proposed new section on net worth requirements; proposed amendments to §51.2, relating to application for charter; and proposed new §61.5, relating to confidentiality of financial information.

Contact: L. L. Bowman, III, 2601 North Lamar Boulevard, Austin, Texas 78706, (512) 479-1250.

Filed: July 24, 1985, 1:54 p.m.
TRD-856650

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Texas Turnpike Authority

Thursday, August 1, 1985, 10 a.m. The Board of Directors of the Texas Turnpike Authority will meet at the Houston Marriott Hotel at the Astrodome, Chaparral North, 2100 South Braeswood at Greenbriar, Houston. Items on the agenda summary include approval of the April 30, 1985, meeting minutes; items pertaining to the Dallas North Tollway Extension project, ratification of actions of the chairman pursuant to Resolution 858, purchase of right-of-way parcels and other right-of-way matters, approval of contracts and supplemental agreements thereto, and construction progress report; items pertaining to the Houston Ship Channel Bridge and Mountain Creek Lake Bridge, approval of agreement with Chemical Bank, acceptance of traffic engineer's report, and agreement with Jose Correa; acceptance of consulting and traffic engineers' reports on Lemmon Avenue/Lomo Alto Interchange improvements. The board also will meet in executive session.

Contact: Harry Kabler, P.O. Box 190369, Dallas, Te as 75219, (214) 522-6200.

Filed: July 23, 1985, 1:45 p.m.
TRD-856597

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The University of Texas at Austin

Friday, August 2, 1985, 1 p.m. The Intercollegiate Athletics for Women of the University of Texas at Austin will meet in Room 606, Bellmont Hall, San Jacinto Boulevard between 21st and 23rd Streets, Austin. Items on the agenda include approval of the April 26 and May 21, 1985, minutes; new council appointees; 1985-1986 Southwest Conference and National Collegiate Athletic Association events; status of the 1985-1986 budget; orientation program activities; proposal for matching funds for scholarships; final revision of the 1984-1985 budget; review for the 1984-1985 sponsors; complimentary car update, complimentary golf club membership update; drug testing committee update; approval of the 1985-1986 competition schedules/classes missed; IAW Policy manual revisions; 1985-1986 development projects; and approval of the 1985-1986 complimentary ticket list. The group will also meet in executive session to discuss personnel matters.

Contact: Charolotte Lucas, P.O. Box N, Austin, Texas 78712.

Filed: July 23, 1985, 2:36 p.m.
TRD-856607

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Texas Water Commission

Monday, August 19, 1985, 2 p.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will consider the application of Harold Holigan for Proposed Permit 12922-01 to authorize the discharge of 170,000 gallons per day of treated domestic wastewater, Trinity River Basin, Collin County, and Application 4492 of Hydraco Power, Inc., for Section 11.121 Permit to divert 88,308.17 acre-feet of water per year from an existing reservoir on the San Marcos River, Guadalupe River Basin for hydroelectric power generation, Caldwell County.

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

Filed: July 23, 1985, 1:34 p.m.
TRD-856596

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Regional Agencies Meeting Filed July 22

The Tarrant Appraisal District, Board of Directors, met in emergency session in Suite 300, 1701 River Run, Fort Worth, on July 25, 1985, at 10 a.m. Information may be obtained from Dick Curry, 1701 River Run, Suite 200, Fort Worth, Texas 76107, (817) 332-3151.
TRD-856591

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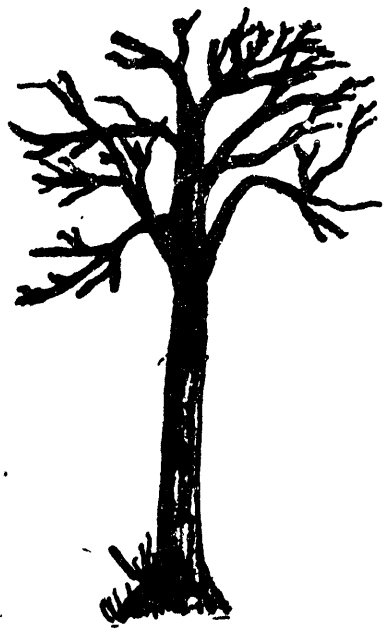

In Addition

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.

Comptroller of Public Accounts

Consultant Proposal Request

Pursuant to Texas Civil Statutes, Article 6252-11c, the office of the Comptroller of Public Accounts of the State of Texas requests proposals to perform a comprehensive study of the policies, procedures, and standardized recommendations relating to current and anticipated gaming statutes including researching, studying, developing, and evaluating recommendations, as directed by the comptroller, of other policies and procedures of the agency.

Proposal Specification. The selected consultant will be required to provide the following services:

(1) research and study the current policies and procedures relating to the current gaming statute;

(2) develop and evaluate recommendations to the comptroller of the current policies and procedures relating to the current gaming statute;

(3) develop and evaluate recommendations to establish standarized range recommendations for violations of the current gaming statute;

(4) develop and evaluate recommendations to the comptroller for policies and procedures of anticipated gaming statutes;

(5) research, study, develop, and evaluate recommendations of other policies and procedures of the agency as directed by the comptroller; and

(6) advise the comptroller of the recommendations in writing.

Selection Criteria. Proposals will be judged on the following basis:

(1) consultant's knowledge of the state comptroller's operations, procedures, and systems;

(2) consultant's ability to perform satisfactory and timely work;

(3) consultant's experience with current and anticipated gaming laws;

(4) consultant's familiarity with the legislative and rule making process; and

(5) reasonableness of cost.

This project must be completed by August 31, 1986. The comptroller reserves the right to reject any and all proposals. No oral proposals will be accepted.

Similar services have previously been provided by Claudia Stravato of Amarillo. The contract will be awarded to Ms. Stravato, unless a better offer is submitted.

Deadline for Proposals. Written proposals are to be submitted by 5 p.m. on August 19, 1985, to Chuck Bailey, Associate Deputy, Comptroller of Public Accounts, LBJ Building, Room 104, Austin, Texas 78774, (512) 475-1907. For additional information, interested consulting firms should contact Chuck Bailey at the previously stated address.

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

TRD-856634 Bob Bullock
Comptroller of Public Accounts

Filed: July 24, 1985
For further information, please call (512) 475-1913.

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Texas Economic Development Commission

Amendments to Consultant Proposal Requests

The Texas Economic Development Commission announces amendments to two consultant proposal requests (for trustee and paying agent) that were published in the June 18, 1985, issue of the *Texas Register* (10 TexReg 2042). The closing date for receiving proposals has been extended from July 10, 1985, to July 31, 1985. Additional information may be obtained by contacting the Texas Economic Development Commission, John Kirkley, TSBIDC Administrator, at (512) 472-5059.

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

TRD-856605, 856603 Rebecca J. Heflin
Acting Executive Director
Texas Economic Development Commission

Filed: July 23, 1985
For further information, please call (512) 472-5059.

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Private Activity Bond Allocation Report

Private activity bonds (PABs) which were induced on or after June 19, 1984, are subject to a cap, as stipulated in the Federal Deficit Reduction Act of 1984. This cap is equal to $150 per capita or approximately $2.3 billion for the State of Texas for calendar year 1985.

Executive Order MW-27B states that the procedure for allocating this cap will be on a first-come, first-served basis, with the Texas Economic Development Commission (TEDC) being the tracking agency for the program. The

information that follows is a summary report of the allocation activity for the week of July 15-19, 1985.

Total allocated principal amount of private activity bonds authorized to be allocated by MW-27B through July 19, 1985:

$300,678,667.88

Comprehensive listing of bond issues which have received a reservation date as per MW-27B during the week of July 15-19, 1985:

Issuer	User	Amount
City of Temple Industrial Development Corporation	Draughon-Miller Municipal Airport	$105,000
Port Arthur Health Facilities Development Corporation	Park Central Nursing Home, Ltd.	$2.83 million
Tarrant County Industrial Development Corporation	Dotty Corporation	$1.3 million
Abilene Industrial Development Authority	290 Cedar	$1 million
Brownsville Industrial Development Corporation	International Bank of Commerce, N.A.	$1 million
Longview Industrial Corporation	J. F. Zimmerman and Sons	$1.8 million

Total principal amount of Private Activity Bonds issued in accordance with MW-27B through July 19, 1985:

$274,124,667.88

Comprehensive listing of bonds issued as per MW-27B during the week of July 15-19, 1985:

Issuer	User	Amount
None	None	None

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

TRD-856604 Rebecca J. Heflin
Acting Executive Director
Texas Economic Development Commission

Filed: July 23, 1985
For further information, please call (512) 472-5059.

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Texas Department of Human Resources
Consultant Proposal Request

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Human Resources (DHR) is requesting proposals for consulting services.

Description of Services. Services requested are statewide awareness conferences/workshops on sexual abuse that may lead to status offense or delinquency, the problems of incarcerating children in adult jails, the problems experienced by missing children, particularly runaways and those with other behavioral problems, and services needed by runaways, truants, and older adolescents, particularly in rural areas. In addition, the consultant will serve as a resource for local groups or communities wanting to take initiatives to combat these four problems. The consultant may also offer additional activities to increase public awareness and response to these four problems.

Limitations. The contract period is October 1, 1985-August 31, 1986. Funding will not exceed $72,000.

Contact Person. For information please contact Joe Papick, Mail Code 538-W, Program Specialist, Texas Department of Human Resources, P.O. Box 2960, Austin, Texas 78769, (512) 450-3303.

Evaluation and Selection. Offers will be evaluated using the following criteria: cost, geographic distribution of services, number of conferences/workshops, qualifications of consultants, previous relevant experience, knowledge of topic areas, provider contribution, services offered in addition to the conferences/workshops, and content of conferences/workshops. Final selection will be based upon the department's evaluation of these criteria.

This proposed consultation is a continuation of a current program; the department intends to contract with the current provider unless it receives a substantially better offer.

Closing Date. The last date to receive offers is August 23, 1985.

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

TRD-856637 Marlin W. Johnston
Commissioner
Texas Department of Human Resources

Filed: July 24, 1985
For further information, please call (512) 450-3766.

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Consultant Proposal Request

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Human Resources (DHR) is requesting proposals for consulting services.

Services Requested. To ensure effective delivery of service to families experiencing violence, DHR is requesting proposals directed at achieving the following objectives: provide assistance and guidance to family violence service providers in relation to program development and service delivery; increase public education and awareness of family violence issues; and assist DHR in family violence research and data collection efforts. Services to be purchased include the provision of technical assistance and training to providers of family violence services.

Limitations. The contract period is October 1, 1985-August 31, 1987. Funding will not exceed $191,666.

Contact Person. For information, please contact Kate Redfern, Mail Code 538-W, Texas Department of Human Resources, P.O. Box 2960, Austin, Texas 78769, (512) 450-3297.

Evaluation and Selection. Offers will be evaluated using the following criteria: experience in family violence services; experience relevant to services to be procured; plan for provision of requested services; and cost. Final selection will be based upon the department's evaluation of the above criteria.

This proposed consultation is a continuation of a current program and the department intends to contract with the current provider unless it receives a substantially better offer.

Closing Date. Offers must be received by noon, August 20, 1985.

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

TRD-856638 Marlin W. Johnston
Commissioner
Texas Department of Human Resources

Filed: July 24, 1985
For further information, please call (512) 450-3766.

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Texas Board of Pardons and Paroles
Consultant Proposal Request

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Board of Pardons and Paroles is requesting proposals from interested parties to provide assistance to this agency in compiling and preparing reports and documents, as well as providing written and oral statements to be presented to the Sunset Advisory Commission and its staff, in their review of the Texas Board of Pardons and Paroles. In addition, the party will provide ongoing counsel and advice to the Texas Board of Pardons and Paroles concerning technical and procedural aspects of the sunset review process and engage in such other necessary activities that will facilitate the efficient exchange of information between the Sunset Review Commission and its staff and the employees and board members of the Texas Board of Pardons and Paroles. The proposed term of service will be 16 months, commencing September 1985.

Selection of a consultant will be based upon the person's qualifications and previous experience working with the sunset review process in Texas. Proposals will be reviewed by, and final selection will be made by, the executive director of the Texas Board of Pardons and Paroles.

It is the intent of the Texas Board of Pardons and Paroles to continue using the services of a consultant who is presently being retained by this agency, unless a better offer is received from a person possessing the necessary qualification and experience to provide the requested services.

Additional information regarding this request for services may be obtained by contacting John Byrd, Executive Director, Texas Board of Pardons and Paroles, 8610 Shoal Creek Boulevard, Austin, Texas 78758. To be considered, all proposals for service must be received on or before 5 p.m. on August 15, 1985.

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

TRD-856639 John W. Byrd
Executive Director
Texas Board of Pardons and Paroles

Filed: July 24, 1985
For further information, please call (512) 459-2708.

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Texas Parks and Wildlife Department
Texas Outdoor Recreation Plan 1986-1987 Action Program

The Parks and Wildlife Department has requested a state and regional clearinghouse Texas Review and Comment System (TRACS) review of the proposed Texas Outdoor Recreation Plan (TORP) 1986-1987 Action Program. This document is used to present actions to be taken to implement various recommendations contained in the 1985 TORP. After the TRACS review has been completed, the department will seek finalization of the program in preparation for its distribution and use in 1986.

For further information, please contact Johnny L. Buck, Comprehensive Planning Branch, Parks Division, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4911.

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

TRD-856567 Charles D. Travis
Executive Director
Texas Parks and Wildlife Department

Filed: July 22, 1985
For further information, please call (512) 479-4809.

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Railroad Commission of Texas
LP-Gas Advisory Committee Meeting

The LP-Gas Division of the Railroad Commission of Texas announces a meeting of the LP-Gas Advisory Committee in the hearings room of the division offices at 105 West Riverside Drive, Austin. The meeting will start on August 1, 1985, at 9 a.m. and will continue until all pertinent material has been covered by the committee. If necessary, the committee will continue the meeting on August 2, 1985, at a time and place to be announced at the conclusion of the meeting on the first.

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

TRD-856595 Walter Earl Lilie
Special Counsel
Railroad Commission of Texas

Filed: July 23, 1985
For further information, please call (512) 445-1186.

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