

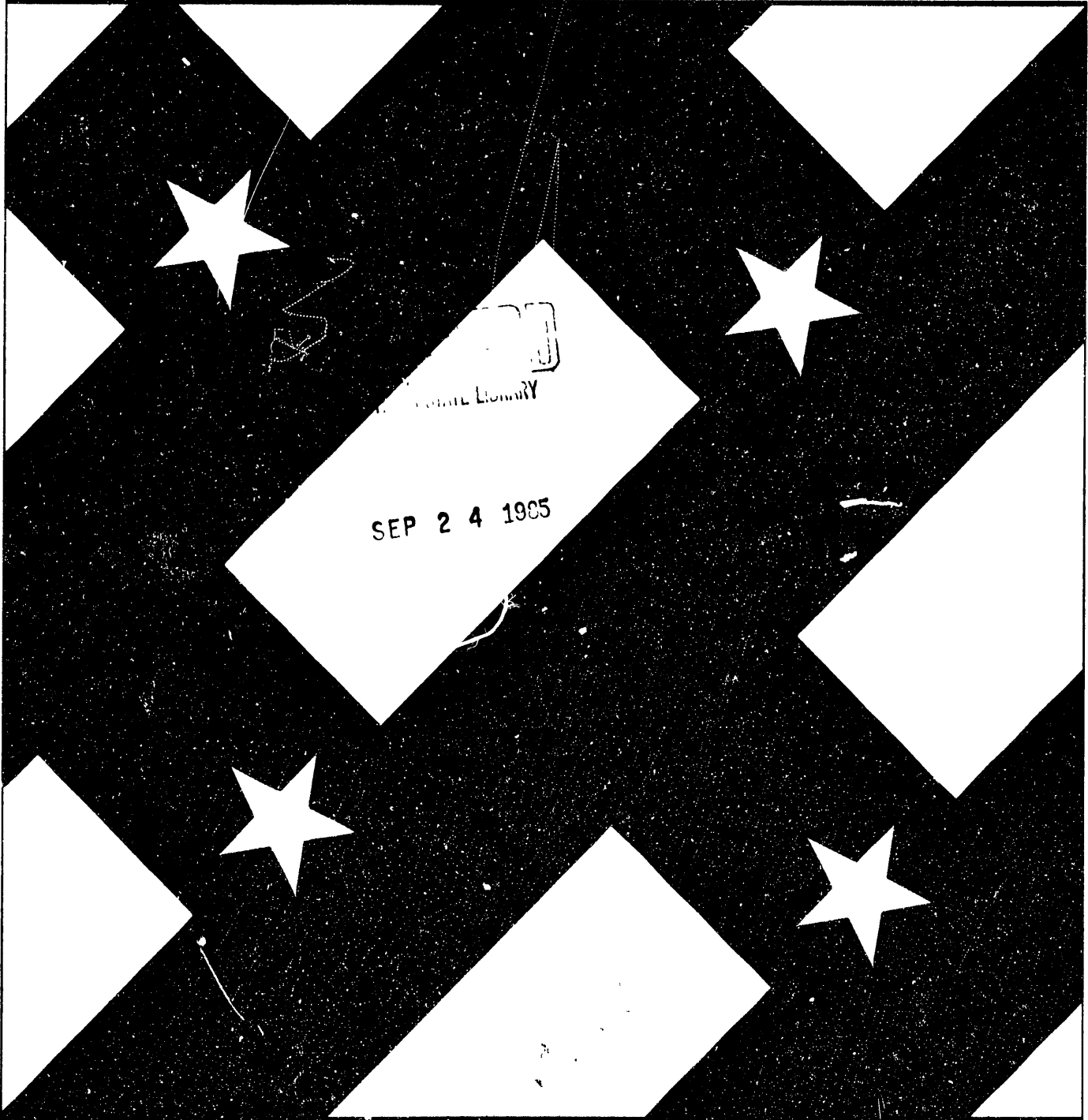
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Texas Register

Volume 10, Number 70, September 20, 1985

Pages 3569 - 3644



Highlights

The Office of the Secretary of State adopts emergency new sections concerning use of the great seal of Texas. Effective date - September 11.....page 3576

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adopts emergency amendments concerning quality of service. Effective date - September 12.....page 3578

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Office of
the Secretary
of State

Texas Register

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

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POSTMASTER: Please send Form 3579 changes to the *Texas Register*, P.O. Box 13824, Austin, Texas 78711-3824.

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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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

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

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

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

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

Texas Administrative Code

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

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

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

TAC stands for the *Texas Administrative Code*;

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



Texas Register Publications

a division of the
Office of the Secretary of State
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Austin, Texas 78711-3824
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Subscriptions—one year (96 regular issues and four index issues), \$80; six months (48 regular issues and two index issues), \$60. Single copies of most issues of the *Texas Register* are available at \$3.00 per copy.

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The Governor

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

Appointments Made September 11

Sabine River Authority

For terms to expire July 6, 1991:

Nolton L. Brown
210 Live Oak
Bridge City, Texas 77611

Mr. Brown is replacing L. E. "Red" Davis of Hemphill, whose term expired.

John W. Cooke
342 South Shelby Street
Carthage, Texas 75633

Mr. Cooke is replacing Olin Valery Joffrion of Carthage, whose term expired.

Ninth Administrative Judicial District

To be presiding judge for a term to expire four years from date of qualification:

Ray D. Anderson
Terry County Courthouse
Brownfield, Texas 79316

Judge Anderson is replacing Eugene Jordan of Amarillo, whose term expired.

Texas Board of Corrections

For a term to expire February 15, 1987:

James Eller
1317 Brookhollow Way
Bryan, Texas 77801

Mr. Eller is replacing Robert D. Gunn of Wichita Falls, who resigned.

Issued in Austin, Texas, on September 11, 1985.

TRD-858398

Mark White
Governor of Texas



Emergency

Rules

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

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

TITLE 1. ADMINISTRATION

Part IV. Office of the Secretary of State Chapter 71. Office of the Secretary

Private Use of the Great Seal of Texas

★1 TAC §§71.41-71.48

The Office of the Secretary of State hereby adopts on an emergency basis new §§71.41-71.48, relating to the private use of the great seal of Texas.

These new sections are adopted on an emergency basis to comply with the new requirements of the Texas Business and Commerce Code, §17.08.

The new sections are adopted on an emergency basis under the Texas Business and Commerce Code, §17.08(d), which provides that the secretary of state shall adopt rules relating to the use of the great seal of Texas.

§71.41. Definitions. The following words and terms, when used in this undesignated head, shall have the following meanings, unless the context clearly indicates otherwise.

Abuse—Any departure from reasonable use; immoderate or improper use; use contrary to customary or accepted practices and protocols such as would be a misuse of the great seal of Texas.

Agency—Any administrative department, or commission established by the State of Texas Constitution, the governor, or the Texas Legislature.

Application—The act of making a formal request for licensed permission to use the great seal of Texas.

Commercial purpose—A purpose that is intended to result in a profit or other tangible benefit but does not include an official use in a state function or the use of the great seal of Texas or a representation of the great seal of Texas for a political purpose by an elected official of this state.

Deceptively similar representation—Any representation which appears to contain at least two elements similar to the great seal of Texas.

Denial—A refusal to grant a license.

Great seal of Texas—A seal which contains a five point star encircled by olive

and live oak branches, and the words "the State of Texas."

License—Permission by the secretary of state to conduct the use, manufacture, distribution, mass production, replication, sale, or incorporation into advertisement, draft, or design the great seal of Texas within the accepted criteria of this title.

Licensed product—A great seal of Texas product which has been approved by a licensee.

Licensee—The applicant who receives permission to use the great seal of Texas.

Manufacturer—Any individual, partnership, corporation, or other legal entity which transforms raw or prepared materials into a product for trade or sale, including a publisher, printer, or advertiser.

Nonexact representation—A deceptively similar representation of the great seal of Texas, including a state agency's seal which incorporates the great seal of Texas.

Nonofficial use—Any use of the great seal of Texas that is not an official use.

Official use—The use of the great seal of Texas by an officer or employee of this state in performing a state function.

Person—An individual or legal entity, including a corporation, partnership, or an association.

Political purpose—Any purpose designed to obtain or publicize a public officer or position.

Representation of the great seal of Texas—A nonexact representation that the secretary of state determines is deceptively similar to the great seal of Texas.

Revocation—An unconditional cancellation and nullification of an existing license by the Office of the Secretary of the State of Texas.

State function—A state governmental activity authorized or required by law.

The statute—Texas Business and Commerce Code, §17.08.

Suspension—A temporary stop order to previously licensed uses.

§71.42. Application Process.

(a) Any person not a state public official or under the express direction of a state public official and conducting official state business must prior to any use of the great seal of Texas in any commercial reproduction, distribution, advertisement, manufacture, promotion, replication, sale, or any such activity reasonably construed to be embraced by this description:

(1) complete and file with the Office of the Secretary of State, on a form prescribed by that office, an application for a license for the private nonofficial use of the great seal of Texas;

(2) obtain such license from the Office of the Secretary of State.

(b) A complete application must:

(1) be legibly printed or typewritten;

(2) include a specific description of the intended usage involving the great seal of Texas;

(3) be accompanied by a precise description and specification of the requirements of the actual product to bear the great seal of Texas in architectural drawing or an engineer's draft to scale.

(c) Drawings and drafts must be done on standard size paper (8½ inches by 11 inches). Drawings and drafts will become a permanent part of the application file.

(d) Upon acceptance of an application and payment of the licensing fee (as set forth in §71.44 of this title (relating to Fees; Payment of Money; Exemptions)) the licensee shall receive from the secretary of state a certificate bearing an identification number. Such number will be composed of:

(1) letters representing the initials of the name of the current secretary of state of Texas;

(2) four digits indicating the numerical month and year in which the license was issued; and

(3) three digits for the sequential number of the license.

(e) State government agencies and officials who use the great seal of Texas in an official capacity have no application or fee requirement; however, in an effort to achieve uniformity and continuity, state agencies and officials are encouraged to submit their intended uses and renditions of the great seal of Texas to the secretary of state.

(f) Except as otherwise provided by law, no seal of any state agency, which incorporates the great seal of Texas, may be used for a nonofficial use by any person including any official or employee of said state agency. Unless a license is first obtained pursuant to the procedures herein described, a person may not use a state agency's representation of the great seal of Texas for a commercial purpose.

(g) Only elected officials may use the great seal of Texas for political purpose.

§71.43. Denial of Application. An original or renewal application may be denied for any of the following reasons:

(1) failure of the application to comply with the statute and these administrative regulations;

(2) failure to include the required fee;

(3) where the intended use is deemed by the secretary of state to be detrimental to the image of the state and not in its best interest.

§71.44. Fees; Payment of Money; Exemptions.

(a) Application fees are required to be paid at the time of presenting the original or renewal application for license. Licensing fees must be paid within 21 days of the approval of the original or renewal license. Royalty fees must be received with each quarterly report and in accordance with the deadlines set forth under §71.46(c) of this title (relating to Quarterly Reports). A fee shall be deemed delinquent if not received within 10 days after it is due. State government agencies are exempt from the fee requirements since governmental utilization of the great seal of Texas is permitted as an official use.

(b) All fees paid to the secretary of state shall be in United States currency, cashier checks, money orders, certified checks, or personal or corporate checks. Payment tendered in any other form will result in the delay or cancellation of either the application or license.

(c) A mere change of purpose after the payment of fees, as when a party desires to withdraw an application from filing, will not entitle a party to a refund.

(d) Fee schedule is as follows:

(1) original or renewal application fee (nonrefundable)—\$35;

(2) original or renewal license fee—\$250;

(3) royalty fee—3.0% of annual gross license receipts in excess of \$5000.

(e) Gross receipts received from the sale of a licensed product are exempt from the royalty fee required by the statute and these administrative regulations where a royalty is paid to the Texas Sesquicentennial Commission (Texas Civil Statutes, Article 6145-11) for the sale of the licensed product.

§71.45. Licensing.

(a) Grant of license. Upon approval of an application and the execution of a licensing agreement on a form prescribed by the secretary of state's office, any individual or corporation may be granted a license which will certify to all, that such person has complied with the requirements of application and filing. Licensees may engage in the reproduction of the great seal of Texas for private and public nonofficial uses. It is accepted that the licensee will use the great seal of Texas in an exemplary manner. Any and all transactions which in-

volve the vendor, manufacturer, or distributor of the great seal of Texas and the public are expected to be handled in an honest and conscientious fashion. A licensee must display the license in a conspicuous manner in the licensee's office or place of business.

(1) The manufacturer of a product bearing the great seal of Texas bears the responsibility for obtaining the necessary license and the payment of all fees required by the statute and these administrative regulations.

(2) Vendors or resellers are exempt from the licensing and fee requirements of the statute and these administrative regulations where the manufacturer of the product transferred has obtained the required great seal of Texas license, provided the vendor or reseller, prior to resale, obtains from the manufacturer, on a form prescribed by the secretary of state's office, a certification of the manufacturer's license.

(A) The certification shall contain the manufacturer's name, license number, and the type and number of items purchased.

(B) The certification must be kept and maintained at the vendor's or reseller's place of business for four years and made readily available for inspection by the secretary of state's office upon request.

(C) A vendor or reseller who fails to obtain, maintain, or make readily available for inspection the certifications of the manufacturer's license shall be responsible for obtaining the necessary license and the payment of all fees required by the statute and these administrative regulations.

(b) Renewal of license. A renewal of license must take place annually on the renewal form provided by the secretary of state's office. A renewal may not be granted if the licensee:

(1) has used the great seal of Texas in a manner that is detrimental to the image of the state and not in its best interests; or

(2) has violated either the statute or these administrative regulations.

(c) Suspension of license. The licensee's use of the great seal of Texas must not be detrimental to the image of the state and its best interests, by virtue of its draft, design, presentation, association, distribution, manufacture, or sale. Any such use, or late payment, or nonpayment of a required fee will result in the suspension of the license

(1) A suspension may not take place until the licensee has been sent notice and given an opportunity at a hearing to there show that there is no basis for a suspension.

(2) A suspension constitutes a stop order. Any further distribution, manufacture, and, or sale fulfilled or contemplated is unlawful.

(3) Failure to observe a suspension or accompanying directive may result in a revocation of the license.

(d) Revocation of an existing license.

(1) A license may be revoked for, but not limited to, the following reasons:

(A) use detrimental to the image of the state and not in its best interests;

(B) abusive use of the great seal of Texas;

(C) criminal use of the great seal of Texas;

(D) willful failure to observe reporting requirements;

(E) a violation of the statute or these administrative regulations.

(F) a continuing violation after notice thereof;

(G) failure or refusal to allow monitoring under §71.47 (of this title (relating to monitoring)).

(2) A revocation may not take place until the licensee has been sent notice and given an opportunity at a hearing to there show that there is no basis for a revocation

§71.46. Quarterly Report.

(a) Licensees must file with the Office of the Secretary of State a statement (i.e., quarterly report), on a form prescribed by that office, containing the following:

(1) a statement of the total quantity of licensed products sold;

(2) a statement of the total quantity of licensed products sold upon which a royalty was paid to the Texas Sesquicentennial Commission;

(3) the total amount of gross receipts received from the sale of licensed products during the quarter;

(4) the total amount of gross receipts received from the sale of licensed products during the quarter upon which a royalty was paid to the Texas Sesquicentennial Commission;

(5) the total amount of gross receipts derived by the licensee from other uses of the great seal of Texas during the quarter;

(6) the amount of any royalty fee due for the quarter.

(b) The licensee shall remit with each quarterly report the amount of any royalty fee due or a statement as to the reason no royalty fee is due.

(c) A quarterly report must be filed with the Office of the Secretary of State in each quarter in accordance with the following schedule:

(1) first quarter (January 1-March 31)—quarterly report due April 15 of the current calendar year;

(2) second quarter (April 1-June 30)—quarterly report due July 15 of the current calendar year;

(3) third quarter (July 1-September 30)—quarterly report due October 15 of the current calendar year;

(4) fourth quarter (October 1-December 31)—quarterly report due February

15 of the following calendar year.

§71.47. Monitoring. The Office of the Secretary of State may conduct at its discretion random, unannounced examinations of the licensee's records during normal business hours (8 a.m.-5 p.m.) to determine the licensee's compliance with the statute and these administrative regulations. All records related to the statute and these administrative rules shall be kept in accordance with generally accepted accounting principles at the licensee's place of business or a place designated by written notification by certified mail, return receipt requested and maintained for four years. If the licensee fails to keep and make readily available accurate records or file quarterly reports under §71.46 of this title (relating to Quarterly Reports), the secretary of state may estimate the royalty fee due based on any information available, including, but not limited to, records of vendors, resellers, or manufacturers. Information contained in annual reports filed with the Office of the Secretary of State pursuant to §71.46 of this title (relating to Quarterly Reports) will be disclosed to the state comptroller, the state auditor, or any similar state investigatory agency upon request.

§71.48. Enforcement. In addition to the suspension or revocation of a great seal of Texas license, the Office of the Secretary of State may:

(1) request that the Texas attorney general bring a civil action to enjoin either a violation of the statute or these administrative regulations relating to the great seal of Texas, or to collect delinquent fees.

(2) refer any criminal violations to the appropriate prosecuting authority under the statute.

Issued in Austin, Texas, on September 11, 1985.

TRD-858392 Myra A. McDaniel
Secretary of State

Effective date: September 11, 1985
Expiration date: January 9, 1986
For further information, please call
(512) 475-2015.

★ ★ ★

Chapter 97. Business Opportunity

Fees and General Information

★ 1 TAC §97.22, §97.23

The Office of the Secretary of State is renewing the effectiveness of the emergency adoption of new §97.22 and §97.23 for a 60-day period effective September 26, 1985. The text of the new sections originally was published in the June 7, 1985, issue of the *Texas Register* (10 Tex-Reg 1810).

Issued in Austin, Texas, on September 12, 1985.

TRD-858498 Hyatte Simmons
Assistant General
Counsel
Office of the Secretary
of State

Effective date: September 26, 1985
Expiration date: November 25, 1985
For further information, please call
(512) 475-2015.

★ ★ ★

TITLE 16. ECONOMIC REGULATION Part II. Public Utility Commission of Texas Chapter 23. Substantive Rules Quality of Service

★ 16 TAC §23.61

The Public Utility Commission of Texas adopts on an emergency basis an amendment to §23.61, concerning telephone utilities. The commission has determined that this action is necessary to conform the contents of §23.61 with the text of §23.32, which must be in place by September 1, 1985, to carry out the mandate of Texas Civil Statutes, Article 1446c, §87B, which became effective September 1, 1985.

The amendment is adopted under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and to make decisions with respect to administering the provisions of this Act.

§23.61. Telephone Utilities.

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

(1) Automatic dialing-announcing device—Any automatic equipment used for solicitation which incorporates the following features: storage capability of multiple numbers to be called or a random or sequential number generator that produces numbers to be called and has the capability, working alone or in conjunction with other equipment, of disseminating a pre-recorded message to the number called.]

(1)(2) Base rate area—A specific area within an exchange service area as set forth in the local exchange carriers' tariffs, maps, or descriptions. Local exchange service within this area is furnished at uniform rates without extra mileage charges.

(2)(3) Business service—A telecommunications service provided a customer where the use is primarily of a business, professional, institutional, or otherwise occupational nature.

(3)(4) Busy hour—The clock hour each day during which the greatest usage occurs.

(4)(5) Busy season—That period of the year during which the greatest volume of traffic is handled in the office.

(5)(6) Central office—A switching unit in a telecommunications system which provides service to the general public, having the necessary equipment and operating arrangements for terminating and interconnecting customer lines and trunks or trunks only.

(6)(7) Class of service—A description of telecommunications service furnished a customer which denotes such characteristics as nature of use (business or resident) or type of rate (flat rate or message rate). Classes of service are usually subdivided in "grades," such as individual or multiparty line.

(7)(8) Complex service—The provision of a circuit requiring special treatment, special equipment, or special engineering design. This includes private lines, WATS, PBX trunks, rotary lines, special assemblies, etc

(8)(9) Customer access line—A unit of measurement representing a usage on the line side of the switched network or a private line circuit, regardless of the quantity or ownership of customer premises equipment connected to each circuit. In the case of multiparty lines, each party shall be counted as a separate customer access line.

(9)(10) Customer trouble report—Any oral or written report from a customer or user of telecommunications service received by any telecommunications utility relating to a physical defect, difficulty, or dissatisfaction with the service provided by the telecommunications utility's facilities. A separate report shall be counted for each telephone or PBX switchboard position reported in trouble when several items are reported by one customer at the same time, unless the group of troubles so reported is clearly related to a common cause.

(10)(11) Dominant carrier—

(A) A provider of any particular communication service which is provided in whole or in part over a telephone system who as to such service has sufficient market power in a telecommunications market as determined by the commission to enable such provider to control prices in a manner adverse to the public interest for such service in such market.

(B) Any provider of local exchange telephone service within a certificated exchange area as to such service.

(11)(12) Exchange—A unit established by a local exchange carrier for the administration of telecommunications service in a specified area for which a separate local rate schedule is provided. It may consist of one or more central offices together with associated plant facilities used in furnishing telecommunications services in that area.

(12)[(13)] Exchange service area—The geographical territory served by an exchange, usually embracing a city, town, or village and its environs.

(13)[(14)] Grade of service—The number of parties served on a telephone circuit such as individual or multiparty line.

(14)[(15)] Intercept service—A service arrangement provided by the local exchange carrier whereby calls placed to a disconnected or discontinued telephone number are intercepted and the calling party is informed by an operator or by a recording that the called telephone number has been disconnected, or discontinued, or changed to another number, or that calls are being received by another telephone, etc.

(15)[(16)] Line—A circuit or channel extending from a central office to the customer's location to provide local exchange service. One line may serve one individual line customer, or all customers served by a multiparty line.

(16)[(17)] Local calling area—The area within which telecommunications service is furnished customers under a specific schedule of exchange rates. A local calling area may include one or more exchange service areas.

(17)[(18)] Local exchange carrier—A telecommunications utility which provides local exchange service.

(18)[(19)] Local exchange service—Telecommunications service provided within service areas in accordance with the local exchange tariffs. It includes the use of exchange facilities required to establish connections between customer access lines within the exchange and between customer access lines and the long distance facilities serving the exchange. Local exchange service does not include use or provision of pay telephones registered under 47 Code of Federal Regulations Part 68.

(19)[(20)] Local message—A completed call between customer access lines located within the same local calling area.

(20)[(21)] Local message charge—The charge that applies for a completed telephone call that is made when the calling customer access line and the customer access line to which the connection is established are both within the same local calling area, and a local message charge is applicable.

(21)[(22)] Local service charge—The charge for furnishing facilities to enable a customer to send or receive telecommunications within the local service area. This local service calling area may include one or more exchange service areas.

(22)[(23)] Long distance telecommunications service—That part of the total communication service rendered by a telecommunications utility which is furnished between customers in different local service areas in accordance with the rates and regulations specified in the utility's tariff.

(23)[(24)] Message—A completed customer telephone call.

(24)[(25)] Message rate service—A form of exchange service under which all originated local messages are measured and charged for in accordance with the tariff.

(25)[(26)] Nondominant carrier—Specialized communications common carriers, resellers of communications, and other communications carriers who convey, transmit, or receive communications in whole or in part over a telephone system who are not dominant carriers.

(26)[(27)] Out-of-service trouble report—An initial customer trouble report in which there is complete interruption of incoming or outgoing local exchange service. On multiple line services a failure of one central office line or a failure in common equipment affecting all lines is considered out of service. If an extension line failure does not result in the complete inability to receive or initiate calls, the report is not considered to be out of service.

(27)[(28)] Primary service—The initial provision of voice grade access between the customer's premises and the switched telecommunications network. This includes the initial connection to a new customer or the move of an existing customer to a new premises. This does not include complex services or auxiliary items such as gongs or buzzers; on-premises stations or wiring beyond the subscriber interface or, if no interface, beyond the first jack; or added main local exchange lines to premises already having service.

(28)[(29)] Private line—A circuit provided to furnish communication only between the two or more telephones or other terminal devices directly connected to it, and not having direct connection with either central office or PBX switching apparatus.

(29)[(30)] Public telephone service—An individual line customer service equipped with a coin collecting or coinless public telephone instrument installed for use of the general public in locations where the general public has access to these telephones.

(30)[(31)] Regrade—An application for a different grade of service.

(31)[(32)] Repeated trouble report—A customer trouble report regarding a specific line or circuit occurring within 30 days or one calendar month of a previously cleared trouble report on the same line or circuit.

(32)[(33)] Service line—Those facilities owned and maintained by a customer or group of customers, which lines are connected with the facilities of a telecommunications utility for communication service.

(33)[(34)] Station—A telephone instrument or other terminal device.

(34)[(35)] Telecommunications utility—Dominant carriers and nondominant carriers.

(35)[(36)] Trunk—A circuit facility connecting two central offices.

(36)[(37)] Toll station—A telephone connected to a toll line or directly to

a toll board.

(b)-(g) (No change.)

(h) Automatic dialing-announcing devices.

(1) An automatic dialing-announcing device (ADAD) is any automatic terminal equipment which incorporates the following features:

(A) storage capability of numbers to be called; or a random or sequential number generator that produces numbers to be called; and an ability to dial a call; and

(B) has the capability, working alone or in conjunction with other equipment, and with or without manual assistance, of disseminating a prerecorded message to the number called.

(2) No local exchange carrier shall knowingly permit an automatic dialing-announcing device to be connected to or operated over its telephone network unless:

(A) prior written agreement has been reached between the called and calling parties; or

(B) the ADAD is used in conformance with the following:

(i) The device, within 15 seconds after the called party hangs up, automatically creates a disconnect signal or on hook condition which allows the called party's line to be released. The device terminates all calls, and a disconnect or on hook condition is created, when the call is not completed within 30 seconds.

(ii) The recorded message begins with or is preceded by a statement announcing the name, address, and call-back telephone number of the calling party, the purpose or nature of the message, and the fact that the message is a recording.

(iii) No calls are made to emergency telephone numbers of hospitals, fire departments, law enforcement offices, or other entities providing emergency services.

(iv) No calls are made before 9 a.m. or after 9 p.m.

(v) No substantial impairment of service, as determined by the local exchange carrier will occur due to use of ADAD.

(C) This section shall not be construed to apply to any automatic security device installed pursuant to the request of the tenant or owner of the premises for security, emergency, health, environmental, or other monitoring purposes.

(3) If the ADAD user fails to comply with the provisions of this section, the local exchange carrier providing originating service may refuse to provide service until the noncompliance is remedied or may terminate service.]

(h)(i) Depreciation rates. Dominant carriers shall utilize depreciation rates approved by the commission for determination of depreciation expense and provision for accumulated depreciation (previously referred to as depreciation reserve). For the

purpose of this rule, depreciation rates used prior to September 1, 1976, and those in effect on September 1, 1976, shall be deemed appropriate for use unless subsequently modified by the commission.

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

(l)(j) Nondominant carriers providing service on or before September 1, 1983. Nondominant carriers providing communications service on or before September 1, 1983, shall file the following information with the commission within 90 days of September 1, 1983:

(1)-(7) (No change.)

(l)(k) Nondominant carriers not providing service on or before September 1, 1983. Nondominant carriers who commence providing service after September 1, 1983, shall provide within 30 days of commencing service the information in (l)(j)(1)-(7) of this section.

(k)(1) Separate reports. Subject to the conditions and time periods in subsection (l) [subsections (j)] and subsection (l)(k) of this section, nondominant carriers shall also provide the following information in a separate report:

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

(l)(m) Telecommunications utilities. All telecommunications utilities, with the exception of carriers providing only local exchange services, shall provide the following annual data with respect to long distance telecommunications services, including, but not limited to message toll service, private line, and WATS offerings, with annual updates to the commission within 45 days of the close of the calendar year.

(1)-(6) (No change.)

Issued in Austin, Texas, on September 12, 1985.

TRD-858435

Rhonda Colbert Ryan
Secretary of the
Commission
Public Utility
Commission of Texas

Effective date: September 12, 1985

Expiration date: January 10, 1986

For further information, please call
(512) 458-0100.

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part II. Texas Parks and Wildlife Department

Chapter 65. Wildlife Subchapter H. Wildlife Management Areas Hunting, Fishing, and Trapping

★31 TAC §§65.190, 65.197, 65.202

The Texas Parks and Wildlife Commission adopts on an emergency basis

amendments to §§65.190, 65.197, and 65.202, concerning the wildlife management areas hunting, fishing, and trapping proclamation. The commission finds that imminent peril to the public's wildlife resources require the adoption of emergency amendments to provide department-controlled public hunting on private lands (Tomas Ranch), allow the executive director to designate other wildlife management areas, and increase exotic deer bag limit on the Kerr wildlife management area.

The amendments are adopted on an emergency basis under the Texas Parks and Wildlife Code, Chapter 81, Subchapter E, which provides the authority for the department to manage wildlife on its wildlife management areas

§65.190. Application.

The provisions of this subchapter apply to all of the wildlife resources in the following areas except as restricted herein:

(1)-(20) (No change.)

(21) Tomas Wildlife Management Area in Duval County (for antlerless deer only during the period from January 7, 1986-February 2, 1986);

(22) other areas the department may acquire and as designated by the executive director.

§65.197. Hunting Permits.

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

(c) A special permit is required for the hunting of:

(1) deer and exotic mammals:

(A) during the regular season prescribed for deer on the Gene Howe, Walter Buck, Gus Engeling, James E. Daughtrey, Matador, Kerr, Black Gap, Sierra Diablo, Chaparral, Alabama Creek, Bannister, Caddo, Moore Plantation, Tomas, and Matagorda Island Wildlife Management Areas and the Pat Mayse and Somerville Units of the Eastern Wildlife Management Area.

(B) (No change.)

(2)-(8) (No change.)

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

§65.202. Deer and Exotic Mammals.

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

(c) Regular season—open season.

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

(3) Tomas Wildlife Area (special permit): during the period from January 7, 1986-February 2, 1986.

(4)(3) Other areas: no open season.

(d) Bag and possession limit. [On all areas, one deer or exotic mammal per person; sex, definition of antlered buck, and species to be determined at time of the hunt. Buck deer only with a hardened antler protruding through the skin may be taken during the deer archery season on NFWMA's and the North Toledo Bend Unit and the regular deer season on the Dam B Unit. Deer of either sex are legal during the deer

archery season on the Pat Mayse and Somerville Units.]

(1) On all areas, one deer or exotic mammal per person; sex, definition of antlered buck, and species to be determined at time of the hunt, except that:

(A) on the Kerrville Wildlife Management Area, the bag limit shall be two deer (white-tailed or exotic) to include not more than one white-tailed deer;

(B) on the Tomas Wildlife Management Area, the bag limit shall be one antlerless white-tailed deer.

(2) Buck deer only with a hardened antler protruding through the skin may be taken during the deer archery season on national forest wildlife management areas (NFWMA) and the North Toledo Bend Unit and during the regular season on the Dam B Unit.

(3) Deer of either sex are legal during the deer archery season on the Pat Mayse and Somerville units.

Issued in Austin, Texas, on September 12, 1985.

TRD-858404

Boyd M. Johnson
General Counsel
Texas Parks and Wildlife
Department

Effective date: September 12, 1985

Expiration date: January 10, 1986

For further information, please call
(512) 479-4770

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(Editor's note: For a further explanation of the authority behind these rules, see the disposition table published under the Texas Water Commission in the In Addition of this issue.)

Part IX. Texas Water Commission

Chapter 311. Water Districts General Provisions

★31 TAC §311.5

The Texas Water Commission adopts on an emergency basis new §311.5, concerning application fees for water district creations or conversions.

House Bill 1593, 69th Legislature, 1985, effective on September 1, 1985, amended the Texas Water Code, Chapter 5, requiring a filing fee of \$100 for filing a water district creation petition or conversion resolution plus the cost of required notice. Chapter 5 was further amended by Senate Bill 249, 69th Legislature, effective September 1, 1985, whereby responsibility for collecting said filing fee was transferred to the Texas Water Commission.

Section 311.5 raises the fee for filing a water district creation petition or conversion resolution from \$60 to \$100 plus the cost of required notice.

It is in the public's welfare immediately to assess and collect all fees as required by the 69th Legislature, 1985, to generate revenues for the 1986-1987 biennium.

The new section is adopted on an emergency basis under the Texas Water Code, §§5.103, 5.105, and 5.182, which authorizes the commission to adopt rules and establish policy.

§311.5 Application Fees for Water District Creations or Conversions. The fee for filing as water district creation petition or conversion resolution is \$100 plus the cost of required notice.

Issued in Austin, Texas, on September 3, 1985.

TRD-858064 James K. Rourke, Jr.
General Counsel
Texas Water
Commission

Effective date: September 4, 1985
Expiration date: January 2, 1986
For further information, please call
(512) 463-7875.

★ ★ ★

Creation of Water Districts

★ 31 TAC §311.11, §311.12

The Texas Water Commission adopts on an emergency basis new §311.11 and §311.12, concerning municipal utility districts and conversion of districts into municipal utility districts.

House Bill 1543, 69th Legislature, 1985, effective on September 1, 1985, amended the Texas Water Code, §5.182, thereby raising the fee for filing a water district creation petition or conversion resolution from \$60 to \$100 plus the cost of required notice. Senate Bill 249, also passed by the 69th Legislature and effective September 1, 1985, amended the Texas Water Code, Chapter 54, transferring jurisdiction and authority over water districts to the Texas Water Commission. It is in the public's welfare to adopt these emergency rules to effectuate the legislature's intent to generate added revenue for the 1986-1987 biennium.

Section 311.11 concerns municipal utility districts and their creation. It states what documents and fees need to be filed with the commission's executive director, and what procedures the commission will follow in the creation process and hearing. Subsection (2) specifically raises the filing fee from \$60 to \$100 and the deposit fee from \$250 to \$600.

Section 311.12 concerns the conversion of various water districts which were created under the Texas Constitution, Article XVI, §59, into municipal utility districts operating under the Texas Water Code, Chapter 54. Section 311.12 states that a copy of the resolution adopted by the board of directors requesting a com-

mission conversion hearing shall be filed with the commission. It further states that the filing fee is \$100 and the deposit fee is \$600.

The new sections are adopted on an emergency basis under the Texas Water Code, §§5.103, 5.105, and 5.182, which authorizes the commission to adopt rules and establish policy.

§311.11. Municipal Utility Districts. The creation of this type of district is authorized by the Texas Water Code, Chapter 54. The petitioners shall file the following with the executive director:

(1) Documents needed to file:

(A) a petition containing the matters required by the Texas Water Code, §§54.014 and 54.015;

(B) plat, showing district boundaries, metes and bounds, area, physical culture, and computation sheet for survey closure;

(C) preliminary plan (22-24 inches by 36 inches) showing the location of existing facilities including wells, treatment plants, streams, reservoirs, highways, roads, and other improvements; also, the location of proposed utility mains and sizing, general drainage patterns, principal drainage ditches and structures, utility plant sites, recreational areas, commercial and school sites, areas within the 100-year flood plain, and any other information pertinent to the project;

(D) a preliminary engineering report including:

(i) a description of existing area, conditions, topography, and proposed improvements;

(ii) land use plan;

(iii) 100-year flood computations or source of information;

(iv) existing and projected populations;

(v) tentative cost estimates of the proposed improvements prepared in accordance with the cost summary example in Appendix B of §311.111 of this title (relating to Sanitary Sewer Service Lines and Connection);

(vi) projected tax rate and water and sewer rates;

(vii) an investigation and evaluation of the availability of comparable service from other systems, including but not limited to water districts, municipalities, and regional authorities;

(viii) an evaluation of the effect the district and its system and subsequent development within the district will have on the following:

(I) land elevation;

(II) subsidence;

(III) groundwater level within the region;

(IV) recharge capability of a groundwater source;

(V) natural run-off rates and drainage;

(VI) water quality;

(VII) total tax assessments on all land within the district.

(ix) complete justification for creation of the district supported by evidence that the project is feasible, practicable, necessary, and will benefit all of the land to be included in the district;

(E) a certificate by the county tax assessor indicating the owners and tax valuation of land within the proposed district as reflected on the county tax rolls; if the tax rolls do not show the petitioner(s) to be the owners of the majority of value of the land within the proposed district, then the petitioner(s) will file with the executive director of the commission a certified copy of the deed(s) tracing title from the person(s) listed on the county tax rolls as owners of the land to the petitioner(s);

(F) a statement to the effect that a copy of the petition for creation of the proposed district was mailed to any city secretary or clerk in whose extraterritorial jurisdiction all or part of the proposed district is located and to the commissioners court of any county in which all or part of the proposed district is located;

(G) if applicable, showing of compliance with the Texas Water Code, §54.016;

(H) a suggested order of the Texas Water Commission providing for the public hearing and giving a notice thereof;

(I) petitioners of all proposed water districts in Harris, Montgomery, Fort Bend, Galveston, Brazoria, Chambers, Walker, Waller, Liberty, Polk, and San Jacinto Counties shall send a copy of the preliminary engineering report including the preliminary plan for proposed utilities, a plat showing district boundaries and area to the commission's Duncanville office simultaneously with submission of the petition to the executive director.

(J) market study as required by §311.46(5) of this title (relating to Thirty Percent of District Construction Costs to be Paid by Developer), if applicable;

(K) other data and information as the executive director may require.

(2) Fees including a \$100 filing fee and a \$600 deposit fee.

(3) After the executive director has completed his review, he shall file the petition with the commission. The commission shall set the petition for hearing and give notice thereof. The notice shall contain a statement of the nature and purpose of the petition, the date, time and place of hearing, a vicinity map showing the location of the proposed district in relation to roads and other major landmarks, the form of the petition, the necessity and feasibility of the district's projects and the benefits to accrue, and shall inform all persons of their right to appear and present evidence and testify for or against the allegations in the petition. The commission shall send a copy of the notice of hearing to the petitioners, or their agents, who shall cause the same to be pub-

lished in a newspaper with general circulation in the county or counties in which the proposed district is located once a week for two consecutive weeks, the first publication being at least 14 days before the day of the hearing. Notice shall be sent by the commission to every city in whose extraterritorial jurisdiction any portion of the district is located, and the commissioners court of any county in which all or part of the proposed district is located. An affidavit verifying publication of the notice must be filed with the commission on or prior to the date of hearing.

(c) If the commission finds that the petition does not conform to the requirements of the Texas Water Code, §54.015, or that the project is not feasible, practicable, necessary, or a benefit to the land in the district, the commission shall deny the petition. If the commission enters an order granting the petition for creation, the following action is taken.

(1) The order will contain a finding that the project is feasible and practicable and necessary and would be a benefit to the land to be included in the district.

(2) If the commission finds that any of the lands to be included in the district will not be benefited by the creation of the district, the commission shall exclude the lands not to be benefited and shall redefine the boundaries of the proposed district to include only those lands that will receive benefits from the district.

(3) The commission appoints five directors as provided in these sections, who shall serve until permanent directors are elected and qualified.

(4) A copy of the order of the commission granting or denying the petition shall be mailed by the commission to each city having extraterritorial jurisdiction.

(5) A certified copy of the order canvassing results of the confirmation election shall be recorded in the office of the county clerk of each county in which a portion of the district lies and filed with the executive director.

(6) The governing board of the district shall file with the executive director the information required by §311.93 of this title (relating to Additional Reports and Information Required of Certain Districts) and a certificate from the county clerk of each county in which all or part of the district is located showing compliance with the Texas Water Code, §50.302. The certificate shall show on its face the time and date of the confirmation election, and the time and date that the information required by the Texas Water Code, §50.302, was filed with the county clerk(s).

§311.12. Conversion of Districts into Municipal Utility Districts. Any water improvement district, water control and improvement district, fresh water supply district, levee improvement district, irrigation district, or any other conservation and

reclamation district created under the Texas Constitution, Article XVI, §59, may be converted into a municipal utility district operating under the Texas Water Code, Chapter 54.

(1) The district shall file with the commission's executive director a copy of the resolution adopted by the board of directors requesting the commission to hold a hearing on the question of conversion of the district.

(2) The district shall submit the following fees: \$100 filing fee and \$600 deposit fee.

Issued in Austin, Texas, on September 3, 1985.

TRD-858086

James K. Rourke, Jr.
General Counsel
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Commission

Effective date: September 4, 1985
Expiration date: January 2, 1986
For further information, please call
(512) 463-7875.

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Underground Water Conservation Districts

★31 TAC §311.23

The Texas Water Commission adopts on an emergency basis new §311.23, concerning underground water conservation districts.

House Bill 1593, 69th Legislature, 1985, and effective September 1, 1985, amended the Texas Water Code, §5.182, thereby raising the fee for filing an underground water conservation district creation petition or conversion resolution from \$60 to \$100 plus the cost of required notice. Senate Bill 249, 69th Legislature, effective September 1, 1985, amended the Texas Water Code, transferring authority over underground water conservation districts to the Texas Water Commission. It is in the public's welfare to adopt this emergency section to effectuate the legislature's intent to generate added revenue for the 1986-1987 biennium.

Section 311.23 concerns underground water conservation districts, their creation and boundaries. The boundaries shall be coterminous with the area covered by the commission's previous order designating an underground reservoir. The petition for creation must contain the items required by the Texas Water Code, §51.013, *et seq.*, a copy of the commission's designation order, and the certificates required by law. Section 311.23 raises the filing fee from \$60 to \$100 and the deposit fee from \$250 to \$600.

The new section is adopted on an emergency basis under the Texas Water Code, §§5.103, 5.105, and 5.182, which authorizes the commission to adopt rules and establish policy.

§311.23. Underground Water Conservation District. An underground water conservation district, when authorized to be created, shall have boundaries coterminous with the area covered by the commission's previous order designating an underground reservoir or subdivision thereof provided that any portion of such district which voted against the formation of the district at the district's confirmation election shall be excluded therefrom. A petition for creation shall be filed with the commission's executive director containing the matters required by the Texas Water Code, §51.013, *et seq.*, accompanied by a copy of the commission's designation order and the certificates required by law. The petition shall be accompanied by a \$100 filing fee and a \$600 deposit.

Issued in Austin, Texas, on September 3, 1985.

TRD-858086

James K. Rourke, Jr.
General Counsel
Texas Water
Commission

Effective date: September 4, 1985
Expiration date: January 2, 1986
For further information, please call
(512) 463-7875.

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Issuance of Bonds

★31 TAC §311.43

The Texas Water Commission adopts on an emergency basis new §311.43, concerning application requirements.

The Texas Water Code, §5.182, was amended by the 68th Legislature, 1983, to require a filing fee of \$100 plus the cost of required notice to be paid as part of the application requirements for issuance of bonds by various water districts. That \$100 fee was continued in House Bill 1593, 69th Legislature, 1985, which further amended the Texas Water Code, §5.182. Although the fee was authorized in 1983, no amendments were adopted by the Texas Water Development Board to require the fee to be paid when the application is filed.

Senate Bill 249 was also passed by the 69th Legislature effective September 1, 1985, thereby amending the Texas Water Code, Chapter 5, transferring authority to promulgate rules regarding water districts and bond issuances to the Texas Water Commission. It is in the public's welfare to adopt this emergency section, assessing the \$100 application fee, to effectuate the intent of the 69th Legislature to generate added revenue for the 1986-1987 biennium.

Section 311.43 concerns application requirements for an issuance of bonds. But for assessing the fee of \$100 plus cost of required notice, the language of §311.43 is identical to that of Texas Water Devel-

opment Board permanent §311.43. The section states what fees, documents, engineering reports, explanations, cost summaries, and other information are required as part of the bond issuance application

The new section is adopted on an emergency basis under the Texas Water Code, §§5.103, 5.105, and 5.182, which authorizes the commission to adopt rules and establish policy.

§311.43. Application Requirements.

(a) Subsection (f), paragraph (1)(C)-(F), (H), and (J); paragraph (8)(C); paragraph (11)(B) and (C); paragraph (12)(A); paragraph (14)(A); paragraph (15)(C) and clauses (i) and (ii); and subparagraph (G) apply to developer projects and subdivision projects only. Developer project is a district engineering project which provides water, sewer, or drainage service for property owned by a developer as defined by Texas Water Code, §50.024(d). Subdivision project is a district engineering project which provides water and sewer service to households, commercial and/or industrial development in a district where a developer is not involved. Other applicable items shall apply to all bond applications, developer and subdivision projects included. Refer to §311.46 of this title (relating to Thirty Percent of District Construction Cost to Be Paid by Developer) for developer cost participation information on developer projects.

(b) An application covering the subject matter contained in the Texas Water Code, §§55.503, 51.421, 54.516, or 12.082 shall include provisions for statutory construction contract retainage.

(c) An application shall include a certified copy of the district board's resolution authorizing submission of application for bond issuance.

(d) An application shall comply with the Texas Water Code, §50.101 and, if applicable, Article 970a, §8(b), including consent by city having extraterritorial jurisdiction if not previously provided to the commission. If these documents have been provided, state the petition or bond application with which it was submitted.

(e) An application shall be accompanied by a filing fee of \$100 plus the cost of required notice.

(f) An application shall be accompanied by the engineering report. Engineer's seal must be affixed on the front cover of the engineering report or the cover letter if bound in the report. The engineering report shall contain:

(1) general information including:

(A) name of district, county, amount of bond issue requested, type bonds proposed, bond interest rate, issue number, series, section of the Water Code governing district powers, authority, and operation;

(B) general purpose of bond issue;

(C) total acreage within the district: total developable acreage within the district excluding public areas, undevelopable flood prone areas, etc.; acreage developed from proceeds of previous bond issues; acreage remaining to be developed after this proposed bond issue;

(D) table showing extent of previous and proposed improvements, i.e., number of acres and utility connections developed and to be developed by section and reserve;

(E) total projected connections and population at full development (Explain if different from projections previously provided.);

(F) table showing last bond issue utility connection projections vs. existing development at date of report preparation (Itemize by number and type housing under construction, completed, and occupied.);

(G) total bonds authorized by voters including dates of elections and authorized but unissued bonds after this proposed sale;

(H) source and adequacy of water supply and waste water treatment capacity for present and proposed district needs. Waste discharge permit must be sufficient for existing and proposed sewer connections;

(I) complete description and estimated cost of facilities proposed for installation outside the district boundaries including utility plants, force mains, gravity trunk lines, water mains, drainage ditches, and other water, wastewater, or drainage facilities;

(J) complete description of any unusual facilities required by entities having jurisdictional responsibilities, i.e., bridges, oversized utilities, concrete lined ditches, ditches designed for ultimate watershed development. Provide document or directive from the entity placing these requirements;

(K) if facilities proposed are of joint benefit to both the district and others, compute an equitable cost split based on benefits received and provide basis for cost split.

(2) History.

(A) Name the governmental entity authorizing district creation and give the effective date of the authorization and the initial acreage included.

(B) Give the present district acreage, and the date, authorization, and acreage added and/or deleted from the district.

(C) List any exceptions or waivers granted under previous or existing rules for construction prior to the proposed bond issue.

(D) Prepare a construction and nonconstruction cost summary of the last district bond project expenditures compared to the commission approved cost summary and explain deviation including change orders. A copy of the approved bond issue

cost summary will be provided by the commission on request.

(E) Prepare a brief summary of any bond anticipation notes to be refunded by the bond issue. Include amounts, dates of issuance, interest rates, dates due, purpose, purchaser, and cost breakdown showing how the note proceeds were used.

(F) Include other data considered pertinent for evaluation of the feasibility of the proposed project.

(3) Location. Describe the district location in relation to cities, streams, reservoirs, major highways, land surveys, and other prominent features.

(4) Topography and flood hazards.

(A) Describe land features including soil types, vegetation, streams, lakes or reservoirs, marshland, drainage patterns, etc. and provide high and low elevations mean sea level (msl) in the district and in the area to be developed under the proposed bond issue.

(B) Provide complete flood hazards information. For streams, the 100-year estimated flood elevation should be stated at points where the stream enters and exits the district and/or the area to be developed under this bond issue; state the acreage subject to flooding in the area under consideration; provide the source of the information, i.e., U.S. Corps of Engineers, county flood control engineer, stream gauge information, etc. If data was compiled by district's engineer, provide supporting information for conclusions, including backwater computations for 100-year flood elevations. If reservoirs are involved, the following shall be provided: top of conservation pool elevation; top of flood control easement; maximum design high-water level; established 100-year flood contour and source of information. For hurricane tide and wave hazards, provide estimated frequency of occurrence including the 100-year flood event and source of information. When area is subject to flooding, establish minimum habitable floor slab elevations. For districts not subject to flooding, provide complete justification for the conclusion.

(5) Proposed improvements.

(A) Consolidate itemized material quantities for this proposed project by area and facility. Also specifically identify all proposed improvements outside the district's boundaries.

(B) Describe each proposed facility or system and its relationship with existing or future improvements including past and projected oversizing of trunk lines, mains, ditches, plants, etc.

(6) Need for the improvements. Provide the specific needs for improvements.

(7) Basis of design. Describe basis of design for all facilities including water supply and distribution, wastewater treatment and collection, and drainage. Provide cross sections of existing gullies or streams

if proposed for rectification. Also designate drainage areas contributing to underground storm sewer lines and drainage ditches. (Design criteria must be in accordance with good engineering practice.)

(8) Feasibility of project.

(A) Describe industry and other attractions to support district growth.

(B) Give past growth history of area.

(C) Provide a building schedule for residential and commercial unit construction.

(D) State specifically, why does growth potential of this district justify the project? Subparagraphs (A)-(C) of this paragraph are not required when a market study is included with the application.

(E) District financial stability.

(i) State the first-year debt service requirement and the average annual debt service requirement for bond indebtedness retirement for this and previous issues.

(ii) Provide estimated average income per connection and gross annual water and sewer service income including special fees (taps), standby charges for utility availability, other.

(iii) Indicate operating expenses as a percent of gross income.

(iv) State anticipated net income from all services in dollars and as a percent of average annual debt service requirements.

(v) Provide a table showing computed tax rates over life of the bond period.

(F) Provide current tax rate and latest valuation of taxable property within the district.

(G) State bond cost per acre and per connection (equivalent connections) for improvements to be financed by this bond issue.

(9) Purchase of existing facilities.

(A) If existing facilities are constructed by others and are proposed for sale to the district, discuss:

(i) location and description of facilities;

(ii) proposed improvements or extensions;

(iii) number of residences and active utility connections;

(iv) conditions of option for district purchase;

(v) proof of expenditures including copies of bid advertisement and tabulations, executed construction contracts, change orders, final pay estimates, and/or appraisal of facilities by an independent engineer who is not associated with the district or owner.

(B) Provide a table showing facilities proposed for purchase including date construction was completed, cost determination, and cost to the district.

(C) Provide a positive statement indicating whether or not the facilities to be

purchased can and are being integrated into the district's permanent utility systems. If not, justify why the district should purchase, then abandon part or all the facilities.

(10) Assumption of existing contracts.

(A) Describe contracts to be assumed by the district as they relate to the facilities being constructed and the parties to the executed contract.

(B) Provide a table showing all contracts to be assumed, i.e. facilities being constructed, contractor, date of contract execution, contract amount, status of completion; include all change orders by number, and by note state the requirement generating the change order.

(11) Summary of costs.

(A) A bond issue cost summary shall be prepared in accordance with the prescribed format, including explanatory foot notes, as shown in Appendix B to this chapter.

(B) For developer projects only. Identify water and sewer conveyance lines by reference to the construction plan page number and itemize cost item number when such lines are exempt from developer cost participation.

(C) If a developer project is partially or totally exempt from cost participation, explain the exemption in detail and provide copies of contracts or other documents to fully validate the exemption. Validation documents shall be submitted as attachments to the engineering report.

(12) Additional information.

(A) Give the names and addresses of the fiscal agent, principal developers and principal stockholders if the developer is a corporation for developer projects.

(B) Provide any other information necessary to adequately describe the project.

(13) Appendices. Provide the following information in the appendices section of the engineering report:

(A) bond amortization schedule together with schedule showing projected revenues and expenses—base tax rates on 90% collections unless historically otherwise; include tax assessor's certification of taxable property and current tax rate. (Follow example in Appendix B of §311.111 of this title (relating to Sanitary Sewer Service Lines and Connection));

(B) resolution by the district's governing board establishing water and sewer rates;

(C) itemized construction costs by facility and section;

(D) index showing approval date and copies of approval letters for facility plans and specifications by all agencies having jurisdictional responsibilities; include copy of latest waste discharge permit. Identify approvals shown on plans and specifications. Cross reference to applicable construction contracts which are attachment (d)

to the engineering report as required by paragraph (15) of this subsection.

(E) certificate of compliance with §311.111 of this title (relating to Sanitary Sewer Service Lines and Connection).

(14) Exhibits. Include the following exhibits in the exhibit section of the engineering report:

(A) legible drawing (not necessarily to scale) showing district area divided into sections according to development under previous and proposed bond issues. Show section number or other identification, acreage, and value of corresponding bond issue. Also, show major utilities, roads, and other features sufficient for project orientation.

(B) designation of areas subject to flooding on contour map of the district. This may be shown on Exhibit (A) of the engineering report at the discretion of the design engineer provided the referenced drawing is to scale.

(15) Attachments. The following documents shall be attached to the engineering report:

(A) appraisals to support proposed district purchase of existing facilities in lieu of documentation specified under Attachment (D) of the engineering report;

(B) detailed construction plans and specifications for all facilities proposed under this bond issue. These plans and specifications must be prepared by a professional engineer registered in the State of Texas with the engineer's seal properly affixed on each sheet of the plans and the cover of specifications, and must be approved by all agencies having jurisdictional responsibilities.

(C) When planned unit development (high-density development with community facilities or grounds not normally open to the public) is involved, provide:

(i) dedication documents for street and/or utility easements within the district;

(ii) utility plans showing all easements and building lines.

(D) index and provide copies of all executed construction contracts, notice to bidders (advertisement affidavits or tear sheets), bid tabulations and latest or final pay estimates. Positively identify contracts with documents listed under Appendix (D) of the engineering report. Staple copies of change orders inside the front cover of the contract document;

(E) special contracts and agreements:

(i) surface water supply contract or water well permit, if applicable;

(ii) agreements nonowned facilities;

(iii) contracts with district for engineering, legal, and fiscal services;

(iv) option for district purchase of existing facilities or assumption of construction contracts in progress (agree-

ment); ascertain that all copies of documents were dated and properly executed by the parties concerned;

(v) any other contracts or agreements pertinent to the project.

(F) district map (with vicinity map inset) as of date of application on 22-24 inches by 36 inches linen tracing or equal, field notes, survey traverse sheet, or computer sheet for current district boundaries;

(G) market study as required by §311.46(5) of this title (relating to Thirty Percent of District Construction Cost to be Paid by Developer).

(f) Additional data and information may be required by the executive director or the commission when deemed pertinent to the bond application under consideration.

Issued in Austin, Texas, on September 3, 1985.

TRD-858067

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Commission

Effective date: September 4, 1985

Expiration date: January 2, 1986

For further information, please call
(512) 463-7875.

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Issuance of Bonds

★31 TAC §311.51

The Texas Water Commission adopts on an emergency basis new §311.51, concerning the use of bond proceeds to pay certain assessments.

Section 311.51 authorizes a district to use bond proceeds to pay assessments on charges for capacity in a regional stormwater management system and provides that such expenditures shall be subject to developer contributions under the provisions of §311.46 unless a district is exempt from the provisions of that section. Section 311.51 sets out four conditions regarding the nature of a regional system and a district's obligation to participate in it which must be met before a district is authorized to use bond proceeds to pay assessments or charges for capacity in regional stormwater systems.

The Texas Water Commission finds that an urgent need exists to adopt this section to provide for adequate regional stormwater management systems and the prevention of flooding in developing areas of the state and to otherwise alleviate an imminent peril to the public health, safety, and welfare.

The new section is adopted on an emergency basis under the Texas Water Code, §5.103 and §5.105, which authorizes the commission to adopt rules and establish policy.

§311.51. Use of Bond Proceeds to Pay Certain Assessments. A district may use

bond proceeds to pay assessments or charges for capacity in regional stormwater management systems, such expenditures to be subject to developer contributions under the 30% rule, provided:

(1) the regional stormwater system has been adopted by a public entity having drainage jurisdiction and regulatory authority over the construction of drainage improvements;

(2) participation in the regional system is required by the public entity having drainage jurisdiction to mitigate the impact of district development activity on flood potential and is required in lieu of any other drainage facilities within or outside of the district that could be constructed directly by the district for the same purpose;

(3) the cost of participation in the regional system is uniform over a given watershed or planning area and is established by the regulatory body of the public entity having drainage jurisdiction based on engineering studies of the proposed regional facilities required. Such studies should show that the charge for capacity in the regional system is comparable to the cost of alternative facilities constructed by individual districts, averaged throughout the watershed;

(4) the right to the capacity in the regional system purchased by the district is established by contract with the public entity having drainage jurisdiction.

Issued in Austin, Texas, on September 3, 1985.

TRD-858068

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Effective date: September 4, 1985

Expiration date: January 2, 1986

For further information, please call
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Chapter 315. Levee Improvement Districts and Approval of Plans for Reclamation Projects

The Texas Water Commission adopts on an emergency basis §§315.1, 315.11, 315.12, 315.21-315.23, 315.31-315.41, 315.51-315.69, 315.71, 315.72, and 315.81-315.84, concerning levee improvement districts and approval of plans for reclamation projects.

Senate Bill 249, 69th Legislature, 1985, effective September 1, 1985, amended the Texas Water Code to require new provisions for giving notice of administrative completeness of applications and implementing procedures for issuance of notice of application and receipt of requests for public hearing. The purpose of these emergency sections is to extend

the substantive requirements of rules adopted by the Texas Water Development Board for the former Texas Water Development Board for the former Texas Department of Water Resources and to incorporate the new provisions required by Senate Bill 249. By virtue of Senate Bill 249, §10.002, the rules of the Texas Department of Water Resources relating to levee improvement districts and approval of plans for reclamation projects (Chapter 315) ceased being effective when the Texas Water Commission adopts these new sections.

In §315.1, the definition of engineer is amended to identify the supervising engineer of the Reclamation Projects Unit, Water Rights Division, as the individual responsible for the review of plans and specifications for proposed projects.

In §315.11 and §315.12, Texas Water Development Board is replaced by Texas Water Commission.

In §§314.21-315.23, board is replaced by commission.

Section 315.36 is changed to delete provisions requiring the Texas Water Development Board to approve the executive director's recommendation on the report of the engineer for a district on a proposed plan of reclamation. In §315.37, the reference to approval by the board of a plan of reclamation is replaced by a reference to approval by the executive director. In §315.41 the caption reference to "board" is changed to "the executive director."

In §§315.51-315.69, the following new provisions are added: a new §315.60, provides that, pursuant to new provisions of Texas Water Code, §11.132, requiring public hearings only on the request of an affected person, a commissioner or the executive director the commission may act on an application when notice has been given by mail and publication and, within 30 days of the date of publication of notice, no request for a public hearing has been submitted by a commissioner, the executive director or an affected person who objects to the application; a new §315.61 provides for circumstances when the commission must hold a public hearing and when it may hold a public hearing; a new §315.62 sets forth the required elements of a notice of application; a new §315.63 sets forth the requirements for publication of the notice of application; a new §315.64 sets forth who shall be mailed the notice of the application; a new §315.65 sets forth the requirements for requesting a public hearing; a new §315.66 sets forth the requirements for requesting a public hearing; a new §315.67 sets forth the required elements of the notice of hearing; former §315.62 is adopted as §315.68; and former §315.63 is adopted as §315.69.

The Texas Water Commission finds that an urgent need exists to adopt these

emergency sections to maintain the uninterrupted regulation of levee improvement districts and approval of reclamation project plans consistent with Senate Bill 249, to prevent undue delay in the processing of applications, and to otherwise alleviate an imminent peril to the public health, safety, and welfare.

Definitions

★31 TAC §315.1

The new section is adopted on an emergency basis under the Texas Water Code, §§5.103 and §5.105, which authorizes the commission to adopt rules and establish policy.

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

Applicant—Any person, corporation, political subdivision of the State of Texas, or other legal entity who files plans of a proposed project with the executive director for commission approval in compliance with the Texas Water Code, these sections, and the rules of the commission.

District—Any levee improvement district organized under the provisions the Texas Water Code, Chapter 57.

Engineer—The supervising engineer of the Reclamation Projects Unit of the Water Rights Division of the Texas Water Commission, or any successor to that office, who has the staff responsibility to review plans and specifications for proposed projects.

Levee Improvement Act—The Texas Water Code, Chapter 57

Maintain—Reconstruct or rehabilitate a project in a manner differing in any way from project plans currently approved by the department.

Project—Any levee or other such improvement, including landfills, channel improvements and drainage works for which commission approval is required prior to construction, by Texas Water Code, §§16.238, 57.093, and 57.102. However, the term does not include:

(A) dams permitted by the commission or recognized as valid by final decree in any proceeding commenced under the authority of the Water Rights Adjudication Act of 1967, Texas Water Code, §11.301, *et seq.*;

(B) dams authorized by the Texas Water Code, §11.142;

(C) bridges, culverts, and roads that are not designed or constructed with the primary purpose to and that do not significantly control, regulate or otherwise change the floodwaters of a stream;

(D) drainage works which do not directly connect to a stream;

(E) projects which, when completed, will receive runoff from an area of less than five square miles measured to the lowest point of construction;

(F) levees and landfills located within the 100-year flood-fringe area as determined by a registered professional engineer using the U.S. Army Corps of Engineers Hydrologic Engineering Center I and II procedures or other standard procedure acceptable to the engineer;

(G) fences; and

(H) cutting, clearing or removing vegetation.

Reclamation Act—The Texas Water Code, Chapter 16, Subchapter G, §§16.231-16.238, inclusive.

The 100-year flood—The peak flood discharge of a stream, based upon statistical data, which would have a 1.0% chance of occurring in any given year.

The 100-year flood-fringe—That area of the 100 year floodplain outside the 100-year floodway.

The 100-year floodplain—That area along a stream which is inundated by floodwaters of a stream during the time the stream is subject to the statistical 100-year frequency flood, as determined by a registered professional engineer using the U.S. Army Corps of Engineers Hydrologic Engineering Center I and II procedures or other standard procedure acceptable to the engineer.

The 100-year floodway—The channel of a stream and the adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot.

Issued in Austin, Texas, on September 3, 1985.

TRD-858069

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Commission

Effective date: September 4, 1985
Expiration date: January 2, 1986
For further information, please call
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Administrative Policy of the Texas Water Commission

★31 TAC §315.11, §315.12

The new sections are adopted on an emergency basis under the Texas Water Code, §§5.103, 5.105, and 5.182, which authorizes the commission to adopt rules and establish policy.

§315.11. The Commission's Interpretation of Legislative Authority. The legislature of the State of Texas has consistently manifested an intention to protect the public interest by establishing a centralized and coordinated agency for planning and review of drainage and reclamation activity, as evidenced by the State Levee and Drainage Board Act of 1909, the Reclama-

tion Engineer Act of 1913, and the Levee Improvement District Act of 1915. The legislature has demonstrated such an intent by causing projects involving levees and related structures, herein termed projects, to be subject always to the supervision of a central statewide authority, which is presently the Texas Water Commission. It is the purpose of the Texas Water Commission to carry out this legislative policy and to implement the policy by the promulgation of these sections.

§315.12. Agency Policy and Administrative Construction. The commission shall use the following criteria in the consideration of applications for approval of plans for projects. These criteria are:

(1) structural integrity. The construction of the proposed project must be based upon sound engineering principles. Its structural integrity must withstand any waters which it is intended to restrain or carry, considering all topographic features, including existing levees.

(2) compatibility with existing hydraulic conditions. The plan of the proposed project must be compatible with the existing hydraulic conditions. Consideration must be given to any possible deleterious effects, such as overtopping or undermining, or any existing system of levees, channel improvements, or on adjacent properties. With regard to applications for approval of levees or landfills, the project will be evaluated with a consideration of comparable levees or landfill development on the opposite side of a stream if such do not exist but are plausible.

(3) safety. Any proposed project must be designed so that it will not increase flooding or divert waters in such a way that any person's life or property will be endangered or subjected to significantly increased flooding. The commission shall not approve any project which will significantly increase flood rises on any person's land without that person's consent or which will endanger life or property or create a public hazard.

(4) rights of third parties to be protected. The rights of third parties affected by a proposed project must be considered. Before approving any project, the commission shall accordingly give full consideration to the rights of all such parties not otherwise considered under paragraphs (1)-(3), of this section.

(5) consideration of project design. The commission and the executive director shall assure that, as far as possible, projects shall be designed with primary consideration to the topographic and hydrographic conditions, and in such a manner that each division of a project shall be a complete, united project forming a coordinate part of an ultimately finished series of projects, so constituted that the successful operation of each united project shall coordinate with the

successful operation of other projects within the same hydraulic influence.

Issued in Austin, Texas, on September 3, 1985.

TRD-858070

James K. Rourke, Jr.
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Commission

Effective date: September 4, 1986
Expiration date: January 2, 1988
For further information, please call
(512) 463-7875

quate execution of proposed levee and drainage improvements.

Issued in Austin, Texas, on September 3, 1985.

TRD-858071

James K. Rourke, Jr.
General Counsel
Texas Water
Commission

Effective date: September 4, 1985
Expiration date: January 2, 1988
For further information, please call
(512) 463-7875.



General Provisions Relating to All Applicants

★ 31 TAC §§315.21-315.23

The new sections are adopted on an emergency basis under the Texas Water Code, §§5.103, 5.105, and 5.182, which authorizes the commission to adopt rules and establish policy.

§315.21. *Construction of Project without Approval of Plans.*

(a) No person, corporation, or levee improvement district or transferee or assignee of such an entity may construct, attempt to construct, cause to be constructed, maintain, or cause to be maintained any project on, along, or near any stream of this state that is subject to floods, freshets, or overflows so as to control, regulate, or otherwise change the floodwater of the stream without first obtaining approval of the plans by the commission.

(b) The executive director may request the attorney general to file suit in a district court of Travis County to enjoin any such violation or threatened violation, for monetary penalties or both.

§315.22. *Cooperation with Other Agencies.* In performing his functions under the Texas Water Code, Chapter 16, Subchapter G, the executive director may confer with federal and state agencies and with political subdivisions and may, with approval of the commission, execute cooperative contracts with them. The executive director may cancel any such agreements on 10 days' notice to the other party.

§315.23. *Advice to Applicants.* The executive director shall confer with applicants requesting his technical advice on the ade-



Provisions Relating to Districts

★ 31 TAC §§315.31-315.41

The new sections are adopted on an emergency basis under the Texas Water Code, §§5.103, 5.105 and 5.182, which authorize the commission to adopt rules and establish policy.

§315.31. *Investigation by the Executive Director.*

(a) In addition to the notice provided by the Texas Water Code, §57.015, the person or persons petitioning the county commissioners court for the creation of a district shall file with the executive director a notice of the time and place for the hearing for creation of the district. The notice shall state that the petition has been filed with the appropriate county commissioners court and shall include a statement of the petition's general purpose and the time and place of the hearing.

(b) When the executive director receives the notice, he shall examine the proposed district and determine the necessity, feasibility, and probable costs of reclaiming the land of the district from overflow and of draining it properly. The executive director shall perform this function in the manner of a consultant. The executive director shall also evaluate the petitioner's estimates of the costs of organizing the district and maintaining it for two years.

(c) A representative of the executive director shall attend the hearing on the petition to create the district and file a written report, after approval thereof by the executive director, with the commissioners court. The executive director shall furnish the commissioners court any additional information that is required.

§315.32. *Report Not an Approval.* The report by a representative of the executive director, required in the Texas Water Code, §57.015, and §315.31 of this title (relating to Investigation by the Executive Director), shall not constitute an approval by the commission of the plans for any project to be constructed by the proposed district. All plans for proposed projects by districts must be approved by the commission in accordance with the Texas Water Code, §57.093 and §57.102, and these sections.

§315.33. *Approval of Plans by the Commission.* Before a district constructs or maintains any project, the commission must approve the plans for such project. If a district undertakes construction or maintenance of a project without first obtaining approval of the plans by the commission, the executive director may request the attorney general of Texas to file suit in one of the district courts of Travis County, Texas, to enjoin the construction or maintenance of the project, for monetary penalties or both.

§315.34. *The Plan of Reclamation of the District.* The executive director shall exercise supervisory authority and control over the preparation of the plan of reclamation of the district and the engineering work of the district.

§315.35. *Report by District's Engineer.* The engineer for the district shall make a survey of the land inside the boundaries of the district and land surrounding the district and shall prepare a written report with maps and profiles of the results of his survey. The report shall contain his recommendations of levee and/or drainage improvements to reclaim the land. A copy of the district's engineer's report shall be filed with the executive director.

§315.36. *Executive Director Action on Report.* The executive director shall examine the report of the engineer for the district and shall approve the report, disapprove the report, or recommend such modification of the report as may be required for an acceptable plan of reclamation. If the executive director shall approve the report as submitted or modified, the report shall then become known as the plan of reclamation.

§315.37. *Effect of Approval.* The approval by the executive director of the district's engineer's report is not an approval of a project within the meaning of Texas Water Code, §§16.238, 57.093 or 57.102, and is not a contested case within the meaning of the Administrative Procedure and Texas Register Act and the rules of the commission. To the contrary, prior to the undertaking of any construction of a project by a district, approval of the commission must be obtained as provided in the Texas Water Code, these sections, and the rules of the commission.

§315.38. *Procedure for Project Approval Application.* The district shall be considered an applicant within the definition thereof contained in these sections for the purpose of obtaining approval for the construction of projects. Prior to the beginning of construction on any proposed project, the district shall submit its preliminary plans and data according to the procedures which are set forth in these sections.

§315.39. *Authority to Go on Land.* Representatives of the executive director are authorized by the Texas Water Code,

Code, §57.095, to enter any land or go on any water with appropriate equipment for the purpose of surveillance and inspection with reference to the proposed location of levees and drainage improvements relating to a proposed or adopted district plan of reclamation.

§315.40. Inspection and Report by the Executive Director. After approval for the construction of a project has been obtained by the district from the commission, the executive director shall inspect the construction of the project at least once every 60 days after the construction work has commenced and if he finds that the work has been done in compliance with the construction contract, he shall certify this fact. The certificate shall give a full description of the work done up to the date of inspection. If the executive director finds that the work has not been done in compliance with the construction contract, he shall officially certify this fact to the district and to the commission. The certificate shall state where the contractor has failed to comply with the approved plan of reclamation.

§315.41. Districts to File Information with the Executive Director. Immediately before having its bonds approved by the attorney general of Texas, each drainage district and levee improvement district shall file with the executive director a complete record showing each step in the organization of the district, the amount of bonds to be issued and a description of the area and boundaries of the district, accompanied by plans, maps, profiles of improvements and the district's engineer's estimates and reports on them.

Issued in Austin, Texas, on September 3, 1985.

TRD-858072

James K. Rourke, Jr.
General Counsel
Texas Water
Commission

Effective date: September 4, 1985
Expiration date: January 2, 1988
For further information, please call
(512) 483-7875.

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Applications for Approval of Projects Requiring Commission Approval

★31 TAC §§315.51-315.69

The new sections are adopted on an emergency basis under the Texas Water Code, §5.103 and §5.105, which authorizes the commission to adopt rules and establish policy.

§315.51. Applications. Any person, corporation, or levee improvement district who seeks commission approval of plans for a project under the Texas Water Code, §16.236, shall file an application for ap-

proval of a reclamation project with the executive director, together with a set of preliminary plans for the project, in duplicate. The preliminary data so submitted must be in sufficient detail to permit the engineer to evaluate the project.

§315.52. Preliminary Plans. The purpose of the preliminary plans is primarily to allow the engineer to determine whether the project appears safe and is compatible with existing hydraulic conditions in the area. Preliminary plans should clearly reflect the design concept and indicate how the design was developed. Details of project construction are not required to be shown in the preliminary plans. It is the policy of the commission that the commission evaluate the project from preliminary plans in order that the applicant may determine whether the project concept is to be approved prior to the incurring of large expenditures for a complete development of the final plans and specifications.

§315.53. Use of Existing Information. Ordinarily, existing maps and information are adequate for the development of acceptable preliminary plans without the necessity of extensive site clearing or detailed surveys.

§315.54. Additional Data Required to Be Submitted. The applicant shall submit maps, plats, drawings, computations, and narratives together with the preliminary plans which shall illustrate and describe the following:

(1) the location and extent of the proposed works, including the county or counties affected by the project. When possible the applicant should satisfy this requirement by submitting a detailed map which can be superimposed by the engineer upon a United States geological survey 7½ minute quadrangle map, or if such is unavailable, on a suitable contour map;

(2) the name and course of the river, stream, or other watercourse, with the direction of flow indicated;

(3) the location and ownership of all existing levees, channels, canals, reservoirs, dams, or other works of similar character indicated by appropriate symbol to differentiate such works from the proposed works;

(4) the location and ownership, including current mailing address of owners, of all properties:

(A) lying within any proposed protected area; or

(B) adjacent to the proposed works which may be affected by the project's alteration of the flood flows of the stream. The purpose of the second requirement is so the executive director can apprise all interested property owners of the application. The applicant, the engineer and the commission shall liberally construe what areas are potentially affected by the proposed project to insure that all landowners within the vicinity whose land could be

potentially impacted by the proposed project receive notice. The engineer shall advise the applicant of the areas which are potentially affected by the proposed project, based on the data submitted to the executive director by the applicant. If, after the engineer's review of the data submitted by the applicant, additional affected landowners are identified, these persons shall receive the original or a supplemental notice mailed in accordance with §315.63 of this title (relating to Notice of Application By Publication). Failure by the applicant to adequately provide this information will delay the processing of the application. The executive director may submit an application to the commission for summary dismissal if the applicant refuses to supply this information.

§315.55. Flood Data Required.

(a) The project design shall be based on a statistical 100-year flood as a minimum where substantial property loss and/or risk of life may be possible. The executive director will review the plans in accordance with the degree of hazard inherent in the proposed project and he may recommend that the project design be based on other than the 100-year flood should only agricultural land (no structures) be involved and no interests other than those of the applicant be affected by the project. Flood level data available from state or federal agencies or other sources supportive of the project design on a statistical basis shall be provided by the applicant to substantiate the selection of design flood frequency and elevation.

(b) The preliminary plans should demonstrate the effects the proposed project will impose on existing flood conditions. This should be clearly illustrated by providing separate design floodwater surface-elevation profiles and design-flood delineations of the flood plain with and without the project in place.

(c) Additional flood water surface-elevation profiles and design-flood delineations of the flood plain should be provided for levee or landfill projects with the project in place and with a comparable levee or land-fill on the opposite side of the watercourse.

§315.56. Other Requirements of Preliminary Plans.

(a) Preliminary plans of the proposed works must adequately illustrate pertinent features of the project such as planned elevations, profiles, dimensional typical cross-sections and other features such as outlet works, drains, overflow relief structures, landfills, and roads so that an understandable project concept can be discerned.

(b) In addition, a minimum free-board of three feet above the 100-year design flood hydraulic gradient should be provided where levees furnish protection for urbanized or developing areas. A minimum

freeboard of two feet above the 100-year design flood hydraulic gradient, or more frequent flood as may be determined under §315.55(a) of this title (relating to Flood Data Required), should be provided where levees furnish protection for agricultural areas. Reaches of the levee which may be affected by wave buildup from structural features of the project will require supplemental study to determine if greater freeboard should be provided.

§315.57. *Additional Information.* The executive director may request any additional pertinent information from the applicant he deems necessary to evaluate the effects of a proposed project before submitting the application to the commission for setting of a hearing.

§315.58. *Plans to Bear Seal of Engineer.* All preliminary plans and other plans which are submitted with an application for approval of a project shall be prepared and signed by a registered professional engineer whose seal shall appear upon or be affixed thereto.

§315.59. *Referral of Application to Commission.*

(a) When the executive director has determined that the application is administratively complete under §350.2 of this title (relating to Applications Processing Initial Review), he shall refer the application to the commission for issuance of notice of the application under §315.64 of this title (relating to Notice of Application By Mail). For the sole purpose of insuring adequate notice, the engineer will include a recommendation to the commission of the area wherein the project would have potential impact. The executive director shall also notify the applicant that he has determined that the project is within the commission's jurisdiction.

(b) If the executive director determines that the project is not one which is within the jurisdiction of the commission pursuant to Texas Water Code, §§16.238, 57.093, and 57.102, and these sections, he shall so notify the applicant, who can withdraw the application or request that the application be considered by the commission for dismissal. If the applicant then requests that the application be considered by the commission for dismissal, the executive director shall forward the application to the commission and recommend that the commission enter an order dismissing the application.

§315.60. *Action on Application without Public Hearing.* The commission may take action on an application at a regular meeting without holding a public hearing provided:

(1) at least 30 days prior to the regular meeting at which action is taken, notice of the application has been given by publication and by mail; and,

(2) within the 30-day period after the publication of the notice, no request for a public hearing has been submitted by a commissioner, the executive director, or an affected person objects to the application.

§315.61. *Public Hearing.* The commission may conduct a public hearing on any application. The commission shall conduct a public hearing on an application if a request for hearing is made by the applicant, commissioner, the executive director, or an affected person who objects to the application and files a request in accordance with §303.177 of this title (relating to Request for Public Hearing).

§315.62. *Contents of Notice of Application.* A notice of application shall include the following:

(1) the exact location of the project as nearly as the same can be described;

(2) the date on which the application was filed with the executive director;

(3) a statement that the executive director has determined that the application is administratively complete;

(4) the applicant's anticipated construction and completion schedule;

(5) the applicant's name and mailing address;

(6) a description of the project which reasonably describes the specific nature and scope of the project; including type of approval applicant is seeking from the commission;

(7) an explanation of the method for submitting a written request for a public hearing; and

(8) any additional information the commission deems necessary.

§315.63. *Notice of Application by Publication.*

(a) Upon being notified by the commission to publish a notice of application for approval of project plans, the applicant shall cause the notice to be published in a newspaper of general circulation in each county wherein the project is to be located and wherein the project would have potential impact, as provided in §315.54(b) of this title (relating to Additional Data Required to Be Submitted). Publication in one newspaper is sufficient if the newspaper is of general circulation in each county wherein the project lies and throughout the area of potential impact of the proposed project as set out in the notice.

(b) The applicant is responsible for the costs of publication.

§315.64. *Notice of Application by Mail.* The chief clerk shall send notice by first class mail to each person on the list required by §315.54 of this title (relating to Additional Data Required to Be Submitted). The applicant is responsible for the costs of mailing.

§315.65. *Request for Public Hearing.*

(a) A request for public hearing under this chapter must be made in writing

by an affected person who objects to the application and must be submitted to the commission within 30 days after the publication of the notice of application. The commission may extend the time allowed for submitting a request for public hearing.

(b) The written request shall contain the following information:

(1) the name, mailing address, and phone number of the person making the request;

(2) the application number or other recognizable reference to this application;

(3) a brief description of the interest of the requester, or of persons represented by the requested; and,

(4) a brief description of how the application, if granted, would adversely affect such interest.

(c) If the commission determines the request for public hearing is in compliance with this section, or that a public hearing would serve the public interest, the commission shall conduct a public hearing.

§315.66. *Notice of Hearing.* If the commission determines that a public hearing must be held, notice shall be given in the following manner.

(1) By mail. Notice of hearing shall be given by mail in accordance with the requirements of §315.64 of this title (relating to Notice of Application by Mail).

(2) By publication. Notice of hearing shall be published in accordance with the requirements of §315.63 of this title (relating to Notice of Application by Publication).

§315.67. *Contents of Notice of Hearing.* A notice of hearing shall contain the following:

(1) the exact location of the project as nearly as the same can be described;

(2) the application number;

(3) the applicant's anticipated construction and completion schedule;

(4) the applicant's name and mailing address;

(5) a description of the project which reasonably describes the specific scope and nature of the project;

(6) the time, date and place of the hearing;

(7) the legal authority under which the hearing is held; and

(8) any additional information deemed necessary by the commission.

§315.68. *Time During Which Construction Must Begin.*

(a) The applicant must commence construction of the project approved by the commission within a reasonable time which shall be established by the commission as a condition stated in the commission's written approval of the project. The commission will evaluate the scope of the project in determining the commencement requirement. If construction is not begun within this period of time, the applicant must resubmit his plans to the executive director

for review and recommendation to the commission on whether the lapse of time has resulted in changed circumstances which will require alterations of the plans or additional requirements or modifications to the written approval, giving due consideration to the rights of third parties.

(b) Failure to begin construction within the specified period in the written approval shall be considered a violation of the written approval and shall be grounds for withdrawal of approval. The commission may, however, for good cause extend the period upon written request by the applicant.

§315.69. Time in Which To Complete Construction. The applicant must complete construction of the project approved by the commission within a reasonable time which shall be established by the commission as a condition stated in the commission's written approval of the project. The commission will evaluate the scope of the project in determining the completion requirement. If the project is not so completed within this period of time, the applicant shall resubmit his plans to the executive director for review and recommendation to the commission on whether the lapse of time has resulted in changed circumstances which will require alterations of the plans or additional requirements or modifications to the written approval, giving due consideration to the rights of third parties. Failure to complete construction within the specified period in the written approval shall be grounds for withdrawal of approval. The commission may, however, for good cause, extend the period upon written request by the applicant.

Issued in Austin, Texas, on September 3, 1985.

TRD-858073

James K. Rourke, Jr.
General Counsel
Texas Water
Commission

Effective date: September 4, 1985
Expiration date: January 2, 1986
For further information, please call
(512) 463-7875.

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Unauthorized Projects and Projects Not Constructed According to Commission Approval

★31 TAC §315.71, §315.72

The new sections are adopted on an emergency basis under the Texas Water Code, §5.103 and §5.105, which authorizes the commission to adopt rules and establish policy.

§315.71. Unauthorized Construction of a Project. If any person, corporation, or political subdivision has constructed a project or has undertaken to begin work upon a project, for which approval is required by the Texas Water Code and these sections, prior to the filing of an application for approval of project plans with the executive director, the executive director shall automatically refuse to accept an application for the approval of said project plans until the engineer has determined whether the construction which has been accomplished meets the criteria and the requirements of the board as set forth in these sections and in the Texas Water Code. If the engineer shall determine that the said criteria and requirements have been met, the application may be filed and receive disposition as in the case of other applications. If the engineer shall determine that the said criteria and requirements have not been met, the executive director shall immediately notify the person, corporation, or political subdivision that it is in violation of the Texas Water Code and these sections and that unless the project, or the work begun thereon, is brought into compliance with the criteria and requirements of the Texas Water Code and these sections within a period of time not to exceed 90 days, or within a shorter period if in his opinion a hazard will result to the life and property of any person or to the public, that he will request the attorney general and/or the appropriate county attorney or district attorney to impose the sanctions provided by the Texas Water Code.

§315.72. Projects Not Conforming to Commission Approval. After approval by the commission has been granted for the construction of a project, and executive director shall have the authority, and the written approval shall so state, to inspect the construction and the progress thereof through authorized employees of the executive director in order to determine whether the project is being constructed in accordance with the criteria and requirements of the commission as set forth in these sections, with the Texas Water Code, and with any conditions of the commissioner's written approval. The authority to inspect the project may be exercised as frequently and through as many members of the executive director's staff as necessary. If the engineer shall determine that the criteria and requirements or conditions of the written approval have not been fully complied with, he shall immediately notify the applicant that unless the project is brought into compliance within a period deemed by the engineer to be appropriate, the engineer will forward the matter to the executive director who may submit a request to the commission to cancel its approval of the project and/or the executive director may request the attorney general and/or the appropriate county attorney or district attorney to

impose the sanctions which are provided by the Texas Water Code for the construction of unauthorized projects.

Issued in Austin, Texas, on September 4, 1985.

TRD-858074

James K. Rourke, Jr.
General Counsel
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Commission

Effective date: September 4, 1985
Expiration date: January 2, 1986
For further information, please call
(512) 463-7875.

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Submission of Final Plans

★31 TAC §§315.81-315.84

The new sections are adopted on an emergency basis under the Texas Water Code, §5.103 and §5.105, which authorizes the commission to adopt rules and establish policy.

§315.81. Final Plans.

(a) Following approval by the commission of a proposed project pursuant to these sections, the applicant shall submit the final plans for the project to the executive director for his approval prior to beginning construction.

(b) Final plans for such features as excavated channels or constructed embankments will be reviewed as to their structural integrity in accordance with the degree of hazard inherent with the project.

(c) The normal requirements herein listed are to be considered guidelines and may be varied according to the requirements of any particular project at the discretion of the engineer.

§315.82. Normal Requirements for Final Channel Excavation Plans.

(a) Information is to be provided to indicate the type and/or classification of the soil to be excavated in the channel according to the unified soil classification system. Depth of exploratory borings shall be to at least five feet below planned channel bottom grade.

(b) Plans shall provide elevations and dimensions for the channel and all structures and appurtenances integral to the project such as protective linings, wingwalls, outlet works, drop inlets, aprons and riprap.

(c) Unlined channels must be constructed to a nonerosive grade. All channels should be accessible for maintenance or repair.

(d) All concrete placement shall be reviewed for intended use.

(e) Use or disposal of excavated material shall be clearly shown on final plans.

(f) All specifications to be followed by the contractor shall be included with plans submitted.

§315.83. Normal Requirements for Final Levee or Dike Construction Plans.

(a) For purposes of review, final plans of dikes and levees will be classified into one or a combination of the following:

(1) the dike that holds back water at all times;

- (A) with landfill;
- (B) without landfill;

(i) high risk protection (dwelling or high value land);

(ii) low risk protection (agricultural);

(2) the levee that holds back water only during floods;

- (A) with landfill;
- (B) without landfill;

(i) high risk protection (dwelling or high value land);

(ii) low risk protection (agriculture).

(b) Normal requirements:

(1) foundation and borrow source information obtained from exploration will indicate the type and/or classification of the soil according to the unified soil classification system. The borings should be at least to a depth equal to the height of the embankment. In some cases, additional depth of borings may be required. The natural ground water table elevation should be given if water is encountered in the borings. The soils to be used should be relatively impervious and consist of clay and clayey material. At least 15% of the material should pass the #200 sieve and the plasticity index of the material should be above 15. Fill material should have no stones over six inches in diameter and no organic material (roots, etc.);.

(2) elevations and dimensions of all proposed structures (levees, dikes, conduits, etc.) including those to be used for drainage;

(3) lengths and distances between the various components of the system, i.e., lengths of conduits and pipes; distances between dike or levee and natural stream, borrow area, or ditches;

(4) compactive effort proposed to be used in project specifications. The compactive effort required may vary with the type of dike or levee. The compaction of the material may be obtained by any means that is suitable. The soil shall be compacted at approximately optimum moisture content. Fill shall be placed in lifts of not more than 12 inches thick and properly processed, if needed, prior to compaction. Methods to be employed to obtain compaction shall be contained in specifications for the project;

(5) sides of levees that are to remain exposed shall be adequately protected. Plans shall provide for establishing a protective grass cover or for an alternate treatment where climate will not support a vegetative cover;

(6) all pipes and conduits passing through the dike shall have anti-seep collars to increase the percolation path by a minimum of 15%. The immediate area be-

low drainage outfalls shall be protected by riprap or concrete;

(7) all concrete placements shall be reviewed for intended use;

(8) stripping of the foundation area will be required and shall include removal of all grass, trees, and surface root systems for the full width of the levee;

(9) an embankment key shall be provided for. Methods employed to control subsurface seepage shall be reviewed in accordance with soil conditions present and with the degree of hazard inherent with the project;

(10) materials removed by stripping or from the key way may be used on the dry side of the finished levee;

(11) all specifications to be followed by the contractor shall be included with plans submitted.

§315.84. Final Notice to Proceed with Construction.

(a) Upon his review and approval of the final plans of the applicant, the engineer shall notify the applicant in writing that construction may proceed. During construction, on-site inspection shall be made on each project at the engineer's discretion to determine compliance with approved plans. Such inspections shall be made at the expense of the commission. The applicant shall be provided a notice of final approval in writing upon completion of construction of the project if no significant variance from the approved plans occurs during the course of construction.

(b) Thereafter, any enlargement or other modification of the project must be submitted for approval to the commission as a new project pursuant to the rules.

Issued in Austin, Texas, on September 4, 1985.

TRD-858075

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Commission

Effective date: September 4, 1985
Expiration date: January 2, 1986
For further information, please call
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Chapter 322. Certification of Competency

Certification of Competency

★ 31 TAC §§322.1-322.13

The Texas Water Commission adopts on an emergency basis new §§322.1-322.13, concerning certification of competency.

Senate Bill 249, 69th Legislature, 1985, and effective on September 1, 1985, amended the Texas Water Code, Chapter 26, by creating §26.0301, thereby transferring authority to issue certificates of competency for sewage treatment plant op-

erators and sewage treatment facility operations companies to the Texas Water Commission. Certification of sewage treatment plant operators had been under the jurisdiction of the Texas Department of Health. Certification of sewage treatment facility operations companies is a new program. The purpose of these sections is to provide procedures to be followed for an existing program which regulates certification of operators and which has been transferred to the commission and for interim regulation of sewage treatment facility operations companies. It is in the public's welfare to adopt these sections, effective immediately, to continue an existing program and to implement a new program.

Section 322.1 states the general policies and provisions of the competency program, including a provision that all holders of commission permits to discharge wastewater from sewage treatment facilities or to operate such facilities must employ certified operators to operate those facilities. Definitions used in the chapter are provided in §322.2. Section 322.3 reflects that the commission has designated its executive director to administer the program and issue the certificates for the commission. The certification qualifications of the operators are stated in §322.4, these qualifications are essentially the same as Texas Department of Health rules which had been only the health department's Grades A-D have been redesignated as commission Classes A-D to avoid confusion with the certification program retained by the Texas Department of Health.

Section 322.5 explains the application procedure, and that application is to be made to the executive director. Part of the application process for certification is a requirement that the applicant take a written examination and that a passing score is necessary for certification as expressed in §322.6. The terms of each class of certificate are stated in §322.7 with the term for Class D being two years and Class A being eight years. Section 322.8 explains that existing unexpired Texas Department of Health certificates will remain valid until they expire and that any certificates which expire after August 31, 1985, will remain valid, by rule, at the same grade or class until a higher level certificate is issued or until permanent rules are adopted for this program by the Texas Water Commission, or until January 1, 1986, whichever occurs first. Section 322.9 enumerates the conditions under which a certificate may be revoked or suspended and the procedures to be followed.

The certification process requires a certain amount of training each year for each certification class. Section 322.10 explains the training requirements and how to receive training credit. Reciprocity of certification is expressed in

§322.11. Operators certified by other state or national governmental bodies will be issued commission certificates without initial examination provided that the other governmental body recognizes the commission's certifications on the same basis.

The commission recognizes that there are persons who are not presently certified as sewage treatment operators but who wish to be. There are others who wish to have their certificates upgraded to a higher level, for economic reasons, prior to the adoption of permanent rules. Section 322.12 provides for those persons and states that they may apply for certificates by following the application procedures stated in §322.5 relating to applications.

The certification of treatment facility operations companies is provided for in §322.13. That section certifies any company, by rule, which employs a treatment operator who holds a valid certificate of competency as a sewage treatment plant operator issued by the Texas Water Commission or the Texas Department of Health. This certification by rule shall be valid only until the commission adopts permanent rules relating to this program or until January 1, 1986, whichever occurs first.

The new sections are adopted on an emergency basis under the Texas Water Code, §§5.103, 5.105, and §26.0301, which authorizes the commission to adopt rules and establish policy.

§322.1. General Provisions.

(a) The purpose of these rules and regulations is to set forth a uniform procedure for the issuance of certificates of competency to wastewater personnel and treatment facility operations companies in compliance with state statutes regulating their operations.

(b) Certificates of competency are established for persons or companies who have direct charge for a sewage collection system, a sewage treatment plant, or a major portion of such a system. Certification of supervisors is encouraged, as is that of subordinates, who are directly involved in sewerage system technical operations. In some situations, it may be appropriate for such persons as utility board members, directors of public works, city engineers, or city managers to be certified. Generally, however, certificates will not be issued to such administrative officials nor to support personnel, such as billing clerks, customer service personnel, meter readers, radio dispatchers, or laborers.

(c) All holders of commission permits to discharge wastewater from a sewage treatment facility or to operate such a facility shall employ one or more treatment plant operators holding valid certificates of competency issued by the Texas Water Commission or the Texas Department of Health.

(d) The commission's certification program is designed to stimulate training among the thousands of water utility operators who are widely spread throughout the entire state. Such training helps to develop knowledge and technical skills which promote career growth in the sewage treatment utility industry. Each wastewater plant operator should become certified at the highest class commensurate with his or her qualifications.

(e) Certification is hereby made a part of an employee position requirement to provide adequate staffing of sewage treatment facilities, and might result in a means for a person to advance into a better and more responsible position; however, certification is not intended to be a rating system for employees or for establishing salary levels. It is a process whereby a person can be recognized for his skills and knowledge in sewage treatment facilities operations.

(f) The statutory authorization for these rules is Texas Water Code, §26.0301.

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

Certificate—The certificate of competency issued by the commission which states that the operator has qualified for certification at the class specified. The commission may issue the following certificates for sewage treatment facility operators:

- (A) Class A;
- (B) Class B;
- (C) Class C;
- (D) Class D.

Commission—The Texas Water Commission.

Designated courses—The 20-hour courses or their equivalent required to obtain a certificate, as specified in these sections. The designated courses shall include one or more of the following: basic sewage works operation, sewage treatment, sewage collection, sewage laboratory, and management. Courses offered by the Texas A&M University Engineering Extension Service or similar courses may be considered by the executive director to be designated courses.

Executive director—The executive director of the Texas Water Commission.

Experience—Actual work experience, full- or part-time, in sewage treatment facility operation, maintenance, laboratory analysis or other practices approved by the executive director considered essential for production of final product from the sewage treatment facility.

(A) Experience as foreman or supervisor in most capacities in sewerage systems shall be considered as acceptable. Experience in a purely clerical capacity such as accounting, bookkeeping, or as laborers or meter readers, or in a regulatory capacity relating to sewerage systems, shall not be considered acceptable experience.

(B) Work experience presented to meet requirements for a sewage certificate must be in sewage treatment facility operation.

Sewage—Waterborne human waste and waste from domestic activities, such as washing, bathing, and food preparation.

Sewage treatment operator—Any person, trained in the treatment or disposal of sewage who has a practical working knowledge of the mechanics, maintenance and operating principles of the treatment and disposal of sewage.

Sewerage system—The facilities used in the collection, treatment, and disposal of sewage from the point at which the raw sewage leaves the premises to the point at which the treated effluent is discharged.

Training credit—The hours of credit allowed by the commission for attendance at training courses which have been approved by the executive director in accordance with the provisions in these sections.

§322.3. *Administration.* The executive director shall be responsible for the administration of this program including the following:

- (1) receiving and evaluating applications and pertinent documents to determine whether qualification requirements are met by the applicant and notifying applicants as to action taken;
- (2) preparing and administering examinations;
- (3) supervising and grading examinations or arranging for the supervision and grading of examinations and notifying applicants as to results of examinations (pass or fail);
- (4) issuing new and renewal certificates for operators and companies;
- (5) maintaining records of qualification of operators having valid certificates;
- (6) maintaining a register of operators having valid certificates;
- (7) maintaining a register of sewage treatment facilities having certified personnel;
- (8) approving training for certification credit.

§322.4. *Qualifications of Operators.* Certification by examination. All individuals shall meet the following requirements based upon formal education, specialized training courses, actual operating experience, and passing written examinations. All applicants taking examinations shall be required to pass the current examinations covering sewage treatment facilities operations.

- (1) Class A operator certificate:
 - (A) high school graduation, or the equivalent, and eight years of experience, and 160 hours of training credit;
 - (B) college degree (bachelors) with a major in any engineering discipline eligible for registration as a professional engineer, or in chemistry, biology, or bacteri-

logy, and five years of experience, and 160 hours of training credit; or

(C) college degree (masters) with a major in any engineering discipline eligible for registration as a professional engineer, or in chemistry, biology, or bacteriology, and four years of experience, and 160 hours of training credit;

(D) the 160 hours of training credit shall include each of the following designated courses, or the equivalent:

- (i) sewage treatment;
- (ii) sewage collection system;
- (iii) sewage laboratory; and
- (iv) management;

(E) one year of college (32 semester hours) or an additional 40 hours of approved training credits may be substituted for one year of the experience requirement. In no case shall the actual experience be less than six years for high school graduates, five years for college graduates with bachelors degrees, or four years for college graduates with masters degrees;

(2) Class B operator certificate:

(A) high school graduation, or the equivalent, and five years of experience, and 100 hours of training credit; or

(B) college degree (bachelors) with a major in any engineering discipline eligible for registration as a professional engineer, or in chemistry, biology, or bacteriology, and one year of experience, and 100 hours of training credit;

(C) the 100 hours of training credit shall include each of the following designated courses, or the equivalent:

- (i) sewage treatment;
- (ii) sewage collection; and
- (iii) sewage laboratory;

(D) one year of college (32 semester hours) or an additional 40 hours of approved training credits may be substituted for one year of the experience requirement. In no case shall the actual experience be less than three years for a high school graduate or one year for a college graduate;

(3) Class C operator certificate:

(A) high school graduation, or the equivalent, and two years of experience, and 60 hours of training credit;

(B) 40 hours of training credit shall consist of the following designated courses, or their equivalent:

(i) basic sewage works operation; and

(ii) sewage treatment;

(C) one year of college (32 semester hours) or an additional 40 hours of approved training credits may be substituted for one year of the experience requirement. In no case shall the actual experience be less than one year;

(4) Class D operator certificate:

(A) high school graduation, or the equivalent, and no experience, and 20 hours of training credit;

(B) less than high school, and no experience, and 40 hours of training credit;

(C) 20 hours of training credit must be a course in basic sewage works operation, or its equivalent.

§322.5. Application.

(a) Application for certification shall be made on a standard form provided by the executive director. The application shall be signed by the applicant. All statements and qualifications given by the applicant are subject to verification by the executive director. Misrepresentation or falsification of information by the applicant shall be grounds for rejection of an application, or revocation or suspension of a certificate.

(b) Class A, B, and C applicants shall list two references, preferably a current and a previous supervisor, whom the executive director may contact to verify the applicant's work experience.

(c) The applicant shall furnish evidence of having the equivalent of high school graduation. Any of the following shall be considered the equivalent of high school graduation:

(1) the General Education Development (GED) diploma;

(2) the report of satisfactory scores on the required GED examinations,

(3) a report of official discharge from the U.S. Armed Forces which shows high school equivalency,

(4) admission to an accredited college or university.

(d) The applicant shall furnish evidence of any training credit when requested by the commission.

(e) Any examination taken by the applicant prior to the executive director approving the corresponding application shall be held by the executive director for a maximum of six months pending approval of the application. If the application is not approved within this six months period, the applicant shall repeat the examination process.

(f) Any applicant for a Class A certificate shall meet qualification requirements before taking the examination.

(g) Any person who previously held a Class A, B, C, or D certificate which expired may reapply and take the examination without demonstrating that the qualification requirements are met, provided that proof of the previously-held certificate is submitted to the executive director.

§322.6. Examinations.

(a) The passing score for the examination for each class of certificate shall be 70%.

(b) Any applicant who fails to pass an examination may repeat the same examination after a period of 180 days following the date of the previous examination.

(c) Following the failure of an examination, an applicant's application shall be held by the executive director for a maximum of nine months pending the applicant's repeating the examination. If the examination is not repeated within the nine

months, the applicant shall submit another application and obtain its approval. This shall not apply to Class A certificates unless deemed otherwise by the executive director.

(d) Examinations shall be supervised by the executive director. Examinations shall be given at places and times determined by the executive director.

(e) Examinations shall be graded by the executive director.

(f) Examinations will not cover the basic differences in duties and responsibilities of the operator but will cover in general the broad field of sewage treatment facility operation.

(g) Operators must show proficiency at lower levels of certification before obtaining higher classes of certificates. Class A, B, and C applicants who have not previously been certified at a lower level must pass the appropriate examinations in succession and will be issued the highest certificate for which a passing score is obtained.

§322.7. Certificates for Operators—Terms.

(a) Issuance of certificates.

(1) Upon satisfactory fulfillment of the requirements provided in these sections, a certificate of competency shall be issued by the executive director for the commission.

(2) The certificate shall be prominently displayed in the treatment plant or office of the certified operator.

(b) Terms of certificates.

(1) The terms for the certificates shall be as follows:

(A) Class A—eight years;

(B) Class B—five years;

(C) Class C—three years;

(D) Class D—two years.

(2) The certified operator shall inform the executive director of any change in address or employment during the period of validity of the certificate.

§322.8. *Renewal of Certificates for Operators.* Unexpired existing certificates of competency for operators which were issued by the Texas Department of Health shall remain valid at the same grade/class as issued until expiration date. Certificates which expire after August 15, 1985, will remain valid at the same class until a higher level certificate is issued or permanent certification rules are adopted by the Texas Water Commission or until January 1, 1986, whichever occurs first.

§322.9. Revocation or Suspension of Certificates.

(a) The certificate of an operator shall be revoked or suspended if it is found:

(1) by the commission that the certificate was issued erroneously or by mistake;

(2) that the operator obtained the certificate through fraud, deceit, or through the submission of incorrect data on the operator's application;

(3) that the operator failed to use reasonable care, or judgment in the application of his/her knowledge in the performance of his/her duties.

(b) When the executive director has reason to believe that charges against a certified operator may be valid, the executive director shall notify the operator by personal service or certified mail at the operator's last known address: of the charges made against the operator; that the executive director intends to conduct an examination of the charges; and that the operator has an opportunity to refute the charges.

(c) After the executive director's examination of the charges and the operator's rebuttal, if the executive director still has reason to believe there is cause for revocation or suspension, the executive director shall request the commission to initiate a formal hearing in accordance with the commission's formal hearing procedures.

§322.10. Training Approval.

(a) Training used to meet the requirements for obtaining or renewing sewage treatment plant operator certificates shall be in sewage-related topics, including basic sewage works operation, sewage treatment, sewage collection, sewage laboratory, sewage utility management, or their equivalency as determined by the executive director.

(b) Training credit for attendance at a meeting of a Texas water utility district association shall be allowed only when the meeting includes a training session related to sewage treatment facilities. Training credit shall be allowed in accordance with the other following provisions:

(1) district association monthly meetings—two hours of credit per meeting attended and verified;

(2) district association all-day meetings—one hour of credit per hour of verified attendance.

(c) Training credit shall be based upon the attendance report submitted by the appropriate district association officer.

(d) Persons earning training hours at district association meetings may use these hours toward obtaining or renewing sewage treatment operator certificates as appropriate.

(e) Training credit for attendance at training sessions of annual or regional water utilities short schools, sponsored by the Texas Water Utilities Association and/or district associations, recognized by the executive director, shall be allowed in accordance with the following provisions:

(1) annual or regional short school—one hour of credit per hour in attendance at training sessions, up to a maximum of 20 hours;

(2) training credit shall be based upon attendance recorded by the executive director or by other means determined by the executive director.

(f) Training credit for certification will be granted for those courses which have been reviewed and approved by the executive director prior to the training.

§322.11. *Reciprocity.* The commission may issue certificates, without examination, to applicants who hold valid certification issued under laws of any other governmental body including any state, territory or possession of the United States of America or any country, provided the out-of-state requirements are equal to the provisions of the Texas regulations, the applicant resides in Texas, and the commission's certificates are recognized as valid and are honored by that other governmental body.

§322.12. *New Applications and Applications to Upgrade.* Anyone applying for a Texas certificate of competency for sewage treatment plant operators and who does not presently hold a valid Texas certificate of competency for a sewage treatment plant operator, or anyone who presently holds an unexpired certificate of competency for sewage treatment plant operators issued by the Texas Department of Health but who wishes to upgrade the certificate to a higher level shall follow the application procedures as stated in §322.5 of this title (relating to Application).

§322.13. *Certification of Companies.* Any sewage treatment facility operations company which employs a holder of a valid sewage treatment plant operator certificate of competency issued by the Texas Water Commission or the Texas Department of Health is hereby certified by section as a certified sewage treatment facility operations company, provided that the employee devotes 100% of his or her work time to the operation of sewage treatment facilities permitted by the Texas Water Commission. The certification by rule shall be valid only until the Texas Water Commission adopts permanent sections relating to the certification of sewage treatment facility operations companies or until January 1, 1986, whichever occurs first.

Issued in Austin, Texas, on September 3, 1985.

TRD-85076

James K. Rourke, Jr.
General Counsel
Texas Water
Commission

Effective date: September 4, 1985
Expiration date: January 2, 1986
For further information, please call
(512) 463-7875.

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The following new sections adopted on an emergency basis by the Texas Water Commission will be serialized beginning in the September 24, 1985, issue of the *Texas Register*. The effective date for the documents is September 4, 1985.

Chapter 335. Industrial Solid Waste and Municipal Hazardous Waste
Subchapter A. Industrial Solid Waste and Municipal Hazardous Waste Management in General
§§335.1-335.16

Subchapter B. Hazardous Waste Management General Provisions
§§335.41-335.48

Subchapter C. Standards Applicable to Generators of Hazardous Industrial Solid Waste
§§335.61-335.76

Subchapter D. Standards Applicable to Transporters of Hazardous Waste
§§335.91-335.94

Subchapter E. General Facility Standards
§§335.11-335.118

Subchapter F. Preparedness and Prevention
§§335.131-335.137

Subchapter G. Contingency Plan and Emergency Procedures
§§335.151-335.157

Subchapter H. Record-keeping and Reporting Requirements
§§335.171-335.177

Subchapter I. Groundwater Monitoring
§§335.191-335.195

Subchapter J. Closure and Post-Closure
§§335.211-335.220

Subchapter K. Financial Requirements
§§335.231-335.233

Subchapter L. Use and Management of Container
§§335.241-335.247

Subchapter M. Tanks
§§335.261-335.267

Subchapter N. Surface Impoundments
§§335.281-335.288

Subchapter O. Waste Piles
§§335.301-335.307

Subchapter P. Land Treatment
§§335.321-335.329

Subchapter Q. Landfills
§§335.341-335.349

Subchapter R. Industrial Solid Waste and Municipal Hazardous Waste Incinerators
§§335.361-335.365

Subchapter S. Thermal Processing
§§335.381-335.386

Subchapter T. Chemical, Physical, and Biological Processing
§§335.401-335.407

Subchapter U. Prohibition on Open Dumps
§§335.421-335.428

Subchapter V. Permitting Standards for Owners and Operators of Hazardous Waste Storage, Processing, or Disposal Facilities
§§335.451-335.479

Subchapter W. Location Standards for Hazardous Waste Storage, Processing, or Disposal
§§335.501-335.505

Chapter 338. Consolidated Permits
Corrections of Permits
§338.71

Emergency Orders, Temporary Orders, and Executive Director Authorizations §§338.91-338.99

Enforcement §§338.101-338.103

Groundwater Compliance Plan §338.110

General Provisions §338.121, §338.122

Applications and Review §§338.131-338.140

Application for Permit §§338.151-338.186

Additional Conditions for Injection Well Permits §§338.191-338.200

Amendments, Renewals, Transfers, Revocation, or Suspension §§338.221-338.241

Actions, Notice, and Hearing §§338.261-338.290

Permit Characteristics and Conditions §§338.311-338.317

Additional Conditions for Solid Waste Storage, Processing, or Disposal Permits §§338.341-338.346

Hazardous Waste Incinerator Permits §§338.361-338.364

Permits for Land Treatment Demonstrations Using Field Tests or Laboratory Analysis §§338.371-338.374

Waste Treatment Inspection Fee Program §§338.401-338.407

servations of bingo occasions that although many organizations have made a good faith effort to comply with the current extensive requirements, they have experienced difficulty in so doing. The October 1, 1985, effective date of the new section will coincide with the beginning of the week reporting period, thereby ensuring uniformity of reporting, tax payment, record keeping, and facilitating compliance by licensees.

This repeal is adopted on an emergency basis under Texas Civil Statutes, Article 179d, which provide that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the Bingo Enabling Act.

§3.547. *Books and Records—Bingo Licensees.*

Issued in Austin, Texas, on September 12, 1985.

TRD-858415 Bob Bullock
Comptroller of Public
Accounts

Effective date: October 1, 1985
Expiration date: January 29, 1986
For further information, please call
(512) 463-4606.

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The Comptroller of Public Accounts adopts on an emergency basis new §3.547, concerning books and records for bingo licensees, to replace the section which is being repealed concurrently. The new section simplifies record-keeping requirements, sets minimum standards for record keeping, and allows organizations to maintain their records in a format of their own choosing, while still providing the comptroller with adequate information to substantiate the Texas bingo operator's quarterly report, which provides tax and statistical information on the conduct of bingo.

This section is adopted on an emergency basis as an exercise of the comptroller's broad authority to strictly control and closely supervise the conduct of bingo. The comptroller has found, through audits, comments from licensees, and observations of bingo occasions that although many organizations have made a good faith effort to comply with the current extensive requirements, they have experienced difficulty in so doing. The October 1, 1985, effective date of the new section will coincide with the beginning of the next reporting period, thereby ensuring uniformity of reporting, tax payment, record keeping, and facilitating compliance by licensees.

This amendment is adopted on an emergency basis under Texas Civil Statutes, Article 179d, §111.002, which provide that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the Bingo Enabling Act.

§3.547. *Books and Records—Bingo Licensees.*

(a) This section sets minimum standards for record keeping for licensees that conduct bingo. Where the comptroller provides forms for record keeping, licensees may use those forms or forms of their own choosing which contain the same information.

(1) Cash receipt records. The records required to document cash receipts consist of the following.

(A) Daily cash report. This report must be prepared after each bingo occasion. The report must contain the following information:

- (i) name of licensee;
- (ii) date of bingo occasion;
- (iii) attendance;
- (iv) gross receipts. Total

amounts must be listed for each separate type of fee or charge. For example, the sale of reusable hard bingo cards, the sale of disposable bingo cards (throw-aways or paper strips), and admission charges must each be accounted for as separate sub-items of gross receipts;

(v) cash prizes. Merchandise prizes or prizes paid by check must be listed as a zero on this report;

(vi) net receipts. This figure is the difference between gross receipts and cash prizes. The only allowable adjustments between net receipts and the amount of the bank deposit would be changes in the amount of petty cash fund and any cash overages or shortages;

(vii) cash overages and shortages;

(viii) petty cash fund. A petty cash fund not to exceed \$2,500 may be used at each bingo occasion;

(ix) net bank deposit.

(B) Bingo bank account. A licensed organization must establish and maintain one regular checking account designated the bingo account and may also maintain an interest-bearing savings account designated the bingo savings account, as provided in the Bingo Enabling Act, §19a(a), Texas Civil Statutes, Article 179d. A licensed organization must keep validated deposit slips. Any interest income earned from the bingo savings account must be accounted for as part of the net proceeds available for charitable distribution.

(C) Sales journal. A sales journal listing the total amounts in each category from the daily cash reports must be totaled on a quarterly basis.

(D) Documenting daily receipts. A licensed organization shall substantiate the contents of these cash receipt records by use of a disposable card sales summary on a form prescribed by the comptroller, the use of a cash register, or some other equivalent method of substantiation. If a cash register is used to record sales, the following directions would apply.

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration Subchapter V. Bingo Regulation and Tax

★ 34 TAC §3.547

(Editor's note: The text of the following section repealed on emergency basis will not be published. The section may be examined in the offices of the Comptroller of Public Accounts, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Comptroller of Public Accounts adopts on an emergency basis the repeal of §3.547, concerning books and records for bingo licensees. The section is repealed concurrent with the emergency adoption of a substantially revised section, to be effective October 1, 1985.

This repeal is adopted on an emergency basis as an exercise of the comptroller's broad authority to strictly control and closely supervise the conduct of bingo. The comptroller has found, through audits, comments from licensees, and ob-

(i) The cash register must have a non-resettable four-digit transaction numbering mechanism. Any cash register used would be able to retain its transaction count between uses, whether or not its power source is interrupted for short periods of time.

(ii) Various types of sales must each be recorded with a separate key. Income from various types of sales must be separately recorded and the cash register must be able to provide a total for each type of sale recorded.

(iii) If the cash register is used for purposes other than bingo sales, then the non-bingo transactions, such as dauber or glue-stick or concession, sales must be rung up on a separate key.

(2) Cash disbursement records. The records to document cash disbursements consist of the following.

(A) Bingo bank account. Funds from the bingo account must be withdrawn

by checks or withdrawal slips as provided in the Bingo Enabling Act, §19a(b), Texas Civil Statutes, Article 179d.

(B) Cash disbursements journal. Each check issued by the licensee must be recorded in a cash disbursements journal, which would contain the information required by the Bingo Enabling Act, §23(a)(2), (3), and (5), Texas Civil Statutes, Article 179d.

(C) Paid invoice file. Each licensee shall maintain a permanent file of paid invoices, contracts, or other papers necessary to prove the disbursement of funds for bingo expenses or charitable contributions.

(D) Daily schedule of prizes. Each licensee shall maintain a list for each bingo occasion of the total prizes awarded for each game and their value as required by the Bingo Enabling Act, §23(a) and (b), Texas Civil Statutes, Article 179d.

(b) Records retention. Records of the organizations must be maintained for at least four years.

(c) Restrictions on the sales of ups pads. Disposable cards of different colors and series numbers may be sold in specially collated pads known as ups. Ups pads must be sold as units. They may not be broken and sold as partial pads or individual sheets. They may not be sold from the floor.

Issued in Austin, Texas, on September 12, 1985.

TRD-858416

Bob Bullock
Comptroller of Public
Accounts

Effective date: October 1, 1985
Expiration date: January 29, 1986
For further information, please call
(512) 463-4606.

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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 4. AGRICULTURE Part II. Texas Animal Health Commission

Chapter 35. Brucellosis Subchapter A. Eradication of Brucellosis

★4 TAC §§35.2, 35.4, 35.5

The Texas Animal Health Commission proposes amendments to §§35.2, 35.4, and 35.5, concerning the Texas bovine brucellosis regulations.

Section 35.2(g) and (h) provides time frames for retest and identification of brucellosis reactors to prevent undue delays in these procedures.

Section 35.2(j) provides a reduced time frame for identifying dairy reactors to prevent unnecessary delays in disposing of those reactors.

In §35.4(b), the county of Frio has been proposed for inclusion in the Class B area following requests from producers in that county. Frio County is contiguous to the Class B area and meets all necessary requirements for transfer.

Section 35.4(c)(1) and §35.5(c)(1) remove two exceptions to the vaccination on entry requirement. Females from a certified free herd would not be exempt thereby bringing this requirement in line with the current vaccination requirement for change of ownership within the Texas Class C area. Females originating in Texas would no longer be permitted to an approved veterinarian for vaccination on arrival since current regulations allow them to be vaccinated at a livestock market thereby making the permit unnecessary. A requirement was added for an S permit to accompany nonvaccinated heifers leaving a market if those heifers originated outside the area. This had been an omission and will help assure that heifers reach restricted destination.

Since Frio County is proposed for transfer to the Class B area, the proposed change would remove this county from the Class C area, in §35.5(b).

Section 35.4(c)(2) and §35.5(c)(2) add wording which removes the requirement for quarantine and retest of test eligible cattle entering from Class A states or

areas thereby conforming to the USDA Code of Federal Regulations test requirements. The wording was also amended to clarify test requirements for nonvaccinates originating in Class C states or areas.

Section 35.5(d)(1) adds wording to require an S permit to accompany nonvaccinated heifers which had been S branded at markets in the Class C area. This was an omission and will help assure that heifers reach restricted destination.

Ken Welch, director of administration, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. Welch also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections is the lessening of the possibility of additional exposure from brucellosis infected animals by insuring their timely removal from premises and a reduction of the paper work required on animals being imported from a Class A state. There is no anticipated economic cost to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Jo Anne Conner, Texas Animal Health Commission, P.O. Box 12666, Austin, Texas 78711.

The amendments are proposed under the Agriculture Code, Texas Civil Statutes, Chapter 161 and Chapter 163, which provide the commission with authority to propose rules and set forth the duties of the commission to protect domestic animals, in the state, from diseases.

§35.2. General Requirements.

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

(g) Retest of reactors. Reactors in markets or initial tests on farms and ranches will be retested at the owner or his agent's request; provided this request is within five [10] days of his notification of the original blood test results and prior to identification of the reactors by B brand and eartag. Retest of reactors will be accomplished within five days of approval for retest in dairies and 10 days of approval for retest in beef

herds. Reactor animals will be isolated from other cattle while awaiting retest. Animals classified as reactors on the retest will be branded within 48 hours of classification. Retesting of reactors on subsequent tests of the herd will be as provided for in the herd plan.

(h) Identification of brucellosis affected cattle.

(1) Reactor cattle. All reactor cattle shall be permanently identified within 15 days of classification by hot iron branding with the letter B (at least two inches by two inches), placed on the left jaw. An approved reactor tag shall be placed in the left ear. Identification shall be prior to movement.

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

(i) (No change.)

(j) Immediate slaughter of reactors.

Reactor cattle shall be sold for immediate slaughter and removed from the premise under B permit within 15 days from the date of identification for beef cattle and within seven days from the date of identification for dairy cattle. [The time may be extended 15 days for reasons acceptable to the executive director and the federal veterinarian in charge.] Movement for immediate slaughter shall be to a slaughtering establishment where federal or state inspection is maintained or to a livestock market for sale to such a slaughtering establishment.

(k)-(v) (No change.)

§35.4. Class B Area.

(a) (No change.)

(b) Class B area. Area to include the following counties: Andrews, Archer, Armstrong, Bailey, Bandera, Baylor, Bell, Blanco, Borden, Bosque, Brewster, Briscoe, Brown, Burnet, Calahan, Carson, Castro, Childress, Clay, Cockran, Coke, Coleman, Collingsworth, Comal, Comanche, Concho, Cooke, Coryell, Cottle, Crane, Crockett, Crosby, Culberson, Dallam, Dawson, Deaf Smith, Denton, Dickens, Donley, Eastland, Ector, Edwards, El Paso, Erath, Fisher, Floyd, Foard, Frio, Gaines, Garza, Gillespie, Glasscock, Gray, Grayson, Hale, Hall, Hamilton, Hansford, Hardeman, Hartley, Haskell, Hays, Hemphill, Hockley, Hood, Howard, Hudspeth, Hutchinson, Irion, Jack, Jeff Davis, Johnson, Jones, Kendall, Kent, Kerr, Kimble, Kinney, King, Knox, Lamb, Lampasas, Lipscomb, Llano, Loving, Lubbock, Lynn, McCulloch, Martin, Mason, Maverick, Me-

dina, Menard, Midland, Mills, Mitchell, Montague, Moore, Motley, Nolan, Ochiltree, Oldham, Palo Pinto, Parker, Parmer, Pecos, Potter, Presidio, Randall, Reagan, Real, Reeves, Roberts, Runnels, San Saba, Schleicher, Scurry, Shackelford, Sherman, Somervell, Sterling, Stephens, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terrell, Terry, Throckmorton, Tom Green, Travis, Upton, Uvalde, Val Verde, Ward, Wheeler, Wichita, Wilbarger, Williamson, Winkler, Wise, Yoakum, Young, and Zavala.

(c) Requirements for cattle entering the Class B area.

(1) Vaccination. All female cattle born after January 1, 1983, and four months of age and older entering shall be officially vaccinated prior to entry. Exception to these vaccination requirements:

[(A) female cattle originating from a certified free herd;]

[(A)[(B)] female cattle entering for purposes of shows, fairs, and exhibitions;

[(B)[(C)] female cattle moving within commuter herds;

[(C)[(D)] spayed heifers;

[(D)[(E)] female cattle which are individually identified with an S brand, a backtag or other recognized identification either prior to entry or at a livestock market and consigned to slaughter or quarantined feedlot accompanied with an S permit;

[(F) female cattle, originating in Texas permitted to an approved veterinarian for vaccination within 10 days of permit date;]

[(E)[(G)] female cattle under 12 months of age consigned to a livestock market and vaccinated on arrival at the market at no expense to the State of Texas.

(2) Testing. All bulls and nonvaccinated female cattle over 18 months of age (age determined by the loss of the central pair of temporary incisors), and all vaccinated female cattle of dairy breeds over 20 months of age, and all vaccinated female cattle of beef breeds over 24 months of age, and all parturient or postparturient vaccinated female cattle, entering the area shall be moved directly from:

(A)-(E) (No change.)

(F) shall be tested negative one or more times as described in this subparagraph.

(i) Cattle from a Class A state or area shall:

(I) be tested negative within 30 days prior to entry and accompanied with an E permit; or

(II) be moved directly to a livestock market for negative test prior to sale.

(ii)(i) Cattle from a Class [A or] B state or area shall:

(I)-(II) (No change.)

(ii)(ii) Cattle from a Class C state or area shall:

(I) (No change.)

(II) be nonvaccinated and:

[be nonvaccinated and be tested negative within 30 days prior to movement; and either]

(-a-) be from a nonquarantined herd in which all test eligible cattle have been together for at least 120 days and have been subjected to a negative test as a herd within the last 365 days. Nonvaccinated females may move from the herd for up to 30 days following the herd test without further testing prior to movement. After 30 days, one additional negative test is required within 30 days prior to movement from the herd. Animals moving under this provision shall be accompanied by a written statement signed by the owner and accredited veterinarian or by other documentation which will establish that such animals originated from a herd which has been intact for at least 120 days prior to movement; [be from a herd in which all test eligible cattle have been together for at least 120 days and have been subjected to one negative test as a herd within the previous 365 days; or]

(-b-) be from a nonquarantined herd and accompanied by proof of two negative tests at least 60 days apart. The second test must be conducted within 30 days prior to movement and may be conducted at a livestock market. The first test is valid for 12 months. [be from a nonquarantined herd and have been subjected to a negative test not less than 60, nor more than 365 days before the test for movement.]

(III) (No change.)

(d) (No change.)

§35.5. Class C Area.

(a) (No change.)

(b) Class C area. Area to include the following counties: Anderson, Angelina, Aransas, Atascosa, Austin, Bastrop, Bee, Bexar, Bowie, Brazoria, Brazos, Brooks, Burleson, Caldwell, Calhoun, Cameron, Camp, Cass, Chambers, Cherokee, Collin, Colorado, Dallas, Delta, DeWitt, Dimmit, Duval, Ellis, Falls, Fannin, Fayette, Fort Bend, Franklin, Freestone, [Frio,] Galveston, Goliad, Gonzales, Gregg, Grimes, Guadalupe, Hardin, Harris, Harrison, Henderson, Hidalgo, Hill, Hopkins, Houston, Hunt, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Karnes, Kaufman, Kennedy, Kleberg, Lamar, LaSalle, Lavaca, Lee, Leon, Liberty, Limestone, Live Oak, McLennan, McMullen, Madison, Marion, Matagorda, Milam, Montgomery, Morris, Nacogdoches, Navarro, Newton, Nueces, Orange, Panola, Polk, Rains, Red River, Refugio, Robertson, Rockwall, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, Shelby, Smith, Starr, Titus, Trinity, Tyler, Upshur, Van Zandt, Victoria, Walker, Waller, Washington, Webb, Wharton, Willacy, Wilson, Wood, and Zapata.

(c) Requirements for cattle entering the Class C area.

(1) Vaccination. All female cattle born after January 1, 1983, and four months of age and older entering shall be officially

vaccinated prior to entry. Exceptions to these vaccination requirements:

[(A) female cattle originating from a certified free herd;]

[(A)[(B)] female cattle entering for purposes of shows, fairs, and exhibitions;

[(B)[(C)] female cattle moving within commuter herds;

[(C)[(D)] spayed heifers;

[(D)[(E)] female cattle which are individually identified with an S brand, ear-tag or other recognized identification either prior to entry or at a livestock market and consigned to slaughter or quarantined feedlot accompanied with an S permit;

[(F) female cattle, originating in Texas and permitted to an approved veterinarian for vaccination within 10 days of permit date;]

[(E)[(G)] female cattle under 12 months of age consigned to a livestock market and vaccinated on arrival at the market at no expense to the State of Texas.

(2) Testing. All bulls and nonvaccinated female cattle over 18 months of age (age determined by the loss of the central pair of temporary incisors), and all vaccinated female cattle of dairy breeds over 20 months of age, and all vaccinated female cattle of beef breeds over 24 months of age, and all parturient and postparturient vaccinated female cattle, entering the area shall be moved directly from:

(A)-(E) (No change.)

(F) shall be tested negative one or more times as described in this subparagraph.

(i) Cattle from a Class A state or area shall:

(I) be tested negative within 30 days prior to entry and accompanied with an E permit; or

(II) be moved directly to a livestock market for negative test prior to sale.

(ii)(i) Cattle from a Class [A or] B state or area shall:

(I)-(II) (No change.)

(ii)(ii) Cattle from a Class C state or area shall:

(I) (No change.)

(II) be nonvaccinated, and: [be nonvaccinated and be tested negative within 30 days prior to movement; and either]

(-a-) be from a nonquarantined herd in which all test eligible cattle have been together for at least 120 days and have been subjected to a negative test as a herd within the last 365 days. Nonvaccinated females may move from the herd for up to 30 days following the herd test without further testing prior to movement. After 30 days, one additional negative test is required within 30 days prior to movement from the herd. Animals moving under this provision shall be accompanied by a written statement signed by the owner and accredited veterinarian or by other documen-

tation which will establish that such animals originated from a herd which has been intact for at least 120 days prior to movement; [be from a herd in which all test eligible cattle have been together for at least 120 days and have been subjected to one negative test as a herd within the previous 365 days; or,]

(-L-) be from a nonquarantined herd and accompanied by proof of two negative tests at least 60 days apart. The second test must be conducted within 30 days prior to movement and may be conducted at a livestock market. The first test is valid for 12 months. [be from a non-quarantined herd and have been subjected to a negative test not less than 60, nor more than 365 days before the test for movement.]

(III) (No change.)

(d) Change of ownership within the Class C area.

(1) Vaccination.

(A) (No change.)

(B) Females born after January 1, 1984, which have not been officially vaccinated and are over 12 months of age may change ownership only after being spayed; or

(i)(ii) consigned direct to a slaughter establishment; or

(ii)(iii) consigned direct to a quarantined feedlot or quarantined pasture; or

(iii)(i) consigned to a livestock market to be spayed or S branded prior to sale [; or] and, if S branded, sold direct to slaughter or quarantined feedlot accompanied by an S permit.

(2) (No change.)

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

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

TRD-858396

John W. Holcombe
Executive Director
Texas Animal Health
Commission

Earliest possible date of adoption:

October 21, 1985

For further information, please call
(512) 475-4111.

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 325. Solid Waste Management

The following proposals submitted by the Texas Department of Health will be serialized in the September 24, 1985, issue of the *Texas Register*. The proposed date of adoption for the documents is November 16, 1985.

Subchapter E. Permit Procedures and Design Criteria

Permits

§325.61

(amendment)

Application Review Process

§§325.91-325.95

(amendment)

Subchapter N. Management of Sludges and Similar Wastes

Transporters

§325.445

(amendment)

§325.448

(new)

Land Application for Beneficial Use

§325.462

(amendment)

Land Disposal

§325.482

(amendment)

Permitted Facilities

§§325.601-325.603

(new)

Registered Facilities

§325.611, §325.612

(new)

Transporters of Sludges and Similar Wastes

§§325.621-325.623

(new)

TITLE 28. INSURANCE

Part I. State Board of Insurance

Chapter 11. Health Maintenance Organizations

Subchapter E. Licensing and Regulation of HMO Agents

★28 TAC §§11.403, 11.407, 11.408, 11.410, 11.411

The State Board of Insurance proposes amendments to §§11.403, 11.407, 11.408, 11.410, and 11.411 (Rules 059.51.05.003, .007, .008, .010, and .011), concerning the licensing and regulation of health maintenance organization (HMO) agents.

Section 11.403 is proposed to be amended to require that Texas issue a nonresident agent's license to a nonresident provided, among other things, that the agent is an HMO agent in his or her state of residence and that the HMO agent has no place of business in Texas for transacting business as an HMO agent. A similar requirement with respect to no place of business is deleted in relation to a reciprocal agreement between Texas and other states to waive a requirement for an examination. This change is a clarification and conforms the section to present board practices. Additionally, further clarification is added to paragraph (4).

Section 11.407(1) is proposed to be amended to provide that an HMO agent's license will expire two years after the issue date unless renewal is requested and a fee is paid on or before the expiration date of the license. Presently, the

section requires the aforementioned request and payment prior to the expiration date. Section 11.407(2) is amended to provide that all applicable requirements of law must be met for an agent's appointments to be renewed when his or her license is renewed. These amendments conform the section to extant law and board practices.

Section 11.408 is proposed to be amended by adding paragraphs (1) and (2). Paragraph (1) provides, generally, that no HMO doing business in this state may pay any commission or other valuable consideration to any person for services as an HMO agent, unless the person is licensed and duly appointed by an HMO, and provides that no person shall accept such payment unless licensed; this provision does not apply to renewal or deferred commissions. Paragraph (2) provides, generally, that no HMO agent may pay anything of value, not specified in the contract, to any person for solicitation or negotiation of an HMO contract, other than to an HMO agent.

Section 11.410 is proposed to be amended to provide that the commissioner must give notice to an HMO applicant at his or her last known address before a license may be suspended or revoked. The present rule simply provides for notice without specifying the place of notice. The same change is made for notice of the commissioner's decision.

Section 11.411(b) is amended to require that a temporary license may be issued to a person only by an HMO holding an active certificate of authority in Texas. This conforms the section to statutory requirements. Section 11.411(e) is amended to provide that a failure of at least 50% of HMO temporary licensees during a fiscal year to pass a written examination for a permanent license is grounds to cancel, suspend, or revoke the HMO's temporary appointment powers.

Jack Evins, assistant manager, Agents License Division, has determined that for each year of the first five years the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections. The amendments make the administrative process for the State Board of Insurance clearer and easier but no decrease or increase in personnel is expected from the changes.

There will be a cost effect on small businesses which are HMO agents or HMOs. The cost will come from the prohibitions contained in §11.408(1) and (2) and the requirements of §11.411(e). Section 11.408(1) and (2) will subject an agent or HMO to disciplinary proceedings in case of a violation. The new requirement in §11.411(e) that an HMO's temporary appointment powers may be canceled, suspended, or revoked if at least 50% of the HMO's applicants with temporary li-

censes do not pass the examination for a permanent license could involve a cost to an HMO. Whether or not expenses will be incurred by an HMO or HMO agent depends on the HMO or HMO agent's present practices and on their compliance with the sections. If an HMO or HMO agent chooses not to comply with the sections, the cost which will be incurred is undeterminable.

Mr. Evins also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections is clearer sections and amendments which facilitate the smooth functioning of the regulation of HMOs and HMO agents. The anticipated economic cost to individuals required to comply with the sections as proposed will be as a result of the prohibitions contained in §11.408(1) and (2) and the requirements of §11.411(e). Section 11.408(1) and (2) will subject an HMO agent or HMO to disciplinary action. The new requirement in §11.411(e) that an HMO's temporary appointment powers may be canceled, suspended, or revoked if at least 50% of the HMO applicants with temporary licenses do not pass the examination for a permanent license could involve increased costs to an HMO. Whether or not expenses will be incurred by an HMO or HMO agent depends on the HMO or HMO agent's present practices and on their compliance with the sections. If an HMO or HMO agent chooses not to comply with the section, the cost which will be incurred is undeterminable.

Comments on the proposal may be submitted to Jack Evins, Assistant Manager, Agent's License Division, State Board of Insurance, 1110 San Jacinto, Annex Building, Austin, Texas 78768.

The amendments are proposed under the Texas Health Maintenance Organization Act, §22, pursuant to which the State Board of Insurance may promulgate rules and regulations necessary and proper to carry out the provisions of that Act.

§11.403. Nonresident Licenses. An individual who is not a resident of Texas may be licensed as an HMO agent upon compliance with the provisions of the Texas HMO Act and these rules, provided that the state in which the individual resides accords the same privilege to a citizen of Texas, that the applicant has no place of business in Texas for the transaction of business as an HMO agent, and that the applicant is currently licensed as an HMO agent in the applicant's state of residency. The commissioner is authorized to enter into reciprocal agreements with the appropriate official of any state whereby any examination of any applicant from such other state is waived, provided that:

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

(3) the applicant has no place of business in Texas for the transaction of business as an HMO agent;

(3)(4) in the other state, a resident of Texas may obtain an HMO agent's license upon satisfying the foregoing conditions and without discrimination as to fees or otherwise in favor of the residents of the other state, and

(4)(5) fees are paid [payment of fees] as required by the Texas HMO Act.

§11.407. Renewal. The HMO agent's license expires two years after the date of issue unless renewal is requested in writing and a renewal fee is paid on or before [prior to] the expiration date of the license.

(1) (No change.)

(2) When an agent renews a license, all appointments then in effect are automatically renewed, assuming all other requirements of law are met.

(3) (No change.)

§11.408. Additional Appointments; Unauthorized Agents. An HMO agent may be appointed to represent more than one HMO upon the submission of an additional appointment form and payment of the appointment fee.

(1) No HMO doing business in this state shall pay, directly or indirectly, any commission for any reason or purpose to any person, nor shall an HMO doing business in this state pay, directly or indirectly, any commission, or other valuable consideration, to any person for services as an HMO agent within this state, unless such person shall hold a currently valid license to act as an HMO agent as required by the laws of this state and is appointed by such HMO under that license; nor shall any person, other than a duly licensed HMO agent, accept any such commission or other valuable consideration; provided, however, that the provisions of this section shall not prevent the payment or receipt of renewal or other deferred commissions to or by any person solely because such person has ceased to hold a license to act as an HMO agent.

(2) No HMO agent shall pay, allow, give, or offer to pay, allow, or give, directly or indirectly, any rebate of premiums payable, any commission, or any paid employment or contract for service of any kind or anything of value whatsoever, or any valuable consideration or inducement whatever, not specified in the policy or contract for health services, for or on account of the solicitation or negotiation of such contracts or policies, other than to another HMO agent.

§11.410. Suspension of License. The commissioner may suspend, revoke, or refuse to renew an agent's license for statements or actions which are untrue, unfair, misleading, deceptive, or which encourage misrepresentation. Grounds and procedures for such actions are outlined as follows.

(1) (No change.)

(2) Before any license is denied, except for failure to pass a required written

examination, or is suspended or revoked, or the renewal thereof refused hereunder:

(A) the commissioner will give notice of his intention to do so, by registered mail, to the applicant for or holder of such license at such applicant's or licensee's last known address and to the HMO whom he represents or who desires that he be licensed, and set a date not less than 20 days from the date of mailing such notice when the applicant or licensee and a duly authorized representative of the HMO may appear to be heard and produce evidence;

(B) (No change.)

(C) Upon termination of such hearing, findings will be reduced to writing and, upon approval by the commissioner, filed in his office and notice of the findings sent by registered mail to the applicant or licensee at such applicant's or licensee's last known address and to the HMO concerned;

(3) (No change.)

§11.411. Temporary Licenses.

(a) (No change.)

(b) A temporary license may be issued to any person who has been appointed or who is being considered for appointment as an HMO agent by an HMO holding an active certificate of authority in this state [immediately] upon receipt by the commissioner of an application executed by such person as required by §11.404 of this title (relating to Application for License Prior to Certificate of Authority), (Rule 059.51.05.005), together with a certificate signed by an officer or properly authorized representative of such HMO stating:

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

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

(e) The commissioner shall have the authority to cancel, suspend, or revoke the temporary appointment powers of any HMO, if, after notice and hearing, he finds that such HMO has abused such temporary appointment powers. In considering such abuse, the commissioner may consider, but is not limited to the number of temporary appointments made by an HMO, and the percentage of appointees sitting for the examination as HMO agents. Each HMO is responsible for requiring at least 70% of such HMO's applicants for temporary licenses during a fiscal year to sit for the examination. At least 50% of those applicants sitting for the examination must pass during such period.

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

Issued in Austin, Texas, on September 12, 1985.

TRD-858436

James W. Norman
Chief Clerk
State Board of
Insurance

Earliest possible date of adoption:
October 21, 1985
For further information, please call
(512) 463-6327.

Chapter 21. Trade Practices Subchapter H. Unfair Discrimination

★ 28 TAC §21.701, §21.703

The State Board of Insurance proposes an amendment to §21.701 (Rule 059.21.21.121) and new §21.703 (Rule 059.21.21.123), concerning unfair practices under the Insurance Code, Article 21.21, §4(7), and Article 21.21-3. New §21.703 is added to define physical or mental impairment, as used in the Insurance Code, Article 21.21-3. No fiscal or cost implications are expected from these changes, because the definitions contained in §21.703 simply further specify what is already prohibited by the Insurance Code, Articles 21.21, §4(7), and Article 21.21-3.

James W. Norman, chief clerk, has determined that for the first five-year period the amendment and new section 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 amendment and new section.

Mr. Norman also has determined that for each year of the first five years the amendment and new section are in effect the public benefit anticipated as a result of enforcing the amendment and new section will be to make it clear that the Insurance Code, Articles 21.21, §4(7), and Article 21.21-3 prohibit the practices specified in §§21.701-§21.703. There is no anticipated economic cost to individuals who are required to comply with the amendment and new section as proposed.

Comments on the proposal may be submitted to David Eley, Insurance Director, State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

The amendment and new section are proposed under the Insurance Code, Article 21.21, §13, which authorizes the State Board of Insurance to promulgate and enforce reasonable rules necessary to accomplish the purposes of Article 21.21, and the Insurance Code, Article 21.21-3, which prohibits the refusal to insure, to continue to insure, or to limit the amount, extent, or kind of coverage available to an individual or to change an individual a different rate for the same coverage, solely because of a handicap or partial handicap, except where the refusal, limitation, or rate differential is based on sound actuarial principles or is related to actual or reasonably anticipated experience.

§21.701. Purpose. The purpose of these rules is to identify specific acts or practices [in life and health insurance] which are prohibited by the Insurance Code, Article 21.21, §4(7), and Article 21.21-3.

§21.703. Definitions Concerning Discrimination. For the purpose of §21.702 of

this title (relating to Unfairly Discriminatory Acts or Practices) and to effectuate the objectives of the Insurance Code, Article 21.21-3, the definitions specified in this section are applicable. The words "physical or mental impairment" include, but are not limited to, any psychological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the following bodily systems: neurological musculoskeletal, special sense organs, respiratory and speech organs, cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine system or any mental or physiological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. As used in the Insurance Code, Article 21.21-3, the words "handicap or partial handicap" mean a physical or mental impairment which substantially limits one or more of the person's major life activities.

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 September 12, 1985.

TRD-858437

James W. Norman
Chief Clerk
State Board of
Insurance

Earliest possible date of adoption:
October 21, 1985
For further information, please call
(512) 463-6327.

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Chapter 25. Insurance Premium Finance

Subchapter F. Power of Attorney

★ 28 TAC §25.509

The State Board of Insurance proposes new §25.509 (Rule 059.60.06.009), concerning an interpretation of certain requirements for insurers and premium finance companies under the Insurance Code, Articles 24.17 and 24.22. The primary purpose of the section is to provide that notice to an insurer of a premium finance agreement under the Insurance Code, Article 24.22, requires notice directly to the entity assuming the risk (not its insurance agent) and that return of any unearned premiums due to an insured-borrower be made by the insurer directly to the premium finance company. This section is simply an interpretation of existing law.

Woody Pogue, deputy insurance commissioner, has determined that for the first five-year period the section 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 section.

Mr. Pogue also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section is a statutory interpretation which clearly specifies the duties of certain parties involved in an insurance transaction where the premium is financed. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Woody Pogue, Deputy Insurance Commissioner, State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

The new section is proposed under the Insurance Code, Articles 24.17 and 24.22, which are interpreted in §25.509, and Article 24.09, pursuant to which the board may adopt and enforce rules necessary to carry out the Insurance Code, Chapter 24.

§25.509. Notification to Insurers. A premium finance agreement with an insured to finance an insurance policy or policies shall notify the insurer whose premiums are being financed of the existence of such agreement within a reasonable period of time not to exceed 30 days after the date such agreement is received by the premium finance company. The word "insurer" as used in the Insurance Code, Articles 24.17 and 24.22, means the company or other entity formally liable on the insurance risk. It does not mean an insurance agent. Accordingly, notice to an insurance agent or to a managing general agency of the insurer is not notice under the Insurance Code, Article 24.22. If the premium finance company gave notice to the insurer in accordance with the Insurance Code, Article 24.22, the insurer shall, as provided in the Insurance Code, Article 24.17, return whatever unearned premiums are due under the insurance contract directly to the premium finance company within 60 days. Return of unearned premium through an accounts current with an agent or agency does not satisfy the insurer's obligation under the Insurance Code, Article 24.17.

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 September 12, 1985.

TRD-858438

James W. Norman
Chief Clerk
State Board of
Insurance

Earliest possible date of adoption:
October 21, 1985
For further information, please call
(512) 463-6327.

★ ★ ★

TITLE 40. SOCIAL SERVICES AND ASSISTANCE
Part III. Texas Commission on Alcohol and Drug Abuse
Chapter 151. Licensing Standards

(Editor's note: The text of the following sections proposed for repeal will not be published. The repealed sections may be examined in the offices of the Texas Commission on Alcohol and Drug Abuse, 1705 Guadalupe Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Commission on Alcohol and Drug Abuse proposes the repeal of §§151.11-151.20, 151.31, 151.41-151.45, 151.51-151.56, 151.71-151.76, 151.81-151.86, 151.101-151.106, 151.121-151.126, 151.141-151.145, 151.151-151.155, and 151.161-151.165, concerning licensing standards. These standards are being repealed because amendments to Texas Civil Statutes, Article 5561cc, require that all alcohol treatment programs may be licensed, rather than voluntarily being licensed.

Larry Goodman, fiscal and administrative services administrator, has determined that for the first five-year period the sections 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 sections.

Mr. Goodman also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that all alcohol treatment programs in the state will meet certain life, health, and safety standards to ensure quality care and to safeguard the health and welfare of the clients. The anticipated economic cost to individuals who are required to comply with the sections is \$750 each year in 1986-1990 for an average licensure fee per facility.

Comments on the proposal may be submitted to Jane Maxwell, 1705 Guadalupe Street, Austin, Texas 78701.

Licensing Standards

★40 TAC §§151.11-151.20

The repeal is proposed under Texas Civil Statutes, Article 5561cc, which provide the Texas Commission on Alcohol and Drug Abuse with the authority to require mandatory licensure of all alcohol treatment programs.

- §151.11. Authority.
- §151.12. Objective.
- §151.13. Severability.

- §151.14. Scope of Rules, Regulations, and Standards.
- §151.15. Opinions and Advice.
- §151.16. Precedent.
- §151.17. Terminology.
- §151.18. Renewal of Unexpired License.
- §151.19. Denial or Revocation of License.
- §151.20. Variances.

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 September 12, 1985.

TRD-858442 Ross Newby
 Executive Director
 Texas Commission on
 Alcohol and Drug
 Abuse

Earliest possible date of adoption:
 October 21, 1985
 For further information, please call
 (512) 475-2577.

★ ★ ★

Definitions

★40 TAC §151.31

The repeal is proposed under Texas Civil Statutes, Article 5561cc, which provide the Texas Commission on Alcohol and Drug Abuse with the authority to require mandatory licensure of all alcohol treatment programs.

§151.31. Definitions.

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 September 12, 1985.

TRD-858443 Ross Newby
 Executive Director
 Texas Commission on
 Alcohol and Drug
 Abuse

Earliest possible date of adoption:
 October 21, 1985
 For further information, please call
 (512) 475-2577.

★ ★ ★

Rulemaking Procedures

★40 TAC §§151.41-151.45

The repeal is proposed under Texas Civil Statutes, Article 5561cc, which provide the Texas Commission on Alcohol and Drug Abuse with the authority to require mandatory licensure of all alcohol treatment programs.

- §151.41. Initiation.
- §151.42. Notice.
- §151.43. Hearings.
- §151.44. Petitions of Interested Persons.
- §151.45. Validity.

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 September 12, 1985.

TRD-858444 Ross Newby
 Executive Director
 Texas Commission on
 Alcohol and Drug
 Abuse

Earliest possible date of adoption:
 October 21, 1985
 For further information, please call
 (512) 475-2577.

★ ★ ★

Extended Services

★40 TAC §§151.51-151.56

The repeal is proposed under Texas Civil Statutes, Article 5561cc, which provide the Texas Commission on Alcohol and Drug Abuse with the authority to require mandatory licensure of all alcohol treatment programs.

- §151.51. Program
- §151.52. Governing Authority.
- §151.53. Organizational Plan and Staffing.
- §151.54. Treatment Plan.
- §151.55. Evaluation.
- §151.56. Physical Plant Requirements.

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

Issued in Austin, Texas, on September 12, 1985.

TRD-858445 Ross Newby
 Executive Director
 Texas Commission on
 Alcohol and Drug
 Abuse

Earliest possible date of adoption:
 October 21, 1985
 For further information, please call
 (512) 475-2577.

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Medical Care Detoxification Services

★40 TAC §§151.71-151.76

The repeal is proposed under Texas Civil Statutes, Article 5561cc, which provide the Texas Commission on Alcohol and Drug Abuse with the authority to require mandatory licensure of all alcohol treatment programs.

- §151.71. Program.
- §151.72. Governing Authority.
- §151.73. Organizational Plan and Staffing.
- §151.74. Treatment Plan.

- §151.75. *Evaluation.*
 §151.76. *General Physical Plant Requirements.*

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

Issued in Austin, Texas, on September 12, 1985.

TRD-858448 Ross Newby
 Executive Director
 Texas Commission on
 Alcohol and Drug
 Abuse

Earliest possible date of adoption:
 October 21, 1985
 For further information, please call
 (512) 475-2577.

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Nonmedical Care Detoxification Services

★40 TAC §§151.81-151.86

The repeal is proposed under Texas Civil Statutes, Article 5561cc, which provide the Texas Commission on Alcohol and Drug Abuse with the authority to require mandatory licensure of all alcohol treatment programs.

- §151.81. *Program.*
 §151.82. *Governing Authority.*
 §151.83. *Organizational Plan and Staffing.*
 §151.84. *Treatment Plan.*
 §151.85. *Evaluation.*
 §151.86. *General Physical Plant Requirements.*

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

Issued in Austin, Texas, on September 12, 1985.

TRD-858447 Ross Newby
 Executive Director
 Texas Commission on
 Alcohol and Drug
 Abuse

Earliest possible date of adoption:
 October 21, 1985
 For further information, please call
 (512) 475-2577.

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Intermediate Care Services—Class A

★40 TAC §§151.101-151.106

The repeal is proposed under Texas Civil Statutes, Article 5561cc, which provide the Texas Commission on Alcohol and Drug Abuse with the authority to require mandatory licensure of all alcohol treatment programs.

- §151.101. *Program.*
 §151.102. *Governing Authority.*

- §151.103. *Organizational Plan and Staffing.*
 §151.104. *Treatment Plan.*
 §151.105. *Evaluation.*
 §151.106. *General Physical Plant Requirements.*

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

Issued in Austin, Texas, on September 12, 1985.

TRD-858448 Ross Newby
 Executive Director
 Texas Commission on
 Alcohol and Drug
 Abuse

Earliest possible date of adoption:
 October 21, 1985
 For further information, please call
 (512) 475-2577.

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Intermediate Care Services—Class B

★40 TAC §§151.121-151.126

The repeal is proposed under Texas Civil Statutes, Article 5561cc, which provide the Texas Commission on Alcohol and Drug Abuse with the authority to require mandatory licensure of all alcohol treatment programs.

- §151.121. *Program.*
 §151.122. *Governing Authority.*
 §151.123. *Organizational Plan and Staffing.*
 §151.124. *Treatment Plan.*
 §151.125. *Evaluation.*
 §151.126. *General Physical Plant Requirements.*

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

Issued in Austin, Texas, on September 12, 1985.

TRD-858449 Ross Newby
 Executive Director
 Texas Commission on
 Alcohol and Drug
 Abuse

Earliest possible date of adoption:
 October 21, 1985
 For further information, please call
 (512) 475-2577.

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Outpatient Care Services

★40 TAC §§151.141-151.145

The repeal is proposed under Texas Civil Statutes, Article 5561cc, which provide the Texas Commission on Alcohol and Drug Abuse with the authority to require

mandatory licensure of all alcohol treatment programs.

- §151.141. *Program.*
 §151.142. *Governing Authority.*
 §151.143. *Organizational Plan and Staffing.*
 §151.144. *Treatment Plan.*
 §151.145. *Evaluation.*

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 September 12, 1985.

TRD-858450 Ross Newby
 Executive Director
 Texas Commission on
 Alcohol and Drug
 Abuse

Earliest possible date of adoption:
 October 21, 1985
 For further information, please call
 (512) 475-2577.

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Outreach Care Services

★40 TAC §§151.151-151.155

The repeal is proposed under Texas Civil Statutes, Article 5561cc, which provide the Texas Commission on Alcohol and Drug Abuse with the authority to require mandatory licensure of all alcohol treatment programs.

- §151.151. *Program.*
 §151.152. *Governing Authority.*
 §151.153. *Organizational Plan and Staffing.*
 §151.154. *Treatment Plan.*
 §151.155. *Evaluation.*

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 September 12, 1985.

TRD-858451 Ross Newby
 Executive Director
 Texas Commission on
 Alcohol and Drug
 Abuse

Earliest possible date of adoption:
 October 21, 1985
 For further information, please call
 (512) 475-2577.

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Aftercare Services

★40 TAC §§151.161-151.165

The repeal is proposed under Texas Civil Statutes, Article 5561cc, which provide the Texas Commission on Alcohol and Drug Abuse with the authority to require mandatory licensure of all alcohol treatment programs.

- §151.161. *Program.*
 §151.162. *Governing Authority.*

§151.163. *Organizational Plan and Staffing.*

§151.164. *Treatment Plan.*

§151.165. *Evaluation.*

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 September 12, 1985.

TRD-858452

Ross Newby
Executive Director
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption:

October 21, 1985

For further information, please call
(512) 475-2577.

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Chapter 151. Licensure

The Texas Commission on Alcohol and Drug Abuse proposes new §§151.11-151.17, 151.21-151.22, 151.31-151.38, 151.41-151.50, 151.61-151.69, 151.81-151.86, 151.101, 151.201-151.215, 151.301-151.308, 151.311-151.325, and 151.401-151.415, concerning licensure of alcohol treatment facilities. These new sections are the result of Texas Civil Statutes, Article 5561cc, as amended by the 69th Legislature, to require mandatory licensure of all alcohol treatment facilities.

Larry Goodman, Fiscal and Administrative Services Division administrator, has determined that there will be fiscal implications as a result of enforcing or administering the sections. The effect on state government for the first five-year period the sections will be in effect is an estimated additional cost of \$135,349 in 1986, and \$130,139 each year in 1987-1990. There will be no effect on local government or small businesses for the first five-year period the sections will be in effect.

Mr. Goodman also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections is that all alcohol treatment programs in the state will meet certain life, health, and safety standards to ensure quality care and to safeguard the health and welfare of the clients. The anticipated economic cost to individuals who are required to comply with the sections as proposed is the licensure fee per facility (average) of \$750 each year in 1986-1990.

Comments on the proposal may be submitted to Jane Maxwell, 1705 Guadalupe, Austin, Texas 78701.

General Provisions

★40 TAC §§151.11-151.17, 151.21-151.22

The new sections are proposed under Texas Civil Statutes, Article 5561cc, which provide the Texas Commission on Alcohol and Drug Abuse with the authority to require that all alcohol treatment facilities must be licensed by the commission as of January 1, 1986.

§151.11. *Authority.* Authority is granted to the Texas Commission on Alcohol and Drug Abuse under Texas Civil Statutes, Article 5561cc, which established a procedure by which the commission is to license alcohol treatment facilities. The commission prescribes the following rules and procedures by which a person who operates an alcohol treatment facility that treats alcoholics or alcohol and drug dependent persons must obtain a license issued under this Act.

§151.12. *Objective.* The intent of the commission is to provide written rules, regulations, and standards reflecting minimum licensing standards for the following:

(1) the organizational structure, including the governing authority of the facility, board authority, organization, fiscal and policy responsibilities, supervisory lines of authority, and staffing;

(2) the program conducted by the facility, including services to be provided, admission criteria, client rights, and standards for medication, nutrition, and emergency situations;

(3) the clinical and fiscal records kept by a facility;

(4) the general physical plant requirements for a facility, including environmental considerations, fire protection, safety, and other conditions to ensure the health and comfort of the clients;

(5) the standards relating to other aspects of alcohol or alcohol and drug treatment as necessary to protect the alcoholic and drug dependent person.

§151.13. *Severability.* If any provision of these rules, regulations, and standards be judicially construed to be invalid, such invalidity shall not affect other provisions which can be given effect without the invalid provision, and to this end, the provisions of these rules, regulations, and standards are declared to be severable.

§151.14. *Scope of Rules, Regulations, and Standards.* Effective January 1, 1986, a person who operates an alcohol treatment facility as defined in commission rules and in Texas Civil Statutes, Article 5561cc, must obtain a license issued by the commission unless:

(1) it is a facility maintained or operated by the federal government or its agencies;

(2) it is a hospital operated by the State of Texas; or

(3) other rules of the commission permit limited operation without a license to avoid interruption of existing services pending completion of licensure requirements. The rules, regulations, and standards shall not be construed to enlarge, diminish, modify, or alter the jurisdiction, powers, or authority of the commission.

§151.15. *Opinions and Advice.* Except as otherwise expressly stated herein, advice given, statements made, and opinions expressed orally or in writing by the staff or personnel of the commission in response to inquiries or otherwise shall not be considered binding upon the commission in connection with any matter requiring the approval or adjudication of the commission.

§151.16. *Precedent.* The nature of action taken with regard to any matter or the disposition of any matter pending before the commission is not necessarily of meaningful precedential value, and the commission shall not be bound by the precedent of any previous action, determination, or adjudication in the subsequent disposition of any matter pending before it. Each fact situation shall be determined on its own merit.

§151.17. *Interpretation.* The commission's interpretation of these sections shall be binding on all applicants and licensees.

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

AA orientation—An introduction to Alcoholics Anonymous, Narcotics Anonymous, or other peer support group resources available for recovering alcohol and drug abusers, alcoholics, or drug dependent persons.

Act—Texas Civil Statutes, Article 5561cc.

Alcohol treatment facility—A public or private hospital, clinic, detoxification facility, primary care facility, intermediate care facility, long-term care or outpatient care facility, community mental health center, recovery center, halfway house, ambulatory care facility, or any other facility that purports to provide alcohol or combined alcohol and drug treatment services and rehabilitation services as one of its programs. The term does not include an educational program for intoxicated drivers or the office of a private licensed health care practitioner.

Alcoholic—An individual who suffers from alcoholism.

Alcoholism—The loss of self-control with respect to the use of alcohol, the pathological use of alcohol that chronically impairs social or occupational functioning, or physiological dependence on alcohol as evidenced by tolerance or withdrawal symptoms.

Alcoholism and drug abuse counselor—A person who is certified by the Texas

Certification Board for Alcoholism and Drug Abuse Counselors (TCBADAC).

Assistant alcoholism and drug abuse counselor—A person who is pursuing certification by the Texas Certification Board for Alcoholism and Drug Abuse Counselors and who has at least ¼ of the training hours required for TCBADAC certification and who has at least one year of supervised experience in alcohol abuse services.

Client—An individual who as a client or a patient receives alcohol or combined alcohol and drug treatment and rehabilitation services from a facility licensed by the commission. It does not include a family member of a program client or significant other.

Client abuse—Any action taken, other than in defense, by a volunteer, paid staff, or board member which causes physical injury to a person who is on the active caseload of an alcohol treatment facility. Also, any sexual activity initiated or encouraged by a volunteer, paid staff, or board member with an active client is classified as abuse.

Client exploitation—An unjust or improper use of labor or other personal resources of a client by staff, volunteers, or board members of an alcohol treatment facility, where such use is for personal profit or gain by the facility, staff, volunteer, or board member(s) and is of no therapeutic or other benefit to the client.

Client neglect—The failure of a board and/or staff member to provide prudent screening and care, the lack of which causes physical injury or prolongs or exacerbates the substance abuse or alcoholism or drug dependence of a client of an alcohol treatment facility. Examples of neglect may include, but are not limited to, failure to offer services as outlined in the treatment plan; failure to provide adequate nutrition, clothing, or health care; failure to provide a safe environment; or failure to control the availability of mood-altering drugs to inpatient or residential clients.

Commission—The Texas Commission on Alcohol and Drug Abuse.

Detoxification—A process of safe and medically supervised withdrawal from alcohol or a combination of alcohol and drugs.

Detoxification services—A planned program of services (usually less than 10 days in length) for clients who are in need of medically supervised withdrawal from alcohol or a combination of alcohol and drugs in a safe manner.

Director—The director or administrator of each facility or program licensed by the commission.

Drug abuse—Misuse or abuse of any controlled substance for other than appropriate and duly prescribed medicinal purposes.

Drug dependent person—A person who is using a controlled substance and who is in a state of psychic or physical dependence or both arising from administration

of a controlled substance. Drug dependence is characterized by behavioral and other responses that include a strong compulsion to take a controlled substance in order to experience its psychic effects or to avoid the discomfort of its absence.

Executive director—The executive director of the Texas Commission on Alcohol and Drug Abuse.

Governing authority—The individual or individuals designated by law, or by charter or other written document which creates or governs operations of the entity, as the policy-making body for the entity.

Governmental unit—The state, any political subdivision of the state, or any department, division, board, or other agency of the state or a political subdivision of the state. The term does not include any entity of the federal government.

Health care facility—The meaning prescribed by the Texas Health Planning and Development Act (Texas Civil Statutes, Article 4418h).

Inpatient—A client who stays in a facility in excess of 24 hours.

Intermediate care services—A planned program of services (usually less than 90 days in length) for clients who are not in need of detoxification, primary care or outpatient services and who are in need of treatment in a 24-hour supervised living setting and are in transition to an independent living status.

Involuntary client—A client committed to a treatment program by court order under authority of Texas Civil Statutes, Article 5561c-2.

Licensed vocational nurse—A nurse licensed by the Texas State Board of Vocational Nurse Examiners.

Long-term care services—A planned program of services (usually less than 90 days in length) for clients who are not in need of detoxification and are not appropriate for primary, intermediate, or outpatient services, and whose condition indicates a need for long term supervised living environment.

Medically supervised—General supervision by a physician with direct or standing orders to personnel.

Outpatient care services—A planned program of services provided on a scheduled basis to clients whose physical and emotional status allows them to function in their usual environment and therefore makes them not appropriate for any type of inpatient services.

Physician—A person licensed to practice medicine in the State of Texas or a person employed by any agency of the United States who has a license to practice medicine in any state of the United States.

Primary care services—A planned program (usually less than 30 days in length) of services for clients who are not in need of detoxification and who are appropriate for intensive treatment services in a 24-hour day supervised living environment.

Registered nurse—A nurse licensed by the Texas State Board of Nurse Examiners.

Rehabilitation—A planned and organized program of services designed to reestablish the social and vocational life of a substance-free person.

§151.22. Terminology. The commission may from time to time define and interpret certain terms, whether or not used in the Act, insofar as the definition and interpretation are not inconsistent with the purpose fairly intended by the policy and provisions of the 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 September 6, 1985.

TRD-858458

Ross Newby
Executive Director
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption:

October 21, 1985

For further information, please call
(512) 475-2577.

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Licensure Procedures

★ 40 TAC §§151.31-151.38

These new sections are promulgated under Texas Civil Statutes, Article 5561cc, which provide the Texas Commission on Alcohol and Drug Abuse with the authority to require that all alcohol treatment facilities must be licensed by the commission as of January 1, 1986.

§151.31. License Application. An applicant for a license to operate an alcohol treatment facility must file a written application on a form prescribed by the commission and cooperate with all required inspections of the facility. All required documentation and materials, including audits and supporting records, shall be made available by the applicant. The applicant shall demonstrate compliance with all licensure standards. Prior to the issuance of a license. However, the commission may issue temporary permits for the delivery of treatment services subject to licensure for a reasonable time, so that pre-existing treatment facilities can comply with licensure standards and to avoid interruptions in existing services.

§151.32. Licensing Deadlines. After September 1, 1985, and prior to January 1, 1986, an alcohol treatment facility must have applied for a license or a temporary permit to continue existing operations without a license if it was operating a bona fide treatment program prior to January 1, 1986. The applicant for a temporary permit must comply with §§151.301-151.308,

and 151.311-151.325 of this title (relating to Standards for First Year Permit) prior to August 31, 1986, in order to be eligible for a permit to operate until August 31, 1987. After August 31, 1987, and on or before August 31, 1988, an applicant for a temporary permit must comply with §§151.301-151.308, and 151.131-151.325 of this title (relating to Standards for First Year Permit) and §§151.401-151.415 of this title (relating to Additional Standards for Year Two Permit) After August 31, 1988, no person shall operate an alcohol treatment facility unless he has been granted a license by the commission and has complied with all licensure standards.

§151.33. Expiration of Temporary Permits. The provisions in these sections regarding temporary permits shall expire September 1, 1988.

§151.34. Rights of Applicants. Applicants for temporary permits have the same rights to request reconsideration and to appeal denials, nonrenewals, or revocations as holders of licenses.

§151.35. Application Deadline for Full Licensure. At any time prior to August 31, 1988, any applicant may apply for full licensure.

§151.36. Renewal of Unexpired License. A license issued under this act expires one year from the date of issue. A renewal license may be granted on receiving a completed application form prescribed by the commission prior to the expiration date of the license. The commission may require an inspection before renewing a license. Any application received after the renewal date shall be treated as a new application for licensure and shall be submitted as a new application.

§151.37. Charging of Fees for a Temporary Permit or an Initial License or a Renewal License. Each application for a temporary permit or a license submitted to the commission must be accompanied by a \$50 application fee. The schedule of fees established for inspection are:

- (1) inpatient facilities—\$300 base fee, plus \$15 per bed, plus \$50 for each additional category of licensure (maximum fee is \$1000);
- (2) outpatient facilities—\$500 fee.

§151.38. Ownership of Certificate. A certificate of licensure or any other document issued by the commission and intended for display is the property of the commission. It is nontransferable and may be displayed only by licensed programs which are fully operational and in good standing with the commission. Any program or facility which is closed, or has discontinued its alcohol treatment program, or whose license is not renewed or is revoked, shall im-

mediately return its certificate to the commission.

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

Issued in Austin, Texas, on September 12, 1985.

TRD-858457

Ross Newby
Executive Director
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption:
October 21, 1985

For further information, please call
(512) 475-2577.

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Denial, Nonrenewal, or Revocation of License

★ 40 TAC §§151.41-151.50

These new sections are promulgated under the authority of Texas Civil Statutes, Article 5561cc, which provide the Texas Commission on Alcohol and Drug Abuse with the authority to require that all alcohol treatment facilities must be licensed by the commission as of January 1, 1986.

§151.41. Process for Denial, Nonrenewal, or Revocation. The executive director of the commission may deny, revoke, or refuse to renew a license if the applicant or holder of the license fails to comply with the provisions of the rules, regulations, and standards of the commission. The licensure department of the commission and the licensure review board shall report all cases of noncompliance to the executive director pursuant to the commission's policies and procedures.

§151.42. Request for Reconsideration. A person who is denied a license or whose license is revoked or not renewed may request reconsideration by the executive director. A request for reconsideration must be made during the 14-day period following the date on which notice of the action taken was mailed to the applicant or the holder of a license. The request must be made timely and in writing and be signed by an authorized officer in order to be considered a valid request.

§151.43. Effective Date. If reconsideration is not requested, the denial, revocation, or nonrenewal takes effect on the 30th day after the date on which the notice was mailed. If reconsideration is requested, the effective date of the commission's original decision must be postponed to allow the person to participate in the reconsideration.

§151.44. Procedure for Reconsideration. The commission shall inform all parties of the rules and procedures for reconsideration of denial, nonrenewal, or revocation decisions, and shall provide the oppor-

tunity for the affected person to present additional evidence or testimony to the commission. The commission shall notify all parties of the date, time, and place of the reconsideration hearing. The executive director of the commission shall conduct each reconsideration hearing held under this section. The executive director shall make the final decision in connection with the reconsideration hearing. The format of reconsideration hearings shall be informal and rules of civil procedure or rules of evidence as applied in state courts shall not preclude any relevant facts. After the reconsideration hearing, the executive director of the commission shall send the person a copy of the decision made and the grounds for affirming or reversing the original decision. The executive director shall give written notice of the effective date of the decision.

§151.45. Appeal Hearing. In addition to the request for reconsideration, a person who is denied a license or whose license is revoked or not renewed may request a hearing before the commission or a hearing officer appointed by the commission on the question of the issuance of the license. The applicant must request an appeal hearing within the 30 days following the date on which the applicant or the holder of the license received notice that the license was denied or that it was to be revoked or refused renewal. The request must be timely and made in writing to be a valid request. The commission shall mail written notice of the date, time, and place of the hearing not later than 21 days before the date of the hearing.

§151.46. Notification of Applicant. If after a hearing the license is denied, revoked, or not renewed, the commission shall mail to the applicant or holder of the license a copy of its findings and grounds for decision. Except as provided in §151.47 of this title (relating to Emergency Revocation), revocation of a license or an order refusing to renew a license takes effect 30 days following the date on which the holder of the license received final notice of the revocation or decision to renew the license.

§151.47. Emergency Revocation. The commission may revoke a license to be immediately effective in a situation where health or safety requires action. The commission shall immediately notify the holder in writing and provide an opportunity for a hearing within 14 days after the action takes effect.

§151.48. Setting of Judicial Hearing. The commission may petition a district court in Travis County to enter a restraining order and/or permanent injunction, if needed, to prevent violations of the licensing act or standards which cause immediate threat to the health and safety of individuals receiving treatment.

§151.49. Procedures for Hearing. The Administrative Procedure and Texas Regis-

ter Act (Texas Civil Statutes, Article 6252-13a *et seq.*) applies to judicial review of all hearings conducted under Texas Civil Statutes, Article 5561cc, which judicial review shall be by the substantial evidence standard.

§151.50. Variances. In facilities where specific standards cannot be complied with because of exceptional circumstances, exceptions to specific provisions of the standards may be made when, in the opinion of the commission, the intent of the licensing standard is met and the safe, healthful, sanitary, and efficient operation of the facility is not substantially affected. To request a variance, the facility shall submit a written request to the commission stating name, address, and phone number of the facility; section or number of the standard which will be affected; the reasons for the variance and whether they are of a permanent or temporary nature, and if temporary, the time period involved; and action that staff of the facility will provide to replace or offset the particular variance request. Approval or disapproval of the request for variance will be determined by the executive director of the commission and responded to in writing to the requesting party. The executive director's decision on a variance request may not be appealed.

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 September 12, 1985.

TRD-858458

Ross Newby
Executive Director
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption:

October 21, 1985

For further information, please call

(512) 475-2577.

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Licensure Standards

★ 40 TAC §§151.61-151.69,
151.81-151.86, 151.101,
151.201-151.215

These new sections are proposed under Texas Civil Statutes, Article 5561cc, which provide the Texas Commission on Alcohol and Drug Abuse with the authority to require that all alcohol treatment facilities must be licensed by the commission as of January 1, 1986

§151.61. Categories of Service. The Texas Commission on Alcohol and Drug Abuse shall license the following categories of service as defined in these standards: detoxification; primary care; intermediate care; long-term care; and outpatient care services.

§151.62. Governing Authority.

(a) The organization shall operate under legal authority by virtue of incorporation or other authorizing state statutory authority. The organization shall maintain its good standing, current status, and reporting requirements with the State of Texas pursuant to state law as a continuing requirement for licensure.

(b) The governing authority shall exercise general direction over and establish policies concerning the operation of the alcohol treatment facility. The governing authority shall maintain full responsibility for the fiscal and managerial integrity of the facility and compliance with licensure standards.

(c) Minutes of all governing authority meetings shall be recorded and maintained in the registered office of the organization and also at the facility itself. These minutes shall verify that a quorum was present, and if a quorum is not present, the governing authority shall avoid taking action and votes. The governing authority shall be in compliance with the provisions of its bylaws on terms of office for board members and election or appointment of new members. The officers of a nonprofit organization shall consist of at least a president, vice president, and secretary/treasurer and those offices shall be elected at least every three years.

(d) A nonprofit organization shall at least annually provide for the education of its board members with respect to legal powers, rights, privileges, duties, liabilities, and disabilities of board members. This education may be provided by legal counsel, local United Way, a professional consultant in board training, or a formalized board training program developed by the organization.

(e) The governing authority shall appoint an executive director whose qualifications meet the minimum standards set by the board for the position. The governing authority shall delegate authority, responsibility, and duties in writing to the director for the management of the facility in accordance with established policy.

(f) The governing authority or the director shall develop a policy manual that describes the regulations, principles, guidelines, and personnel policies that determine the facility's operation. This shall be reviewed, updated, and approved at least annually by the governing authority, and this policy manual shall be available to all staff.

(g) The organization shall have an independent audit performed at least annually and the results of the audit shall be presented to the governing authority in a timely fashion for its review and appropriate action.

(h) The organization shall encourage staff training and shall provide funds for staff to participate in in-service training and education and shall provide documentation of staff participation in in-service training and education.

§151.63. Organizational Structure.

(a) There shall be an organizational chart describing the facility's lines of supervision of staff and consultants.

(b) There shall be written job descriptions outlining the duties and responsibilities for all positions. Each job description shall state the qualifications, reporting supervisor, positions supervised, and duties.

(c) There shall be a contract on file outlining the duties, responsibilities, and compensation of any person serving in the capacity of a consultant.

(d) There shall be documentation verifying that all personnel meet local, state, or federal requirements for their positions, e.g., licensing, registration, or certification. All alcoholism and drug abuse counselors and assistant counselors shall meet the requirements listed in the definitions section of these standards.

(e) There shall be written personnel procedures that shall include evaluation of personnel performance on at least an annual basis. This evaluation shall be in writing and reviewed with the employee affected.

(f) Personnel policies shall include health screening requirements and standards for exclusion from the work place of any employee whose health condition poses a potential risk to clients and other employees.

(g) Personnel policies shall prohibit employment of former clients as staff members within six months of discharge.

(h) The organization shall provide documentation that clinical supervision occurs on a consistent basis to ensure quality care. This shall include routine checks on treatment plans, case notes, counseling skill evaluations and ongoing feedback and guidance for counselors. This documentation shall be made available for inspection.

(i) The organization shall adopt a personnel policy prohibiting all use of alcohol and other mood-altering drugs by the organization's staff during the duty hours of staff, unless medically prescribed. The facility shall develop policies and procedures to address active alcoholism and drug abuse of staff in a manner which fosters recovery while at the same time safeguarding clients.

§151.64. Admission of Clients.

(a) There shall be written admission eligibility requirements.

(b) There shall be documentation verifying that a medical examination has been completed during the current span of treatment as determined by the physician. Assessment of the client's medical needs shall be made in consultation with a physician. The facility shall provide a referral for treatment of medical needs, if such service is not directly provided by the facility. The findings of the medical examination shall be documented in the client's record.

(c) If a person is eligible for services provided by the facility and seeks such ser-

VICES, then that person shall be admitted as a client of the facility. Persons not eligible for admission to the facility or for whom the facility cannot provide the needed services shall be referred to appropriate services, and such referral shall be documented by the facility.

(d) The facility shall inform all clients about the cost of their care, how much of that cost is charged to them, what fees are paid by other resources in their behalf, what these payments cover, any limitations placed on the duration of services, and shall document this disclosure in writing.

(e) The facility shall require, as a condition of admission, written client consent to disclose the client's records to the commission for purposes of evaluating client care or auditing client services.

§151.65. *Involuntary Clients.*

(a) There shall be 24-hour supervision of involuntary clients to preclude the unauthorized departure of a client. A facility employee must be present at all times to supervise involuntary clients.

(b) There shall be a written policy and procedure on passes or furloughs and the revocation of furloughs.

(c) The facility shall have a procedure to report the unauthorized departure of an involuntary client to the appropriate court issuing the court order and to appropriate law enforcement agencies immediately. At admission, the facility shall attempt to secure written consent of the client for such purposes.

§151.66. *Client Rights.*

(a) The facility shall have a written policy that provides for client rights and which includes, at a minimum:

(1) The right to treatment in the least restrictive environment compatible with therapeutic needs and protection of the client and community;

(2) The right to refuse treatment and medication and to be advised of the consequences of such refusal;

(3) the right to refuse to participate in a research program without compromising access to services to which the client is otherwise entitled;

(4) the right to actively participate in the development of an individualized treatment plan and to have the plan periodically reviewed. This includes the right to know and to meet with the professional staff members responsible for the client's care, to know their professional qualifications, and to know their staff positions;

(5) the right to a humane and safe environment affording reasonable protection from harm and appropriate privacy with regard to personal needs;

(6) the right to communicate with others and to have visitors on the premises unless restricted for good cause by the director of the facility;

(7) the right to be free from mistreatment, abuse, neglect, and exploitation;

(8) the right, within 24 hours of admission, to be informed verbally and in writing, in simple, nontechnical terms in a language the client can understand, of the rights listed in paragraphs (1)-(7) of this subsection. The facility shall inform each client of the facility's participation requirements and other rules and expectations pertaining to the client.

(b) The facility shall establish rules and procedures pertaining to the client who refuses treatment or medication against medical advice. The facility shall inform clients who refuse treatment or prescribed medications of the consequences of their actions.

(c) The facility shall have general rules and procedures regarding visitation and communications outside the facility. Any restriction made by the director of the facility on visitation or communication shall be justified in the client's file and shall be based on reasonable grounds pertaining to the welfare of the client or other clients. There shall be no restriction of communication between clients and their attorneys, or the Texas Commission on Alcohol and Drug Abuse, or the Attorney General of Texas or the courts.

(d) The facility shall have rules and procedures to protect client rights and privacy with respect to facility visitors. Such visitations and tours shall be conducted so as to avoid unnecessary interruption of clients' usual activities and therapeutic programs.

(e) Treatment records of the client shall be kept confidential and shall be disclosed only for the purposes and in the manner expressed and authorized in applicable federal and state laws and regulations. The facility shall establish required procedures to keep and protect all records to ensure such compliance and shall orient staff to these procedures.

(f) The governing authority shall establish rules of staff conduct toward clients and procedures to investigate allegations of violations of these rules. If any investigation confirms an allegation, the facility shall take appropriate action against the staff member. In addition, if the rule violation is also a violation of the code of ethics of the organization by which the staff person is credentialed, the facility shall also report its findings to that credentialing body.

(g) The governing authority shall have a written statement of its policies and practices regarding client grievances and for investigating and remedying complaints and cases of abuse and neglect of its clients. The statement shall, at a minimum, encompass the elements of the client abuse, neglect, and exploitation of clients consistent with Texas Civil Statutes, Article 5561cc, and as defined in these licensure standards. The statement shall be prominently displayed in the facility and shall be given to all facility personnel and there shall be documentation

verifying that this written statement is annually reviewed and approved by the governing body. Complaints or alleged violations and the results of any investigation shall be documented and appropriate action taken by the governing authority or its designee. This documentation shall be maintained at the facility and shall be available for inspection. Complaints which cannot be resolved by the governing authority shall be forwarded to the commission for resolution through its board of inquiry.

(h) Clients shall be encouraged to take responsibility for maintaining their own living quarters, but such responsibilities shall be clearly defined in writing and provided to the client at orientation. The facility shall demonstrate that these responsibilities do not constitute full-time, reimbursable work, but are an integral part of therapeutic treatment. In no case shall these responsibilities interfere with other treatment services to clients.

§151.67. *Medications.*

(a) The facility shall have written policies and procedures to govern the prescribing, dispersing, and administering of medication, including those products commonly known as nonprescription medications. Such policies and procedures shall comply with state and federal law.

(b) All medications administered to a client by the facility, whether prescribed or nonprescribed, shall be documented as to time, route, amount, purpose, and any adverse reaction in the client's clinical record as specified in §151.101(b) of this title (relating to Clinical Records). Any adverse reaction to the drug by the client must be reported to the prescribing physician.

(c) All medication, both prescribed and nonprescribed, shall be kept under lock and key in a secure area reserved for medication. On a 24-hour basis, a specific staff member shall be assigned as responsible for record keeping and access to the locked area.

(d) Medication brought into the facility by clients at admission shall not be administered. The prescribing physician will be contacted for a new prescription which may be filled locally.

(e) The facility shall have a policy and procedure for the disposal of medication left at the facility by a discharged client and this policy shall consider the risks of illicit use by others.

(f) The facility shall maintain a current *Physician's Desk Reference* or other pharmacopoeia for the use of staff in ascertaining side effects, adverse effects, actions, and contraindications of any drug given a client.

(g) If a facility provides detoxification, it shall have a licensed physician on staff or under contract, and no medications shall be given during detoxification except as ordered by that physician. Physicians shall not issue standing orders for medica-

tion unless there is a licensed vocational or registered nurse on duty to carry out those orders.

151.68. Nutrition.

(a) An adequate diet meeting adult recommended dietary allowances as established by the U. S. Department of Agriculture shall be provided to all residents.

(b) Food shall not be handled or prepared by persons with a communicable disease. Precautions shall be taken to assure the cleanliness of all individuals handling and preparing food. Individuals with coughs, sneezes, sore throats, or uncovered skin lesions shall not handle foods.

§151.69. Emergency Situations.

(a) There shall be procedures for handling emergency medical and behavioral situations. Physical restraints and seclusion shall not be used except in extreme cases to protect the client from injuring self or others when all other alternatives are exhausted.

(b) All personnel shall have current first aid training, including training in cardiopulmonary resuscitation (CPR) conducted by a Red Cross instructor or person certified to provide CPR training.

(c) There shall be a written policy and procedure to report any incident or unusual event relating to a client, such as an injury, medication error, a death, a seizure, or any sexual abuse. The incident report shall address, at a minimum, the type of incident, place and setting of incident, condition of client before and after incident, staff present (if applicable), staff action taken, facility director review and comments. If the incident is related to client abuse, exploitation, neglect or death, an investigation shall be conducted by the governing body or its designee consistent with Texas Civil Statutes, Article 5561cc. All incident reports shall be maintained by the facility.

(d) The death of a client shall be reported in writing to the commission's department of licensure within 72 hours. Within 30 calendar days, the facility's board shall submit to the commission the results of its investigation regarding the death.

§151.81. Services. Service descriptions are divided into detoxification, primary care, intermediate care, long-term care, and outpatient care services. Only the sections of this standard which cover the service(s) offered by the facility undergoing inspection will be applied. These standards cover the minimum amount of services required for each level of care.

151.82. Detoxification. The facility shall document the provision of at least the following elements of service: 24-hour supervised living environment, including room and board; medically supervised withdrawal from alcohol or other drugs; at least one registered or licensed vocational nurse on duty each shift; two hours of

alcohol education per week; a total of eight hours of group and/or individual counseling and AA orientation per week; counseling or referral services for client's family members and significant others; and referral services for unmet and ongoing needs of all clients at discharge.

§151.83. Primary Care. The facility shall document the provision of at least the following elements of service: eight hours of alcohol education per week; a total of 12 hours of services per week which must include group counseling, individual counseling, AA orientation, recreation and physical fitness; 24-hour supervised living environment, including room and board; counseling or referral services for client's family members and significant others; referral services for all clients at discharge for unmet and ongoing needs; and follow-up contact approximately 60 days after discharge to assess client progress.

§151.84. Intermediate Care. The facility shall document the provision of room and board and at least two hours of alcohol education per week; a total of eight hours of service per week which must include group and/or individual counseling, AA orientation, recreation, and physical fitness; counseling or referral services for client's family members and significant others; referral services for unmet and ongoing needs of all clients at discharge; and follow-up contact approximately 60 days after discharge to assess client progress.

§151.85. Long-Term Care. The facility shall document the provision of at least the following elements of service: five hours service per week which must include group or individual counseling, AA orientation, and recreation or physical fitness; 24-hour supervised living environment, including room and board; counseling or referral services for client's family members and significant others; referral services for all clients at discharge for unmet and ongoing needs; and follow-up contact approximately 60 days after discharge to assess client progress.

§151.86. Outpatient Care Services. The facility shall document the provision of at least the following elements of service: drug-free outpatient group and/or individual counseling; counseling or referral services for family members and significant others; referral services for unmet and ongoing needs of all clients at discharge; and follow-up contact approximately 60 days after discharge to assess client progress. Each treatment plan shall offer clients at least a total of 10 hours per week of a combination of alcohol education, group and individual counseling, AA orientation, and counseling or referral services for families and significant others.

§151.101. Clinical Records.

(a) An evaluation of the health, social, and emotional state of the client shall

be completed prior to the development and implementation of a treatment plan. The evaluation shall include, but not be limited to drinking and drug abuse history; family relationships; education background; social and economic status; legal history; a determination of current emotional state; cultural background; and vocational history. The results of this assessment shall be documented in the client's record. This assessment shall serve as the basis for the client's treatment plan.

(b) The treatment plan shall be individualized to the client and shall be developed in conjunction with the client.

Program staff shall develop individual treatment goals and objectives for the treatment plan. These goals and objectives shall be developed in conjunction with the client and shall be recorded in the client record. Program staff shall monitor the progress of the client toward treatment goals and objectives and record such in client record. This record shall include the medication documentation required in these standards.

(c) All clinical staff delivering services shall document these services in the individual client records, and there shall be documentation that the treatment plan is periodically reviewed, evaluated, and updated, as necessary, based on changes in the client's condition as shown in the client's record.

(d) The facility shall provide a discharge summary for each client. This summary shall describe the identified problems, services provided during the course of treatment, an assessment of client progress made while in treatment, and the reason for discharge. The discharge summary shall document the number of days that the client has been free of mood-altering chemicals.

(e) A discharge plan shall be developed for each client completing the regular course of treatment and shall include a plan of action and referral resources for continuation of care following discharge from the facility. It shall be developed in conjunction with the client and shall be recorded in the client record. The facility shall obtain the signature of the client on the discharge plan as evidence of the client's approval as to content.

§151.201. Physical Plant Requirements. These physical plant requirements shall apply to all facilities delivering detoxification, primary care, intermediate care, or long-term care services.

§151.202. Environment.

(a) The facility shall establish an environment that enhances the positive self-image of the client and preserves human dignity. If clothing is provided by the facility, it shall be appropriate and shall not be dehumanizing. Clients should be allowed to keep and display personal belongings and add personal touches to the decoration of their own rooms. Articles for grooming and

personal hygiene shall be readily available for the individual clients in spaces reserved adjacent to their sleeping areas. A client's personal articles shall be confiscated and kept under lock and key only for safekeeping or if they may be a danger to the client or others.

(b) To promote awareness of the time and the season, clocks and calendars shall be provided, at least in major use areas.

(c) The facility shall be clean, structurally sound, and not in need of painting. The furnishings shall be in good repair.

(d) Buildings and grounds shall be maintained, repaired, and cleaned so they are not hazardous to health and safety.

(e) Outdoor areas shall be well drained.

(f) The number of square feet per occupant shall be at least 60 square feet per resident in multiple-occupant sleeping rooms and not less than 80 square feet in single-occupant sleeping rooms. Bedrooms shall be large enough to allow space for a bed, bedside table, and lamp. Each client shall have access to a dresser, closet, table, and chair without crowding the occupants. There shall be one or more living rooms.

(g) There shall be space to allow clients to be counseled in privacy. Staff shall not office in a space designated for client activities.

(h) Storage items shall be neatly arranged and placed to minimize fire hazards. Gasoline, volatile materials, paint and similar products shall not be stored in a building housing residents. Nonvolatile hazardous items, such as janitor supplies and equipment, shall be in closets or spaces separate from resident use areas. Storage closets or spaces shall be maintained in a safe and sanitary condition and ventilated in a manner appropriate to the use of the closet or space.

(i) There shall be no enclosed usable space under stairs in an exit enclosure nor shall the open space under the stairs be used for any purpose other than storage of nonflammable materials.

(j) Metal wastebaskets or trash containers with at least a half-inch air space between the floor and bottom of the container shall be provided for bedrooms, offices, lounges, handicraft rooms, and similar locations. These containers shall be made of either substantial gauge steel or plastic which meets Underwriter Laboratories, Inc. (U.L.) standards.

(k) Garbage, waste, or trash containers provided for kitchens, janitor closets, laundries, mechanical rooms, general storage, and similar places shall be made of either steel and have a close-fitting steel cover or plastic meeting Underwriter Laboratories Inc. (U.L.) standards. All containers must have at least a half-inch air space between the floor and bottom of the container. Disposable plastic liners may be used in these containers for sanitation.

(l) Waste, trash, and garbage shall be

removed from the premises at regular intervals to prevent excessive accumulations. The building and grounds shall be kept neat and free from refuse, litter, accumulations of extraneous materials, and other unsightly or injurious accumulations.

(m) A pest control program shall be in operation in the facility. There shall be no evidence of roaches or other pests. Care shall be taken to insure the use of the least toxic and least flammable effective insecticides and rodenticides. Such services shall be provided by contract with a licensed pest control company. Certificate of service shall be kept on file at the facility and shall be made available to the commission upon request.

§151.203. General Structure.

(a) Every building or structure shall be so constructed, arranged, equipped, maintained and operated so as to avoid undue danger to the lives and safety of its occupants.

(b) Each facility shall conform to all state laws and local codes and ordinances. When such laws, codes and ordinances are more stringent than the standards of the commission, the more stringent requirements shall govern. Should state laws or local codes or ordinances be in conflict with the requirements of these standards, the commission shall be so informed.

(c) Illumination, either natural or artificial, shall be provided to supply the needs of the residents without eye strain or glare. Non-glare lighting fixtures and window glare-reduction devices shall be provided. Wall, floor, and ceiling surfaces shall generally provide reflectance factors that are compatible with good lighting practices as recommended by the Illuminating Engineering Society. Lighting shall be under the control of the occupants of the lighted area unless a therapeutic rationale for exclusive staff control is provided in the written program plan. The environment shall be designed to allow views of the outdoors and occupants' sleeping areas shall have natural light.

(d) Mobile homes or trailers are prohibited for client sleeping areas. Manufactured homes and modular homes built to the standards specified under Vernon's Texas Civil Statutes, Article 5221, are acceptable.

(e) All fires shall be reported to the commission in writing within 72 hours.

§151.204. Kitchens.

(a) All kitchens and food service rooms shall be in compliance with the standards of the health department having jurisdiction.

(b) Any opening to the outside shall be effectively screened against insects.

(c) Exhaust vents on hoods of kitchen ranges must terminate outside the building unless the appliance is designed to operate without a vent.

§151.205. Utilities.

(a) All gas pipes shall be pressure tested annually by the local gas company or a licensed plumber. A report of the results of this inspection shall be kept on file. Copies shall be submitted to the commission on request.

(b) A health care facility using liquefied petroleum gas shall have an annual inspection by the LP-Gas Division of the Texas Railroad Commission. A report of the results of this inspection shall be kept on file. Copies shall be submitted to the commission on request.

(c) All gas appliances shall have metal tubing and metal connections.

(d) An adequate supply of hot water shall be available to clients at all times. Temperature of hot water shall be automatically regulated not to exceed 120°F. All water heater relief valves shall be piped to the exterior. Gas-operated water heaters designed to be vented shall be properly vented to the exterior.

(e) Wastewater drainage and sewage shall be discharged into a state-approved municipal sewage system where such system is available; otherwise, the sewage and wastewater shall be collected, treated, and disposed of in a manner which is approved by the local health department having jurisdiction.

(f) The water supply shall be of safe and sanitary quality as approved by the Texas Department of Health. Quantity and pressure shall be as necessary to serve the needs of the facility.

§151.206. Plumbing.

(a) There shall be at least one lavatory, one tub or shower with hot and cold running water, and one private toilet for every eight residents and staff. All tubs and showers shall have nonslip bottoms on floor surfaces, or furnishings shall be provided to satisfy this requirement.

(b) All plumbing shall meet the requirements of state and local plumbing codes.

§151.207. Electrical.

(a) All electrical systems shall meet all requirements as set out in the National Electric Code, National Fire Protection Association Standard Number 70.

(b) The use of extension cords should be controlled to assure proper usage according to the cord rating.

(c) All portable electrical equipment designed to be grounded shall be used accordingly.

§151.208. Ventilation.

(a) Ventilation must be sufficient to admit fresh air and remove disagreeable odors. The facility shall be well ventilated through the use of windows, mechanical ventilation, or a combination of both. Rooms and areas not having outside windows and which are used by residents shall be provided with functioning mechanical

ventilation to change the air on a basis commensurate with the room usage.

(b) The facility must have the capability of maintaining building temperatures at a temperature level between 65°F and 85°F in occupied areas at all times. Mechanical equipment shall be properly designed to offset rapid changes in temperature. All open-face heating devices and space heaters are prohibited unless they are properly vented to the outside of the building. Working fireplaces are acceptable if they are of safe design and construction and if screened or otherwise enclosed.

(c) All windows and doors used for ventilation shall be screened for protection against insects.

§151.209. Fire and Safety.

(a) Exits shall be arranged and maintained to provide free and unobstructed egress from all parts of the building or structure at all times when it is occupied.

(b) Locks, if provided, shall not require the use of a key for operation from the interior. No padlock, hasp, bar, chain or other device, or combination thereof, shall be installed or maintained at any time on or in connection with any door, if such device prevents, or is intended to prevent, the free use of the door as an exitway.

(c) Every exit shall be clearly visible or the route to reach it shall be conspicuously marked so that every occupant who is not mentally and physically impaired will readily know the direction of escape from every point. Each path of escape, in its entirety, shall be so arranged or marked that the way to a place of safety is unmistakable. Any doorway, passageway, or window that is not an exit or the way to reach an exit, but which might be mistaken for an exit, shall be so arranged or marked to minimize its possible confusion with an exit with the resulting danger of persons trying to escape from a fire finding themselves trapped in a dead-end space from which there is no way out.

(d) Exits shall be so arranged that the maximum distance to travel from any point in the building or structure to the nearest outside door or stair shall not be more than 150 feet.

(e) Each facility shall develop an emergency evacuation plan approved by the fire marshal having jurisdiction. The plan shall be conspicuously posted throughout the facility, including in each bedroom, and will be reviewed by the commission during the inspection.

(f) There shall be at least one telephone in the facility available to staff and residents in case of an emergency. The telephone numbers of the fire department, the police department, and emergency ambulance service shall be posted conspicuously at or near the telephone.

(g) Smoking regulations shall be established and conspicuously posted throughout the facility. Ashtrays of non-combustible material and safe design shall

be provided.

(h) General meeting rooms occupied by more than 50 persons at any given time, shall have exit doors which are side-hinged, swinging-type, and shall swing with the direction of the exit travel.

(i) In no case shall access to an exit be through a bathroom, bedroom, or other room subject to locking, except where the exit is designed to serve only that room hangings or draperies shall not be placed over exit doors or located to conceal or obscure an exit. Mirrors shall not be placed on exit doors.

(j) All exits shall be at least 36 inches wide and six feet eight inches in height to provide occupants with a safe access.

(k) Illumination of exits shall be provided for every building and structure and be continuous during the time of occupancy. Artificial lighting shall be used at such places and for such periods of time as required to maintain the illumination of not less than one foot-candle measured at the floor.

(l) Exit routes shall be lit to the minimum requirements at all points including angles and intersections of corridors and passageways, stairways, landings of stairs, and exit doors to values of not less than one foot-candle measured at the floor. Any required illumination shall be so arranged that the failure of any single lighting unit, such as the burning out of an electric bulb, will not leave any area in darkness.

(m) Illumination of the exit route shall be from a source of reasonably assured reliability, such as a public utility electric service. No battery-operated electric light nor any type of portable lamp or lantern shall be used for primary illumination of the exit, but may be used as a source of emergency lighting.

(n) In case of electrical failure, the following shall be available:

(1) On each floor or in each section of a structure with 15 or fewer residents, there shall be an operating battery-powered electric lantern or flashlight.

(2) On each floor or in each section of a structure with 16 or more residents, there shall be an electric battery-operated emergency light obtained from a business certified by the State Fire Marshal as a fire equipment service company.

(3) In any area where more than 50 persons may meet, there shall be an electric battery-operated emergency light obtained from a business certified by the state fire marshal as a fire equipment service company.

(o) Every exit shall have an "Exit" sign illuminated by a reliable light source giving a value of not less than five foot-candles on the illuminated surface and down light. The letters on the sign must be not less than six inches high with the principal strokes of letters not less than 3/4 inch wide.

(p) A sign reading "Exit," with an

arrow indicating the direction, shall be placed in every location where the way to the nearest exit is not visible.

(q) Every exit sign shall be distinctive in color and shall provide contrast with decorations, interior finish, or other signs.

(r) Every building or structure in which occupants may be endangered by the blocking of a single exit-way due to fire or smoke shall have at least two exit routes remote from each other, so arranged as to minimize the possibility that both may be blocked by any one fire or other emergency condition. Where occupants sleep above the ground floor, it is preferred that both exit routes be enclosed interior stairs which are remote from each other and arranged to minimize the possibility that both could be blocked by any one fire or other emergency condition. An acceptable alternative would be one enclosed interior stairway and the other a permanent exterior stairway or fire escape. Portable ladders, rope fire escapes, and similar emergency escape devices are not acceptable as permanent escape routes.

§151.210. Stairs, Landings and Balconies.

(a) All stairs intended to serve as an exit shall be of permanent fixed construction.

(b) Stairs shall be constructed in accordance with the following specifications:

(1) minimum width—36 inches;

(2) maximum height of risers—eight inches;

(3) minimum width of tread—nine inches;

(4) minimum head room—six feet, eight inches;

(5) minimum dimension of landings in direction of travel—44 inches.

(c) All stairs, platforms, landings, and balconies shall be designed to support a concentrated load of 300 pounds so located as to produce maximum stress conditions.

(d) Where the material of stair treads and landings is such as to involve a danger of slipping, a nonslip material shall be provided and installed on tread surface.

(e) All stairways and intermediate landings shall continue with no decrease in width along the direction of exit travel.

(f) Exits such as stairs, ramps, balconies, and stair landings higher than 30 inches shall have guards to prevent falls over the open sides. Required guards and handrails shall continue for the full length of each flight of stairs. Guards and handrails, and the hardware for attaching same, shall be so designed and installed that there are no projections which could snag loose clothing or impede travel.

(g) The height for stair handrails shall be not less than 30 inches nor more than 34 inches above the upper surface of the tread, measured vertically to the top of the rail from a point on the tread one inch back from the leading edge. Handrails shall provide a clearance of at least 1 1/2 inches bet-

ween the handrail and the wall to which it is fastened.

§151.211. Ramps.

(a) A ramp shall not have a slope greater than one foot rise in 12 feet and the minimum width shall be 36 inches.

(b) A ramp shall have smooth handrails on at least one side, but preferably two sides, that are 36 inches in height, measured from the surface of the ramp to the top of the handrail, and that extend one foot beyond the top and bottom of the ramp.

(c) Ramps shall have a nonslip surface. A ramp shall have a level platform at the top which is at least five feet by five feet if a door swings out onto the platform or toward the ramp. This platform shall extend at least one foot beyond each side of the doorway. A ramp shall have a level platform at least three feet deep and five feet wide if the door does not swing onto the platform or toward the ramp. This platform shall extend at least one foot beyond each side of the doorway. Each ramp shall have at least six feet of straight clearance at the bottom. All ramps shall have level platforms wherever they turn.

(d) A ramp and its platforms and landings shall be designed for not less than 100 pounds per square foot live load.

§151.212. Fire Escape Ladders. No form of ladder shall be used as a fire escape to meet licensure standards.

§151.213. Fire Escape Stairs.

(a) Fire escape stairs may be used as required means of exit only in buildings built before 1985, providing they meet or exceed the following standards. Fire escape stairs shall not be accepted as constituting any part of the required means of exit for new buildings.

(b) Fire escape stairs shall provide a continuous unobstructed safe path of travel to the ground or other safe area of refuge to which they lead. Fire escape stairs shall be constructed in accordance with the following:

(1) minimum width—18 inches clear between rails;

(2) maximum height of risers—12 inches;

(3) minimum width of tread—six inches;

(4) tread construction—flat metal bars on edge, or square bars secured against turning;

(5) minimum head room—six feet, six inches;

(6) access to escape—door or window.

(c) Fire escape stairs shall be so arranged that they will be exposed by the smallest possible number or area of window and door openings.

(d) Where access to a fire escape stair is by way of double-hung windows, such windows shall be counterbalanced and maintained so they can be readily opened with a minimum of physical effort. Screens

on any type of opening giving access to fire escape stairs shall be of types that may be readily opened or pushed out. No storm sash shall be used on any window providing access to fire escape stairs. Balconies to which access is secured through windows with sills above the inside floor level shall be not more than 18 inches below the sill.

(e) Iron, steel, or other approved noncombustible material shall be used for the construction of fire escape stairs, balconies, and railings. Balconies and stairs shall be designed to carry a load of 100 pounds per square foot or a concentrated load of 300 pounds so located as to produce maximum stress conditions. All supporting members for balconies and stairs which are in tension and are fastened directly to the building shall pass through the wall and be securely fastened on the opposite side, or they shall be securely fastened to the framework of the building. Where metal members pass through walls, they shall be protected against corrosion.

(f) All fire escapes shall have either walls and/or handrails on both sides. Handrails shall be 36 inches high, measured vertically from a point on the stair tread one inch back from the leading edge, or vertically above any landing or balcony floor level to the top of handrail. Handrails and guards shall be so constructed as to withstand a force of 200 pounds applied downward or horizontally at any point.

§151.214. Portable Fire Extinguishers.

(a) At least one portable U.L. or F.M.-approved five pound class B:C dry chemical fire extinguisher, rechargeable type, is required in each laundry, kitchen, and walk-in mechanical room. A:B:C type extinguishers are not recommended for use in kitchens.

(b) Portable U.L. or F.M.-approved 2½ gallon stored pressure water-type fire extinguishers (Class A) must be provided in public areas serving resident bedrooms. One such unit shall be located within 50 feet of any resident bedroom or provided for each 2,000 square feet of floor space or fraction thereof. Acidic base fire extinguishers (A:B:C) are not approved for facility use.

(c) Extinguishers must be conspicuously located where they will be readily accessible, available, and never obstructed or obscured from view. Units must be installed on hangers or brackets supplied with the units, mounted in special cabinets or set on shelves specifically dedicated to the units, and operating instructions shall face outward. Mounting heights must be convenient, and in no case shall the extinguisher be mounted closer than four inches to the floor nor higher than five feet from the floor.

(d) Regular monthly inspection should be made by facility representatives to assure that extinguishers are in proper location, that any seals or tamper indicators are not broken, that there is no obvious

physical damage, that there is no visible corrosion or leakage, that the gauge indicates a full charge, that the annual service tag is in place and up to date, and that the units appear to be in proper working order. Annual maintenance must be accomplished in accordance with National Fire Protection Association Standard No. 10A by competent personnel licensed or certified to perform servicing by the state fire marshal. A service tag format established by the state fire marshal must be securely fastened to each extinguisher. Hydrostatic testing must be accomplished in accordance with regulations of the state fire marshal. Unserviceable extinguishers must be replaced.

§151.215. Smoke Detection Equipment.

(a) At a minimum, self-contained, battery-operated, automatic smoke-detection and alarm-initiation systems shall be installed in all structures housing 15 or fewer residents. The audible alarm should be capable of being effectively heard above the maximum noise level occurring during normal activities. The location of the devices shall be on the ceiling or on the side walls near the ceiling at the top of all stairwells of two-story buildings or structures, in the hall or passageway of one-story sleeping quarters, and on kitchen or adjacent ceiling areas. All smoke detectors shall be inspected and tested in accordance with the manufacturer's recommendations. All smoke detectors shall be U.L. approved.

(b) Fixed automatic smoke-detection alarm initiating devices shall be installed in all structures housing 16 or more residents. However, single-story structures may be permitted to install fixed smoke detectors with alarm devices, but without the control panel, the alarm-indicating device, and manual fire alarm boxes. The detectors shall be wired so that any single alarm being activated will activate all of the detector alarm devices or any other device audible throughout the facility. All fixed smoke-detection systems shall include, but not be limited to, a control panel, smoke-detection devices, manual fire alarm boxes, and an alarm-indicating device. The location of smoke-detection devices shall be based upon a survey of the area to be protected, and then so located and adjusted as to operate reliably in case of smoke in any part of the protected area. The connection of smoke-detection devices shall not impair the effectiveness and dependability of indicating devices. Audible alarm-indicating devices shall be of such character and so distributed as to be effectively heard above the maximum noise level occurring under normal conditions of occupancy. A manual fire alarm box shall be provided in a natural path of escape from fire, near each exit from an area and shall be readily accessible, unobstructed, and at visible points. The system shall be installed by a qualified, responsible person licensed by the state fire marshal for such installation. Systems shall

be tested periodically as recommended by the manufacturer.

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 September 12, 1985.

TRD-858455

Ross Newby
Executive Director
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption:

October 21, 1985

For further information, please call
(512) 475-2755.

★ ★ ★

Standards for First Year Permit

★ 40 TAC §§151.301-151.308,
151.311-151.325

The new sections are proposed under Texas Civil Statutes, Article 5561cc, which provide the Texas Commission on Alcohol and Drug Abuse with the authority to require that all alcohol treatment facilities must be licensed by the commission as of January 1, 1986.

§151.301. *Governing Authority.*

(a) The organization shall operate under legal authority by virtue of incorporation or other authorizing state statutory authority. The organization shall maintain its good standing, current status, and reporting requirements with the State of Texas pursuant to state law as a continuing requirement for licensure.

(b) The governing authority shall exercise general direction over and establish policies concerning the operation of the alcohol treatment facility. The governing authority shall maintain full responsibility for the fiscal and managerial integrity of the facility and compliance with licensure standards.

(c) Minutes of all governing authority meetings shall be recorded and maintained in the registered office of the organization and also at the facility itself. These minutes shall verify that a quorum was present, and if a quorum is not present, the governing authority shall avoid taking action and votes. The governing authority shall be in compliance with the provisions of its bylaws on terms of office for board members and election or appointment of new members. The officers of a nonprofit organization shall consist of at least a president, vice president, and secretary/treasurer and those officers shall be elected at least every three years.

(d) The governing authority shall appoint an executive director whose qualifications meet the minimum standards set by the board for the position. The governing authority shall delegate authority, responsi-

bility, and duties in writing to the director for the management of the facility in accordance with established policy.

§151.302. *Organizational Structure.*

(a) There shall be an organizational chart describing the facility's lines of supervision of staff and consultants.

(b) There shall be a contract on file outlining the duties, responsibilities, and compensation of any person serving in the capacity of a consultant.

(c) Personnel policies shall include health screening requirements and standards for exclusion from the work place of any employee whose health condition poses a potential risk to clients and other employees.

(d) The organization shall adopt a personnel policy prohibiting all use of alcohol and other mood-altering drugs by the organization's staff during the duty hours of staff, unless medically prescribed. The facility shall develop policies and procedures to address active alcoholism and drug abuse of staff in a manner which fosters recovery while at the same time safeguarding clients.

§151.303. *Admission of Clients.*

(a) There shall be written admission eligibility requirements.

(b) There shall be documentation verifying that a medical examination has been completed during the current span of treatment as determined by the physician. Assessment of the client's medical needs shall be made in consultation with a physician. The facility shall provide a referral for treatment of medical needs, if such service is not directly provided by the facility. The findings of the medical examination shall be documented in the client's record.

(c) The facility shall require, as a condition of admission, written client consent to disclose the client's records to the commission for purposes of evaluating client care or auditing client services.

§151.304. *Involuntary Clients.*

(a) There shall be 24-hour supervision of involuntary clients to preclude the unauthorized departure of a client. A facility employee must be present at all times to supervise involuntary clients.

(b) There shall be a written policy and procedure on passes or furloughs and the revocation of furloughs.

(c) The facility shall have a procedure to report the unauthorized departure of an involuntary client to the appropriate court issuing the court order and to appropriate law enforcement agencies immediately. At admission, the facility shall attempt to secure written consent of the client for such purposes.

§151.305. *Client Rights.*

(a) The facility shall have a written policy that provides for client rights and which includes, at a minimum:

(1) the right to treatment in the

least restrictive environment compatible with therapeutic needs and protection of the client and community;

(2) the right to refuse treatment and medication and to be advised of the consequences of such refusal;

(3) the right to refuse to participate in a research program without compromising access to services to which the client is otherwise entitled;

(4) the right to actively participate in the development of an individualized treatment plan and to have the plan periodically reviewed. This includes the right to know and to meet with the professional staff members responsible for the client's care, to know their professional qualifications, and to know their staff positions;

(5) the right to a humane and safe environment affording reasonable protection from harm and appropriate privacy with regard to personal needs;

(6) the right to communicate with others and to have visitors on the premises unless restricted for good cause by the director of the facility;

(7) the right to be free from mistreatment, abuse, neglect, and exploitation;

(8) the right, within 24 hours of admission, to be informed verbally and in writing, in simple, nontechnical terms in a language the client can understand, of the rights listed in paragraphs (1)-(7) of this subsection. The facility shall inform each client of the facility's participation requirements and other rules and expectations pertaining to the client.

(b) The facility shall establish rules and procedures pertaining to the client who refuses treatment or medication against medical advice. The facility shall inform clients who refuse treatment or prescribed medications of the consequences of their actions.

(c) The facility shall have general rules and procedures regarding visitation and communications outside the facility. Any restriction made by the director of the facility on visitation or communication shall be justified in the client's file and shall be based on reasonable grounds pertaining to the welfare of the client or other clients. There shall be no restriction of communication between clients and their attorneys, or the Texas Commission on Alcohol and Drug Abuse, or the attorney general of Texas or the courts.

(d) The facility shall have rules and procedures to protect client rights and privacy with respect to facility visitors. Such visitations and tours shall be conducted so as to avoid unnecessary interruption of clients' usual activities and therapeutic programs.

(e) Treatment records of the client shall be kept confidential and shall be disclosed only for the purposes and in the manner expressed and authorized in applicable federal and state laws and regulations. The

facility shall establish required procedures to keep and protect all records to ensure such compliance and shall orient staff to these procedures.

(f) The governing authority shall establish rules of staff conduct toward clients and procedures to investigate allegations of violations of these rules. If any investigation confirms an allegation, the facility shall take appropriate action against the staff member. In addition, if the rule violation is also a violation of the code of ethics of the organization by which the staff person is credentialed, the facility shall also report its findings to that credentialing body.

(g) The governing authority shall have a written statement of its policies and practices regarding client grievances and for investigating and remedying complaints and cases of abuse and neglect of its clients. The statement shall, at a minimum, encompass the elements of the client abuse, neglect, and exploitation of clients consistent with Texas Civil Statutes, Article 5561cc, and as defined in these licensure standards. The statement shall be prominently displayed in the facility and shall be given to all facility personnel and there shall be documentation verifying that this written statement is annually reviewed and approved by the governing body. Complaints and alleged violations and the results of any investigation shall be documented and appropriate action taken by the governing authority or its designee. This documentation shall be maintained at the facility and shall be available for inspection. Complaints which cannot be resolved by the governing authority shall be forwarded to the commission for resolution through its board of inquiry.

(h) Clients shall be encouraged to take responsibility for maintaining their own living quarters, but such responsibilities shall be clearly defined in writing and provided to the client at orientation. The facility shall demonstrate that these responsibilities do not constitute full-time, reimbursable work, but are an integral part of therapeutic treatment. In no case shall these responsibilities interfere with other treatment services to clients.

§151.306. Medications.

(a) The facility shall have written policies and procedures to govern the prescribing, dispensing, and administering of medication, including those products commonly known as nonprescription medications. Such policies and procedures shall comply with state and federal law.

(b) All medications administered to a client by the facility, whether prescribed or nonprescribed, shall be documented as to time, route, amount, purpose, and any adverse reaction in the client's clinical record as specified in §151.311(b) of this title (relating to Clinical Records). Any adverse reaction to the drug by the client must be reported to the prescribing physician.

(c) All medication, both prescribed and nonprescribed, shall be kept under lock and key in a secure area reserved for medication. On a 24-hour basis, a specific staff member shall be assigned as responsible for record keeping and access to the locked area.

(d) If a facility provides detoxification, it shall have a licensed physician on staff or under contract, and no medications shall be given during detoxification except as ordered by that physician. Physicians shall not issue standing orders for medication unless there is a licensed vocational or registered nurse on duty to carry out those orders.

§151.307. Nutrition.

(a) An adequate diet meeting adult recommended dietary allowances as established by the U.S. Department of Agriculture shall be provided to all residents.

(b) Food shall not be handled or prepared by persons with a communicable disease. Precautions shall be taken to assure the cleanliness of all individuals handling and preparing food. Individuals with coughs, sneezes, sore throats, or uncovered skin lesions shall not handle foods.

§151.308. Emergency Situations.

(a) There shall be procedures for handling emergency medical and behavioral situations. Physical restraints and seclusion shall not be used except in extreme cases to protect the client from injuring self or others when all other alternatives are exhausted.

(b) All personnel shall have current first aid training, including training in cardio-pulmonary resuscitation (CPR) conducted by a Red Cross instructor or person certified to provide CPR training.

(c) There shall be a written policy and procedure to report any incident or unusual event relating to a client, such as an injury, medication error, a death, a seizure, or any sexual abuse. The incident report shall address, at a minimum, the type of incident, place and setting of incident, condition of client before and after incident, staff present (if applicable), staff action taken, facility director review and comments. If the incident is related to client abuse, exploitation, neglect or death, an investigation shall be conducted by the governing body or its designee consistent with Texas Civil Statutes, Article 5561cc. All incident reports shall be maintained by the facility.

(d) The death of a client shall be reported in writing to the commission's department of licensure within 72 hours. Within 30 calendar days, the facility's board shall submit to the commission the results of its investigation regarding the death.

§151.311. Clinical Records.

(a) An evaluation of the health, social, and emotional state of the client shall be completed prior to the development and implementation of a treatment plan. The evaluation shall include, but not be limited

to, drinking and drug abuse history; family relationships; education background; social and economic status; legal history; a determination of current emotional state; cultural background; and vocational history. The results of this assessment shall be documented in the client's record. This assessment shall serve as the basis for the client's treatment plan.

(b) The treatment plan shall be individualized to the client and shall be developed in conjunction with the client. Program staff shall develop individual treatment goals and objectives for the treatment plan. These goals and objectives shall be developed in conjunction with the client and shall be recorded in the client record. Program staff shall monitor the progress of the client toward treatment goals and objectives and record such in client record. This record shall include the medication documentation required in these standards.

§151.312. Physical Plant Requirements. These physical plant requirements shall apply to all facilities delivering detoxification, primary care, intermediate care, or long-term care services.

§151.313. Environment.

(a) The facility shall establish an environment that enhances the positive self-image of the client and preserves human dignity. If clothing is provided by the facility, it shall be appropriate and shall not be dehumanizing. Clients should be allowed to keep and display personal belongings and add personal touches to the decoration of their own rooms. Articles for grooming and personal hygiene shall be readily available for the individual clients in spaces reserved adjacent to their sleeping areas. A client's personal articles shall be confiscated and kept under lock and key only for safekeeping or if they may be a danger to the client or others.

(b) Buildings and grounds shall be maintained, repaired, and cleaned so they are not hazardous to health and safety.

(c) Outdoor areas shall be well drained.

(d) Storage items shall be neatly arranged and placed to minimize fire hazards. Gasoline, volatile materials, paint, and similar products shall not be stored in a building housing residents. Nonvolatile hazardous items, such as janitor supplies and equipment, shall be in closets or spaces separate from resident use areas. Storage closets or spaces shall be maintained in a safe and sanitary condition and ventilated in a manner appropriate to the use of the closet or space.

(e) There shall be no enclosed usable space under stairs in an exit enclosure nor shall the open space under the stairs be used for any purpose other than storage of non-flammable materials.

(f) Metal wastebaskets or trash containers with at least a half-inch air space between the floor and bottom of the container

shall be provided for bedrooms, offices, lounges, handicraft rooms, and similar locations. These containers shall be made of either substantial gauge steel or plastic which meets Underwriter Laboratories, Inc. (U.L.) standards.

(9) Garbage, waste, or trash containers provided for kitchens, janitor closets, laundries, mechanical rooms, general storage, and similar places shall be made of either steel and have a close-fitting steel cover or plastic meeting Underwriter Laboratories, Inc. (U.L.) standards. All containers must have at least a half-inch air space between the floor and bottom of the container. Disposable plastic liners may be used in these containers for sanitation.

(h) Waste, trash, and garbage shall be removed from the premises at regular intervals to prevent excessive accumulations. The building and grounds shall be kept neat and free from refuse, litter, accumulations of extraneous materials, and other unsightly or injurious accumulations.

(i) A pest control program shall be in operation in the facility. There shall be no evidence of roaches or other pests. Care shall be taken to insure the use of the least toxic and least flammable effective insecticides and rodenticides. Such services shall be provided by contract with a licensed pest control company. Certificate of services shall be kept on file at the facility and shall be made available to the commission upon request.

§151.314. General Structure.

(a) Every building or structure shall be so constructed, arranged, equipped, maintained, and operated so as to avoid undue danger to the lives and safety of its occupants.

(b) Each facility shall conform to all state laws and local codes and ordinances. When such laws, codes, and ordinances are more stringent than the standards of the commission, the more stringent requirements shall govern. Should state laws or local codes or ordinances be in conflict with the requirements of these standards, the commission shall be so informed.

(c) Mobile homes or trailers are prohibited for client sleeping areas. Manufactured homes and modular home built to the standards specified under Texas Civil Statutes, Article 5221, are acceptable.

(d) All fires shall be reported to the commission in writing within 72 hours.

§151.315. Kitchens.

(a) All kitchens and food service rooms shall be in compliance with the standards of the health department having jurisdiction.

(b) Any opening to the outside shall be effectively screened against insects.

(c) Exhaust vents on hoods of kitchen ranges must terminate outside the building unless the appliance is designed to operate without a vent.

§151.316. Utilities.

(a) All gas pipes shall be pressure tested annually by the local gas company or a licensed plumber. A report of the results of this inspection shall be kept on file. Copies shall be submitted to the commission on request.

(b) A health care facility using liquefied petroleum gas shall have an annual inspection by the LP-Gas Division of the Texas Railroad Commission. A report of the results of this inspection shall be kept on file. Copies shall be submitted to the commission on request.

(c) All gas appliances shall have metal tubing and metal connections.

(d) An adequate supply of hot water shall be available to clients at all times. Temperature of hot water shall be automatically regulated not to exceed 120°F. All water heater relief valves shall be piped to the exterior. Gas-operated water heaters designed to be vented shall be properly vented to the exterior.

(e) Wastewater drainage and sewage shall be discharged into a state-approved municipal sewage system where such system is available; otherwise, the sewage and wastewater shall be collected, treated, and disposed of in a manner which is approved by the local health department having jurisdiction.

(f) The water supply shall be of safe and sanitary quality as approved by the Texas Department of Health. Quantity and pressure shall be as necessary to serve the needs of the facility.

§151.317. Plumbing. All plumbing shall meet the requirements of state and local plumbing codes.

§151.318. Electrical.

(a) All electrical systems shall meet all requirements as set out in the National Fire Protection Association Standard Number 70, National Electrical Code.

(b) The use of extension cords should be controlled to assure proper usage according to the cord rating.

(c) All portable electrical equipment designed to be grounded shall be used accordingly.

§151.319. Ventilation.

(a) Ventilation must be sufficient to admit fresh air and remove disagreeable odors. The facility shall be well ventilated through the use of windows, mechanical ventilation, or a combination of both. Rooms and areas not having outside windows and which are used by residents shall be provided with functioning mechanical ventilation to change the air on a basis commensurate with the room usage.

(b) The facility must have the capability of maintaining building temperatures at a temperature level between 65°F and 85°F in occupied areas at all times. Mechanical equipment shall be properly designed to offset rapid changes in

temperature. All open-face heating devices and space heaters are prohibited unless they are properly vented to the outside of the building. Working fireplaces are acceptable if they are of safe design and construction and if screened or otherwise enclosed.

(c) All windows and doors used for ventilation shall be screened for protection against insects.

§151.320. Fire and Safety.

(a) Exits shall be arranged and maintained to provide free and unobstructed egress from all parts of the building or structure at all times when it is occupied.

(b) Locks, if provided, shall not require the use of a key for operation from the interior. No padlock, hasp, bar, chain, or other device, or combination thereof, shall be installed or maintained at any time on or in connection with any door, if such device prevents, or is intended to prevent, the free use of the door as an exitway.

(c) Every exit shall be clearly visible or the route to reach it shall be conspicuously marked so that every occupant who is not mentally and physically impaired will readily know the direction of escape from every point. Each path of escape, in its entirety, shall be so arranged or marked that the way to a place of safety is unmistakable. Any doorway, passageway, or window that is not an exit or the way to reach an exit, but which might be mistaken for an exit, shall be so arranged or marked to minimize its possible confusion with an exit with the resulting danger of persons trying to escape from a fire finding themselves trapped in a dead-end space from which there is no way out.

(d) Exits shall be so arranged that the maximum distance to travel from any point in the building or structure to the nearest outside door or stair shall not be more than 150 feet.

(e) Each facility shall develop an emergency evacuation plan approved by the fire marshal having jurisdiction. The plan shall be conspicuously posted throughout the facility, including in each bedroom, and will be reviewed by the commission during the inspection.

(f) There shall be at least one telephone in the facility available to staff and residents in case of an emergency. The telephone numbers of the fire department, the police department, and emergency ambulance service shall be posted conspicuously at or near the telephone.

(g) Smoking regulations shall be established and conspicuously posted throughout the facility. Ashtrays of non-combustible material and safe design shall be provided.

(h) General meeting rooms occupied by more than 50 persons at any given time, shall have exit doors which are side-hinged, swinging-type, and shall swing with the direction of the exit travel.

(i) In no case shall access to an exit be through a bathroom, bedroom, or other

room subject to locking, except where the exit is designed to serve only that room. Hangings or draperies shall not be placed over exit doors or located to conceal or obscure an exit. Mirrors shall not be placed on exit doors.

(j) All exits shall be at least 36 inches wide and six feet eight inches in height to provide occupants with a safe access.

(k) In case of electrical failure, the following shall be available.

(1) On each floor or in each section of a structure with 15 or fewer residents, there shall be an operating battery-powered electric lantern or flashlight.

(2) On each floor or in each section of a structure with 16 or more residents, there shall be an electric battery-operated emergency light obtained from a business certified by the state fire marshal as a fire equipment service company.

(3) In any area where more than 50 persons may meet, there shall be an electric battery-operated emergency light obtained from a business certified by the state fire marshal as a fire equipment service company.

(l) Every exit shall have an "Exit" sign illuminated by a reliable light source giving a value of not less than five foot-candles on the illuminated surface and down light. The letters on the sign must be not less than six inches high with the principal strokes of letters not less than ¼ inch wide.

(m) A sign reading "Exit," with an arrow indicating the direction, shall be placed in every location where the way to the nearest exit is not visible.

(n) Every "exit" sign shall be distinctive in color and shall provide contrast with decorations, interior finish, or other signs.

(o) Every building or structure in which occupants may be endangered by the blocking of a single exit-way due to fire or smoke shall have at least two exit routes remote from each other, so arranged as to minimize the possibility that both may be blocked by any one fire or other emergency condition. Where occupants sleep above the ground floor, it is preferred that both exit routes be enclosed interior stairs which are remote from each other and arranged to minimize the possibility that both could be blocked by any one fire or other emergency condition. An acceptable alternative would be one enclosed interior stairway and the other a permanent exterior stairway or fire escape. Portable ladders, rope fire escapes, and similar emergency escape devices are not acceptable as permanent escape routes.

§151.321. Stairs, Landings and Balconies.

(a) All stairs intended to serve as an exit shall be of permanent fixed construction.

(b) All stairs, platforms, landings, and balconies shall be designed to support a concentrated load of 300 pounds so lo-

cated as to produce maximum stress conditions.

(c) Where the material of stair treads and landings is such as to involve a danger of slipping, a nonslip material shall be provided and installed on tread surface.

(d) Exits such as stairs, ramps, balconies, and stair landings higher than 30 inches shall have guards to prevent falls over the open sides. Required guards and handrails shall continue for the full length of each flight of stairs. Guards and handrails, and the hardware for attaching same, shall be so designed and installed that there are no projections which could snag loose clothing or impede travel.

§151.322. Fire Escape Ladders. No form of ladder shall be used as a fire escape to meet licensure standards.

§151.323. Fire Escape Stairs.

(a) Fire escape stairs may be used as required means of exit only in buildings built before 1985, providing they meet or exceed the following standards. Fire escape stairs shall not be accepted as constituting any part of the required means of exit for new buildings.

(b) Fire escape stairs shall provide a continuous unobstructed safe path of travel to the ground or other safe area of refuge to which they lead. Fire escape stairs shall be constructed in accordance with the following:

(1) minimum width—18 inches clear between rails;

(2) maximum height of risers—12 inches;

(3) minimum width of tread—six inches;

(4) tread construction—flat metal bars on edge, or square bars secured against turning;

(5) minimum head room—six feet, six inches;

(6) access to escape—door or window.

(c) Fire escape stairs shall be so arranged that they will be exposed by the smallest possible number or area of window and door openings.

(d) Where access to a fire escape stair is by way of double-hung windows, such windows shall be counterbalanced and maintained so they can be readily opened with a minimum of physical effort. Screens on any type of opening giving access to fire escape stairs shall be of types that may be readily opened or pushed out. No storm sash shall be used or any window providing access to fire escape stairs. Balconies to which access is secured through windows with sills above the inside floor level shall be not more than 18 inches below the sill.

(e) Iron, steel, or other approved noncombustible material shall be used for the construction of fire escape stairs, balconies, and railings. Balconies and stairs shall be designed to carry a load of 100 pounds per square foot or a concentrated

load of 300 pounds so located as to produce maximum stress conditions. All supporting members for balconies and stairs which are in tension and are fastened directly to the building shall pass through the wall and be securely fastened on the opposite side, or they shall be securely fastened to the framework of the building. Where metal members pass through walls, they shall be protected against corrosion.

(f) All fire escapes shall have either walls and/or handrails on both sides. Handrails shall be 36 inches high, measured vertically from a point on the stair tread one inch back from the leading edge, or vertically above any larding or balcony floor level to the top of handrail. Handrails and guards shall be so constructed as to withstand a force of 200 pounds applied downward or horizontally at any point.

§151.324. Portable Fire Extinguishers.

(a) At least one portable U.L. or F.M.-approved five pound class B:C dry chemical fire extinguisher, rechargeable type, is required in each laundry, kitchen, and walk-in mechanical room. A:B:C type extinguishers are not recommended for use in kitchens.

(b) Portable U.L. or F.M.-approved 2½ gallon stored pressure water-type fire extinguishers (Class A) must be provided in public areas serving resident bedrooms. One such unit shall be located within 50 feet of any resident bedroom or provided for each 2,000 square feet of floor space or fraction thereof. Acidic base fire extinguishers (A:B:C) are not approved for facility use.

(c) Extinguishers must be conspicuously located where they will be readily accessible, available, and never obstructed or obscured from view. Units must be installed on hangers or brackets supplied with the units, mounted in special cabinets or set on shelves specifically dedicated to the units, and operating instructions shall face outward. Mounting heights must be convenient, and in no case shall the extinguisher be mounted closer than four inches to the floor nor higher than five feet from the floor.

(d) Regular monthly inspection should be made by facility representatives to assure that extinguishers are in proper location, that any seals or tamper indicators are not broken, that there is no obvious physical damage, that there is no visible corrosion or leakage, that the gauge indicates a full charge, that the annual service tag is in place and up-to-date, and that the units appear to be in proper working order. Annual maintenance must be accomplished in accordance with National Fire Protection Association Standard 10A by competent personnel licensed or certified to perform servicing by the state fire marshal. A service tag format established by the state fire marshal must be securely fastened to each extinguisher. Hydrostatic testing must be accomplished in accordance with regulations of the state fire marshal. Unserviceable extinguishers must be replaced.

§151.325. Smoke-Detection Equipment.

At a minimum, self-contained, battery-operated, automatic smoke-detection and alarm-initiation systems shall be installed in all structures housing residents. The audible alarm should be capable of being effectively heard above the maximum noise level occurring during normal activities. The location of the devices shall be on the ceiling or on the side walls near the ceiling at the top of all stairwells of two-story buildings or structures, in the hall or passageway of one-story sleeping quarters, and on kitchen or adjacent ceiling areas. All smoke detectors shall be inspected and tested in accordance with the manufacturer's recommendations. All smoke detectors shall be U.L. approved.

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 September 12, 1985.

TRD-858454

Ross Newby
Executive Director
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption:

October 21, 1985

For further information, please call
(512) 475-2577.

Additional Standards for Year Two Permit

★ 40 TAC §§151.401-151.415

These new sections are proposed under Texas Civil Statutes, Article 5561cc, which provide the Texas Commission on Alcohol and Drug Abuse with the authority to require that all alcohol treatment facilities must be licensed by the commission as of January 1, 1986.

§151.401. Governing Authority.

(a) A nonprofit organization shall at least annually provide for the education of its board members with respect to legal powers, rights, privileges, duties, liabilities, and disabilities of board members. This education may be provided by legal counsel, local United Way, a professional consultant in board training, or a formalized board training program developed by the organization.

(b) The governing authority or the director shall develop a policy manual that describes the regulations, principles, guidelines, and personnel policies that determine the facility's operation. This shall be reviewed, updated, and approved at least annually by the governing authority, and this policy manual shall be available to all staff.

(c) The organization shall encourage staff training and shall provide funds for staff to participate in in-service training and education and shall provide documentation of staff participation in in-service training and education.

§151.402. Organizational Structure.

(a) There shall be written job descriptions outlining the duties and responsibilities for all positions. Each job description shall state the qualifications, reporting supervisor, positions supervised, and duties.

(b) There shall be written personnel procedures that shall include evaluation of personnel performance on at least an annual basis. This evaluation shall be in writing and reviewed with the employee affected.

(c) Personnel policies shall prohibit employment of former clients as staff members within six months of discharge.

§151.403. Admission of Clients.

(a) If a person is eligible for services provided by the facility and seeks such services, then that person shall be admitted as a client of the facility. Persons not eligible for admission to the facility or for whom the facility cannot provide the needed services shall be referred to appropriate services, and such referral shall be documented by the facility.

(b) The facility shall inform all clients about the cost of their care, how much of that cost is charged to them, what fees are paid by other resources in their behalf, what these payments cover, any limitations placed on the duration of services, and shall document this disclosure in writing.

§151.404. Client Rights. The facility shall establish rules and procedures pertaining to the client who refuses treatment or medication against medical advice. The facility shall inform clients who refuse treatment or prescribed medications of the consequences of their actions.

§151.405. Medications.

(a) Medication brought into the facility by clients at admission shall not be administered. The prescribing physician will be contacted for a new prescription which may be filled locally.

(b) The facility shall have a policy and procedure for the disposal of medication left at the facility by a discharged client and this policy shall consider the risks of illicit use by others.

(c) The facility shall maintain a current *Physician's Desk Reference* or other pharmacopoeia for the use of staff in ascertaining side effects, adverse effects, actions, and contraindications of any drug given a client.

§151.406. Services. Service descriptions are divided into detoxification, primary care, intermediate care, long-term care, and outpatient care services. Only the sections of this standard which cover the service(s) offered by the facility undergoing inspection will be applied. These standards cover the minimum amount of services required for each level of care.

§151.407. Detoxification. The facility shall document the provision of at least the following elements of service: 24-hour su-

pervised living environment, including room and board; medically supervised withdrawal from alcohol or other drugs; at least one registered or licensed vocational nurse on duty each shift; two hours of alcohol education per week; a total of eight hours of group and/or individual counseling and AA orientation per week; counseling or referral services for client's family members and significant others; and referral services for unmet and ongoing needs of all clients at discharge.

§151.408. Primary Care. The facility shall document the provision of at least the following elements of service: eight hours of alcohol education per week; a total of 12 hours of services per week which must include group counseling, individual counseling, AA orientation, recreation and physical fitness; 24-hour supervised living environment, including room and board; counseling or referral services for client's family members and significant others; referral services for all clients at discharge for unmet and ongoing needs; and follow-up contact approximately 60 days after discharge to assess client progress.

§151.409. Intermediate Care. The facility shall document the provision of room and board and at least two hours of alcohol education per week; a total of eight hours of service per week which must include group and/or individual counseling, AA orientation, recreation, and physical fitness; counseling or referral services for client's family members and significant others; referral services for unmet and ongoing needs of all clients at discharge; and follow-up contact approximately 60 days after discharge to assess client progress.

§151.410. Long-Term Care. The facility shall document the provision of at least the following elements of service: five hours service per week which must include group or individual counseling, AA orientation, and recreation or physical fitness; 24-hour supervised living environment, including room and board; counseling or referral services for client's family members and significant others; referral services for all clients at discharge for unmet and ongoing needs; and follow-up contact approximately 60 days after discharge to assess client progress.

§151.411. Outpatient Care Services. The facility shall document the provision of at least the following elements of service: drug-free outpatient group and/or individual counseling; counseling or referral services for family members and significant others; referral services for unmet and ongoing needs of all clients at discharge; and follow-up contact approximately 60 days after discharge to assess client progress. Each treatment shall offer clients at least a total of 10 hours per week of a combination of alcohol education, group and individual counseling, AA orientation, and counseling

or referral services for families and significant others.

§151.412. Clinical Records.

(a) All clinical staff delivering services shall document these services in the individual client records, and there shall be documentation that the treatment plan is periodically reviewed, evaluated, and updated, as necessary, based on changes in the client's condition as shown in the client's record.

(b) The facility shall provide a discharge summary for each client. This summary shall describe the identified problems, services provided during the course of treatment, an assessment of client progress made while in treatment, and the reason for discharge. The discharge summary shall document the number of days that the client has been free of mood-altering chemicals.

(c) A discharge plan shall be developed for each client completing the regular course of treatment and shall include a plan of action and referral resources for continuation of care following discharge from the facility. It shall be developed in conjunction with the client and shall be recorded in the client record. The facility shall obtain the signature of the client on the

discharge plan as evidence of the client's approval as to content.

§151.413. Physical Plant Requirements. These physical plant requirements shall apply to all facilities delivering detoxification, primary care, intermediate care, or long-term care services.

§151.414. Environment. To promote awareness of the time and the season, clocks and calendars shall be provided, at least in major use areas.

§151.415. Fire and Safety.

(a) Illumination of exits shall be provided for every building and structure and be continuous during the time of occupancy. Artificial lighting shall be used at such places and for such periods of time as required to maintain the illumination of not less than one footcandle measured at the floor.

(b) Exit routes shall be lit to the minimum requirements at all points including angles and intersections of corridors and passageways, stairways, landings of stairs, and exit doors to values of not less than one foot-candle measured at the floor. Any required illumination shall be so arranged that the failure of any single lighting unit, such

as the burning out of an electric bulb, will not leave any area in darkness.

(c) Illumination of the exit route shall be from a source of reasonably assured reliability, such as a public utility electric service. No battery-operated electric light nor any type of portable lamp or lantern shall be used for primary illumination of the exit, but may be used as a source of emergency lighting.

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 September 12, 1985.

TRD-858453

Ross Newby,
Executive Director
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption:
October 21, 1985
For further information, please call
(512) 475-2577.

★ ★ ★

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 28. INSURANCE

Part I. State Board of Insurance

Chapter 25. Insurance Premium Finance

Subchapter F. Power of Attorney

★28 TAC §25.509

The State Board of Insurance has withdrawn from consideration for permanent adoption the proposed new §25.509, concerning power of attorney. The text of this new section as proposed appeared in the April 5, 1985, issue of the *Texas Register* (10 TexReg 1125).

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 September 13, 1985.

TRD-858439

James W. Norman
Chief Clerk
State Board of
Insurance

Effective date: September 13, 1985
For further information, please call
(512) 475-2950.

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration Subchapter V. Bingo Regulation and Tax

★34 TAC §3.547

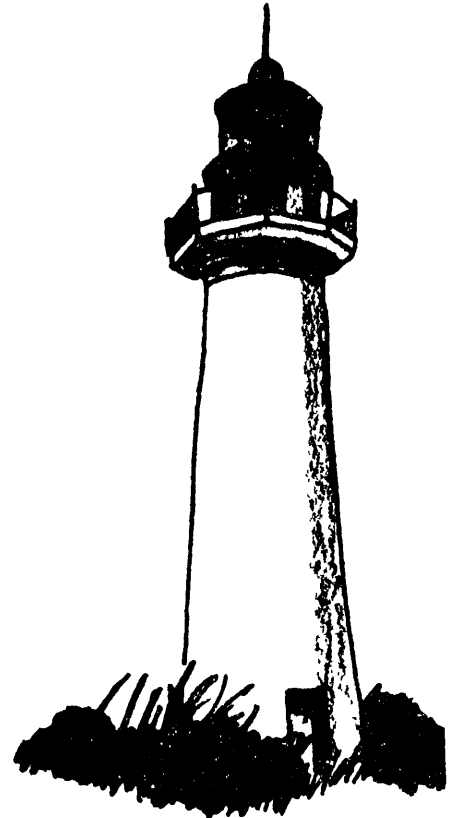
The Comptroller of Public Accounts has withdrawn from consideration for permanent adoption the proposed amendments to §3.547, concerning bingo regulation and tax. The text of the amended section as proposed appeared in the August 16, 1985, issue of the *Texas Register* (10 TexReg 3122).

Issued in Austin, Texas, on September 12, 1985.

TRD-858414

Martin Cherry
Rules Coordinator
Comptroller of Public
Accounts

Filed: September 12, 1985
For further information, please call
(512) 463-4806.



★ ★ ★ ★ ★

Adopted

Rules An agency may take final action on a rule 30 days after a proposal has been published in the *Texas 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 4. AGRICULTURE Part II. Texas Animal Health Commission

Chapter 35. Brucellosis Subchapter A. Eradication of Brucellosis

★ 4 TAC §35.6

The Texas Animal Health Commission adopts an amendment to §35.6, with changes to proposed text published in the July 5, 1985, issue of the *Texas Register* (10 TexReg 2182). There will not be any funds for payment of indemnity; therefore, the rates shown in §35.6 (b) have been deleted.

This action was taken so that funds provided by the USDA for this purpose can be redirected to pay for increased calfhood vaccinations. No indemnity will be paid for brucellosis reactors effective September 1, 1985.

A comment was received that the indemnity fund should be left in place or, if it is done away with, the funds should be returned to the tax payer. John R. Fenner commented against the proposal.

The funds are only available for use in indemnity or increased calfhood vaccination. With the increase in calfhood vaccinations there was a need for increased funding to maintain the desired level of calfhood vaccination.

The amendment is adopted pursuant to provisions of the Agriculture Code, Texas Civil Statutes, Chapters 161 and 163, which provide the commission with authority to adopt rules and set forth the duties of the commission to protect domestic animals, in the state, from disease.

§35.6. Indemnity Rates. Purpose. The purpose of this section is to establish a statewide maximum brucellosis indemnity rate which will be paid for brucellosis reactors. (Reactor cattle shall be immediately slaughtered and removed from the premises within 15 days of the date of identification. For further information concerning slaughter of reactors, refer to §35.2 (j) of this title (relating to General Requirements of the Texas Bovine Brucellosis Regulations.) Indemnity is paid by the United States Department of Agriculture, Animal and Plant

Health Inspection Service, Veterinary Services, when funds are available.

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

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

TRD-858397

John W. Holcombe
Executive Director
Texas Animal Health
Commission

Effective date: October 3, 1985
Proposal publication date: August 5, 1985
For further information, please call
(512) 475-4111.

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TITLE 16. ECONOMIC REGULATION Part I. Railroad Commission of Texas

Chapter 5. Transportation Division

Subchapter B. Operating Certificates, Permits, and Licenses

★ 16 TAC §5.40

The Railroad Commission of Texas adopts new §5.40, with changes to the proposed text published in the July 19, 1985, issue of the *Texas Register* (10 TexReg 2309). This new section implements the provisions of Senate Bill 820. The change is made to subsection (c)(2) to clarify that a certificate of insurance will be construed to cover all vehicles used in the operation.

The comments submitted in favor of the proposed section, but suggesting modifications, are summarized as follows. The requirement that an applicant provide a list of subsidiaries identifying the primary business of the parent company and each subsidiary is unnecessary. The provision requiring the filing of a certificate of notice is in the nature of operating authority which was not the intention of the legislature in enacting Senate Bill 820. The inspection of books and records should be limited to only those records that pertain directly to a company's compensated intercorporate hauling

(CIH) operation; commission inspection of books and records could result in public disclosure of proprietary information. A listing of specific equipment should not be required due to the frequent changing of such equipment.

The commission makes the following response to the comments submitted in favor of, but suggesting modifications to, the proposed rules. The commission must be informed of the primary business of the parent company and each subsidiary to ensure that the involved CIH is in accordance with Senate Bill 820. The new section does not require an application for operating authority; it merely provides for a certificate of notice to be issued by the commission and carried in the vehicles to ensure proper enforcement of Senate Bill 820. The inspection of books and records by the commission will be limited to those records necessary to ensure compliance with Senate Bill 820. A specific listing of equipment is necessary to ensure that all vehicles are covered by insurance and the company engaging in CIH can merely notify the commission when it substitutes vehicles in its operation. NCH Corporation, Texas Industrial Traffic League, Frito-Lay, Inc., Private Carrier Conference, Inc., National-American Wholesale Grocers' Association, and IBP, Inc. commented in favor of the new section.

The new section is adopted pursuant to the Act of June 14, 1985, Chapter 642, §1, 1985 Texas Session Law Service 4918, which provides for a limited exemption of intercorporate transportation from regulation by the commission, provided that corporations engaging in such transportation comply with insurance and notice requirements.

§5.40. Intercorporate Transportation Exemption.

(a) Statutory exemption provisions.

The transportation by motor vehicle for compensation by a member of a corporate family, as hereinafter defined, for other members of such corporate family of property which one member of the corporate family leases for use in its primary business, or of which one member of the corporate family is, or will become upon delivery, the bona fide owner, manufacturer, or producer, and which is produced, manufactured, or distributed as part of such cor-

porate family member's primary business, other than a transportation business shall be authorized under a certificate of notice issued by the commission upon compliance with the terms of this section.

(b) Definition of corporate family. A corporate family is defined as a group of corporations consisting of a parent corporation and all subsidiaries in which the parent corporation owns directly or indirectly a 100% interest.

(c) Application for certificate of notice. Before engaging in the transportation defined in subsection (a) of this section, the parent corporation shall file with the commission the following:

(1) an application for a certificate of notice in a form prescribed by the commission on behalf of the corporate member that is to provide the transportation together with a list of the subsidiaries involved and an affidavit that the parent corporation owns directly or indirectly a 100% interest in each of the participating subsidiaries;

(2) a certificate of insurance which covers all motor vehicles to be used in the transportation with public liability and property damage insurance in the amounts required by §5.183 of this title (relating to Minimum Limits);

(3) a statement identifying the primary business of the parent corporation and each participating subsidiary; and

(4) a \$25 filing fee.

(d) Certificate of notice. A certificate of notice as defined in subsection (a) of this section shall be issued in the name of the corporation that provides the transportation and shall be carried in the cab of all vehicles used to conduct intercorporate transportation as defined in subsection (a) of this subsection.

(e) Inspection of books and records. Any corporation electing to engage in the transportation authorized hereunder shall be deemed to have given its consent to allow authorized employees or representatives of the commission to inspect the books and records of all members of the corporate family engaging in such transportation for the sole purpose of insuring that all exempt transportation provided other members of the corporate family is in strict conformity with the provisions of this section.

(f) Transfers. A certificate of notice issued under this section is not transferable.

(g) Conditions under which a certificate of notice shall be canceled. A certificate of notice shall be canceled for failure to provide evidence of continuous insurance as required by §5.181 of this title (relating to Evidence of Insurance Required); for failure to maintain the required continuous insurance coverage during the time the cer-

tificate of notice is held; or for failure to comply with subsection (e) of this section.

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 September 9, 1985.

TRD-858479

Buddy Temple,
Chairman
Jim Nugent and
Mack Wallace,
Commissioners
Railroad Commission of
Texas

Effective date: October 4, 1985
Proposal publication date: July 19, 1985
For further information, please call
(512) 463-7149.

★ ★ ★

Subchapter L. Insurance Requirements

★ 16 TAC §5.181

The Railroad Commission of Texas adopts amendments to §5.181, without changes to the proposed text published in the July 19, 1985, issue of the *Texas Register* (10 TexReg 2309).

These amendments implement the provisions of Senate Bill 820, enacted by the legislature of the State of Texas and made effective on June 14, 1985. This amendment requires corporations engaging in compensated intercorporate hauling to maintain liability insurance with the commission. No comments were received regarding adoption of the amendments.

These amendments are adopted pursuant to the Act of June 14, 1985, 1985 Texas Session Law Service, Chapter 642, §1, which provides for a limited exemption of intercorporate transportation from regulation by the Commission, provided that corporations engaging in such transportation comply with insurance and notice requirements.

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 September 9, 1985.

TRD-858480

Buddy Temple,
Chairman
Mack Wallace and
Jim Nugent,
Commissioners
Railroad Commission of
Texas

Effective date: October 4, 1985
Proposal publication date: July 19, 1985
For further information, please call
(512) 463-7149.

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TITLE 22. EXAMINING BOARDS

Part II. State Board of Barber Examiners

Chapter 51. Practice and Procedure

Barber Shops

★ 22 TAC §51.94

The State Board of Barber Examiners adopts new §51.94, without changes to the proposed text published in the July 19, 1985, issue of the *Texas Register* (10 TexReg 2313).

The new section requires that barbers operate in an appropriately dressed manner while practicing barbering to guarantee a safe, sanitary, sterile condition for the barber and consumer.

The consumer will be protected from an unsanitary, unsterilized, and unsafe condition by guaranteeing that regulations covering sanitary conditions of barber shops are enforced.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Articles 8401-8407 and 8407a, §26(a), which provide the State Board of Barber Examiners with the authority to make and enforce all rules and regulations necessary for the performance of its duties.

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

Issued in Austin, Texas, on September 12, 1985.

TRD-858462

Jo King McCrorey
Executive Director
State Board of Barber
Examiners

Effective date: October 3, 1985
Proposal publication date: July 19, 1985
For further information, please call
(512) 835-2040.

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Part III. Texas Board of Chiropractic Examiners

Chapter 71. Application and Applicants

★ 22 TAC §§71.1-71.4

The Texas Board of Chiropractic Examiners adopts amendments to §§71.1-71.4, without changes to the proposed text published in the August 9, 1985 issue of the *Texas Register* (10 TexReg 2989).

The amendments clarify the rules of the board. These amendments clarify the position of the executive director in relation to these sections. The amendments also inform the public of when the board examinations are given. There will be better qualification for those examinees who do not have certification through the National Board of Chiropractic Examiners.

No comments were received regarding adoption of these amendments.

The amendments are adopted under Texas Civil Statutes, Article 4512b, §5, Senate Bill 109, and the Acts of the 67th Legislature, 1981, 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 September 13, 1985.

TRD-858486 Bobby Ferris
Executive Director
Texas Board of
Chiropractic
Examiners

Effective date: October 3, 1985
Proposal publication date: August 9, 1985
For further information, please call
(512) 835-2006.

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Chapter 77. Advertising and Public Communications

★22 TAC §77.1

The Texas Board of Chiropractic Examiners adopts an amendment to §77.1, without changes to the proposed text published in the August 9, 1985, issue of the *Texas Register* (10 TexReg 2990).

The amendment clarifies the rules of the board.

The amendment strengthens and clarifies the position of the executive director in relation to this section.

No comments were received regarding adoption of this amendment.

The amendment 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 September 13, 1985.

TRD-858487 Bobby Ferris
Executive Director
Texas Board of
Chiropractic
Examiners

Effective date: October 3, 1985
Proposal publication date: August 9, 1985
For further information, please call
(512) 835-2006.

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TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration Subchapter Q. Franchise Tax

★34 TAC §3.395

The Comptroller of Public Accounts adopts the repeal of §3.395, without changes to the proposal text published in the August 6, 1985, issue of the *Texas Register* (10 TexReg 2531). This section is repealed so that a substantially revised section dealing with the same subject matter may be adopted.

No comments were received regarding adoption of the repeal.

This repeal is adopted under 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 September 16, 1985.

TRD-858508 Bob Bullock
Comptroller of Public
Accounts

Effective date: October 7, 1985
Proposal publication date: August 6, 1985
For further information, please call
(512) 463-4606.

★ ★ ★

The Comptroller of Public Accounts adopts new §3.395, without changes to the proposed text published in the August 6, 1985, issue of the *Texas Register* (10 TexReg 2532). The new section reflects changes to the Franchise Tax Act enacted by the recent session of the legislature.

No comments were received regarding adoption of the new section.

This 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 September 16, 1985.

TRD-858509 Bob Bullock
Comptroller of Public
Accounts

Effective date: October 7, 1985
Proposal publication date: August 6, 1985
For further information, please call
(512) 463-4606.

★ ★ ★

★34 TAC §3.396

The Comptroller of Public Accounts adopts an amendment to §3.396, with changes to the proposed text published in the July 19, 1985, issue of the *Texas Register* (10 TexReg 2317). There are some minor changes to make the section conform to some recent changes in the statutes and some changes are made to clarify the section. Subsection (f) is deleted because it did not add anything to the statute and it involves an extremely rare occurrence. Subsection (g) is deleted because the substance of the subsection is now in new §3.412, concerning survivors of mergers.

The changes to the proposed text are in subsection (a) and consist only of the addition of a cross reference to §3.412, dealing with a related topic, corporations that are survivors of mergers.

No comments were received regarding adoption of the amendment.

The amendment 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.

§3.396. *Changes in Corporate Organization.*

(a) Every corporation is required to pay all accrued franchise tax, penalties, and interest before articles of dissolution, an application for a certificate of withdrawal, articles of merger or consolidation, or an application to reinstate will be filed for record by the secretary of state. If a corporation seeks to dissolve, withdraw, merge, consolidate, or reinstate on or after the first day of any tax period (see Texas Tax Code, §171.151), the franchise tax for the entire tax period must be paid. A refund may not

be paid nor credit given for the period from date of dissolution or withdrawal of a corporation to the end of the tax period. See §3.412 of this title (relating to Survivors of Mergers), for possible credit to which a survivor of a merger may be entitled.

(b) If a domestic or foreign corporation seeks to dissolve, withdraw, merge, or consolidate before the expiration of all of the periods included in an initial report, the corporation must pay franchise tax through the end of the period in which the corporation dissolves, withdraws, merges, or consolidates.

(c) Upon request to the Comptroller of Public Accounts, P.O. Box 13528, Austin, Texas 78711, (512) 463-4600, Attn: Tax Administration Division, a certificate will be furnished for forwarding with articles of dissolution to be filed with the secretary of state. If desired, certificates also will be furnished for filing with articles of merger or consolidation, or an application to withdraw. The certificate will reflect that all franchise taxes, penalties, and interest have been paid by the corporation through the succeeding April 30 and that the action desired may be taken on or before that date.

(d) If a corporation doing business in Texas is dissolved under the laws of its state of incorporation, its franchise tax account will be closed as of the date of the dissolution, and tax must be paid through the end of the period in which the corporation dissolved.

(e) Before the name of a corporation may be changed on the records of the comptroller, an amendment to the corporation's charter or certificate of authority must be filed with the Texas secretary of state. A foreign corporation without a certificate of authority may change its name on the records of the comptroller by filing with the comptroller a copy of the name change document filed in the corporation's home state.

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

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

TRD-858510 Bob Bullock
Comptroller of Public
Accounts

Effective date: October 11, 1985
Proposal publication date: July 19, 1985
For further information, please call
(512) 463-4606.

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★34 TAC §3.412

The Comptroller of Public Accounts adopts new §3.412, without changes to the proposed text published in the August 6, 1985, issue of the *Texas Register* (10 TexReg 2532). The new section reflects changes to the Franchise Tax Act enacted by the recent session of

the legislature. The due dates of franchise tax reports and payments and the date upon which the tax is based change for many corporations which are the survivors of mergers.

No comments were received regarding adoption of the new section.

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 September 18, 1985.

TRD-858511 Bob Bullock
Comptroller of Public
Accounts

Effective date: October 7, 1985
Proposal publication date: August 6, 1985
For further information, please call
(512) 463-4606.

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 3. Income Assistance Services

Subchapter D. Expedited Services

★40 TAC §3.403

The Texas Department of Human Services (DHS) adopts an amendment to §3.403, without changes to the proposed text published in the July 26, 1985, issue of the *Texas Register* (10 TexReg 2407).

The amendment results from the Omnibus Hunger Act of 1985, enacted by the Texas Legislature in May. This Act requires DHS to provide priority service to food stamp applicants who are in dire need of food assistance.

Section 3.403 is amended to specify that DHS must provide benefits on the same day as application to clients in immediate need of food. Before the amendment, DHS had no rule requiring emergency issuance of food stamp benefits on the same day the client applies.

The comment period on the proposed amendment ended August 28, 1985. Written comments were received from the Anti-Hunger Coalition of Texas, Austin, and the Gulf Coast Legal Foundation, Houston. Both commenters were generally in favor of the proposal; however, both were concerned that the section filing failed to go far enough in implementing

the Act and recommended clarifying and expanding the section.

The following is a summary of the comments and DHS's response to each comment.

One commenter requested that the department provide sufficient staff to screen applications to determine if an applicant might be eligible for expedited services.

The DHS does not consider this provision of the Act as appropriate for rule filing. Current staffing is adequate to screen the applications to comply with this portion of the hunger bill. The priority of screening for expedited benefits has been emphasized.

One commenter stated the department was to compile a list of emergency food providers and refer hungry individuals and families to them.

Although not appropriate to this rule filing, the department is compiling a list of emergency food providers. Lists of emergency food providers will be available in each local office and through a statewide hotline number. It is the department's intent to comply with the letter and intent of the Hunger Bill and do everything possible to see that hungry individuals and families are helped through the Food Stamp Program or referred to a community food resource.

Two commenters stated the department must monitor food stamp offices to ensure that they are providing expedited food stamps in a timely fashion.

Reports monitoring food stamp issuance are not appropriate for rule filing. However, internal monitoring reports have been revised to monitor same-day issuance of benefits.

One commenter stated the section should be clarified to deal with the two-day mail time provided by the federal regulations.

Under the amendment as proposed, the department policy was revised to issue a manual authorization to participate (ATP) on the day of application. In those rare instances when a client leaves the office or is otherwise unavailable and the ATP must be mailed, department staff will be instructed to clearly document the case record to reflect the unusual circumstances.

One commenter stated the department must screen and process applications for expedited food stamps on a priority basis.

This comment is addressed in the proposed amendment which is being adopted without change.

One commenter stated the department must provide benefits the same day to those found eligible for expedited food stamps by immediately issuing a manual ATP or stamps.

a motor vehicle accident. The requirement for a fire extinguisher has been deleted from §83.57.

The new sections are adopted under the Human Resources Code, Title 2, Chapter 22 and Chapter 42, which authorizes the department to administer public assistance and 24-hour care licensing programs.

§83.54. Training.

(a) For emergency agency foster family homes, the child-placing agency must provide at least 15 hours of inservice training annually related to children's services for each foster family unit.

(1) The child-placing agency must document inservice training for foster parents. The child-placing agency must include in the documentation the date, subject, and the name of the person who conducted the training.

(2) The child-placing agency must provide training for foster parents in helping children to cope with separation from parents and family.

(b) The child-placing agency must ensure that foster parents in agency emergency foster family homes who are not licensed/certified health professionals have current first aid training and training in cardiopulmonary resuscitation (CPR).

(1) A Red Cross instructor or a licensed/certified health professional must conduct the first aid training.

(2) The CPR training must be conducted by a person certified to provide the training.

(3) First aid and CPR training received or scheduled, as well as training updates, must be documented.

§83.55. Admission Policies.

(a) The child-placing agency must have written admission policies which specify the age, sex, and type of children to be placed in an emergency care facility. A copy of the admission policies must be submitted to the Licensing Branch with each application for a license.

(1) The child-placing agency must meet the conditions of the license/certificate.

(2) The agency must accept for placement only those children who meet the conditions outlined in the agency's policies.

(3) If the agency adopts a change in the admission policies which requires changes in the conditions of the license, the agency must apply to the department for a new license.

(b) The child-placing agency must evaluate the special needs of a child who has exhibited suicidal behavior or behavior dangerous to others before placing the child in an emergency shelter care facility. The assessment of the child's needs must be included in the child's record and document at least the following:

(1) the need for a setting where child care staff can provide direct, continuous observation of the child;

(2) the need for availability of medical treatment 24 hours a day; and

(3) the need for therapeutic consultation and treatment.

A child-placing agency must not accept a child for care in an emergency care facility or retain in emergency shelter type care a child whose needs are primarily medical in nature. Children not appropriate for care in an emergency care facility are those who:

(1) are unable to swallow secretions sufficiently enough to maintain an open airway;

(2) require feeding tubes or parenteral route to sustain life;

(3) have other life-threatening conditions making them dependent on the services of others and/or mechanical supports to sustain life; or

(4) require sterile techniques or specialized procedures to promote healing; to prevent infection, cross-infection, or contamination; or to prevent breakdown of tissues.

(d) The child-placing agency must plan for and make timely and appropriate arrangements for nonemergency care for children placed in emergency care type facilities.

(1) The child-placing agency must not place a child under five years old in an emergency shelter for more than five workdays unless the child has a sibling at least five years old or a parent under 18 years old in the emergency shelter or unless the need for extension of placement is documented.

(2) The child-placing agency must not place an infant under 12 months old in an emergency shelter for more than 96 hours unless the infant has a parent under 18 years old in the emergency shelter or unless the need for extension of placement is documented.

(3) The child-placing agency must not place a child five years old or older in care in an emergency shelter for more than 30 days unless the need for extension of placement is documented.

(4) The child-placing agency must not place a child in an emergency agency foster family home, an independent emergency foster family home, an emergency agency foster group home, or an independent emergency foster group home for more than 30 days unless the need for extension of placement is documented.

(e) The child-placing agency must establish that one of the following circumstances exists before extending the placement of a child in emergency shelter type care beyond the allowed time frame:

(1) the child-placing agency has arranged a placement but requirements to place the child cannot be completed within the allowed time because of circumstances

beyond the control of the child-placing agency. Documentation must include:

(A) the name, address, and telephone number of the facility where the child will be placed;

(B) the specifics of what is needed to complete the placement;

(C) the reason(s) why the requirements for placement could not be completed within the allowed time frame; and

(D) the date the placement will be completed.

(2) the child-placing agency arranged a placement, but the placement cannot be completed and another placement must be found because of circumstances beyond the control of the child-placing agency. Documentation must include:

(A) the name, address, and telephone number of the facility where the child was to be placed;

(B) the reason(s) why the placement could not be completed;

(C) the date placement plans for the child were interrupted; and

(D) the specifics, including dates, of all efforts to locate another placement;

(3) the child has special needs, and an appropriate placement within the allowed time frame cannot be made because of circumstances beyond the control of the child-placing agency. Documentation must include:

(A) description from an expert in the area of the child's disabling or limiting condition of the child's special needs and the type of placement appropriate to meet these needs; and

(B) names, addresses, and telephone numbers of placements explored, the date of contact, and the reason why each placement was not available and/or appropriate.

(f) If the child-placing agency establishes the need for extension of placement of a child in an emergency shelter or an independent emergency foster family home or independent emergency foster group home, the emergency care facility's approval must be obtained in writing. The child-placing agency must provide the emergency care facility with a copy of the documentation that establishes the need for extension of placement.

(g) If a child remains in emergency care for 14 days, the child-placing agency must formulate a plan in writing for discharge of the child from emergency care. The child-placing agency must review and update the plan in writing at least weekly.

(1) When a child is admitted to an emergency care facility not operated under the auspices of the child-placing agency, child-placing agency staff must discuss the discharge plan with the emergency care facility. Staff must confer at least weekly to review and update the discharge plan.

(2) A copy of the discharge plan must be provided to emergency care facility.

if proposed for rectification. Also designate drainage areas contributing to underground storm sewer lines and drainage ditches. (Design criteria must be in accordance with good engineering practice.)

(8) Feasibility of project.

(A) Describe industry and other attractions to support district growth.

(B) Give past growth history of area.

(C) Provide a building schedule for residential and commercial unit construction.

(D) State specifically, why does growth potential of this district justify the project? Subparagraphs (A)-(C) of this paragraph are not required when a market study is included with the application.

(E) District financial stability.

(i) State the first-year debt service requirement and the average annual debt service requirement for bond indebtedness retirement for this and previous issues.

(ii) Provide estimated average income per connection and gross annual water and sewer service income including special fees (taps), standby charges for utility availability, other.

(iii) Indicate operating expenses as a percent of gross income.

(iv) State anticipated net income from all services in dollars and as a percent of average annual debt service requirements.

(v) Provide a table showing computed tax rates over life of the bond period.

(F) Provide current tax rate and latest valuation of taxable property within the district.

(G) State bond cost per acre and per connection (equivalent connections) for improvements to be financed by this bond issue.

(9) Purchase of existing facilities.

(A) If existing facilities are constructed by others and are proposed for sale to the district, discuss:

(i) location and description of facilities;

(ii) proposed improvements or extensions;

(iii) number of residences and active utility connections;

(iv) conditions of option for district purchase;

(v) proof of expenditures including copies of bid advertisement and tabulations, executed construction contracts, change orders, final pay estimates, and/or appraisal of facilities by an independent engineer who is not associated with the district or owner.

(B) Provide a table showing facilities proposed for purchase including date construction was completed, cost determination, and cost to the district.

(C) Provide a positive statement indicating whether or not the facilities to be

purchased can and are being integrated into the district's permanent utility systems. If not, justify why the district should purchase, then abandon part or all the facilities.

(10) Assumption of existing contracts.

(A) Describe contracts to be assumed by the district as they relate to the facilities being constructed and the parties to the executed contract.

(B) Provide a table showing all contracts to be assumed, i.e. facilities being constructed, contractor, date of contract execution, contract amount, status of completion; include all change orders by number, and by note state the requirement generating the change order.

(11) Summary of costs.

(A) A bond issue cost summary shall be prepared in accordance with the prescribed format, including explanatory foot notes, as shown in Appendix B to this chapter.

(B) For developer projects only. Identify water and sewer conveyance lines by reference to the construction plan page number and itemize cost item number when such lines are exempt from developer cost participation.

(C) If a developer project is partially or totally exempt from cost participation, explain the exemption in detail and provide copies of contracts or other documents to fully validate the exemption. Validation documents shall be submitted as attachments to the engineering report.

(12) Additional information.

(A) Give the names and addresses of the fiscal agent, principal developers and principal stockholders if the developer is a corporation for developer projects.

(B) Provide any other information necessary to adequately describe the project.

(13) Appendices. Provide the following information in the appendices section of the engineering report:

(A) bond amortization schedule together with schedule showing projected revenues and expenses—base tax rates on 90% collections unless historically otherwise; include tax assessor's certification of taxable property and current tax rate. (Follow example in Appendix B of §311.111 of this title (relating to Sanitary Sewer Service Lines and Connection));

(B) resolution by the district's governing board establishing water and sewer rates;

(C) itemized construction costs by facility and section;

(D) index showing approval date and copies of approval letters for facility plans and specifications by all agencies having jurisdictional responsibilities; include copy of latest waste discharge permit. Identify approvals shown on plans and specifications. Cross reference to applicable construction contracts which are attachment (d)

to the engineering report as required by paragraph (15) of this subsection.

(E) certificate of compliance with §311.111 of this title (relating to Sanitary Sewer Service Lines and Connection).

(14) Exhibits. Include the following exhibits in the exhibit section of the engineering report:

(A) legible drawing (not necessarily to scale) showing district area divided into sections according to development under previous and proposed bond issues. Show section number or other identification, acreage, and value of corresponding bond issue. Also, show major utilities, roads, and other features sufficient for project orientation.

(B) designation of areas subject to flooding on contour map of the district. This may be shown on Exhibit (A) of the engineering report at the discretion of the design engineer provided the referenced drawing is to scale.

(15) Attachments. The following documents shall be attached to the engineering report:

(A) appraisals to support proposed district purchase of existing facilities in lieu of documentation specified under Attachment (D) of the engineering report;

(B) detailed construction plans and specifications for all facilities proposed under this bond issue. These plans and specifications must be prepared by a professional engineer registered in the State of Texas with the engineer's seal properly affixed on each sheet of the plans and the cover of specifications, and must be approved by all agencies having jurisdictional responsibilities.

(C) When planned unit development (high-density development with community facilities or grounds not normally open to the public) is involved, provide:

(i) dedication documents for street and/or utility easements within the district;

(ii) utility plans showing all easements and building lines.

(D) index and provide copies of all executed construction contracts, notice to bidders (advertisement affidavits or tear sheets), bid tabulations and latest or final pay estimates. Positively identify contracts with documents listed under Appendix (D) of the engineering report. Staple copies of change orders inside the front cover of the contract document;

(E) special contracts and agreements:

(i) surface water supply contract or water well permit, if applicable;

(ii) agreements nonowned facilities;

(iii) contracts with district for engineering, legal, and fiscal services;

(iv) option for district purchase of existing facilities or assumption of construction contracts in progress (agree-

opment Board permanent §311.43. The section states what fees, documents, engineering reports, explanations, cost summaries, and other information are required as part of the bond issuance application.

The new section is adopted on an emergency basis under the Texas Water Code, §§5.103, 5.105, and 5.182, which authorizes the commission to adopt rules and establish policy.

§311.43. Application Requirements.

(a) Subsection (f), paragraph (1)(C)-(F), (H), and (J); paragraph (8)(C); paragraph (11)(B) and (C); paragraph (12)(A); paragraph (14)(A); paragraph (15)(C) and clauses (i) and (ii); and subparagraph (G) apply to developer projects and subdivision projects only. Developer project is a district engineering project which provides water, sewer, or drainage service for property owned by a developer as defined by Texas Water Code, §50.024(d). Subdivision project is a district engineering project which provides water and sewer service to households, commercial and/or industrial development in a district where a developer is not involved. Other applicable items shall apply to all bond applications, developer and subdivision projects included. Refer to §311.46 of this title (relating to Thirty Percent of District Construction Cost to Be Paid by Developer) for developer cost participation information on developer projects.

(b) An application covering the subject matter contained in the Texas Water Code, §§55.503, 51.421, 54.516, or 12.082 shall include provisions for statutory construction contract retainage.

(c) An application shall include a certified copy of the district board's resolution authorizing submission of application for bond issuance.

(d) An application shall comply with the Texas Water Code, §50.101 and, if applicable, Article 970a, §8(b), including consent by city having extraterritorial jurisdiction if not previously provided to the commission. If these documents have been provided, state the petition or bond application with which it was submitted.

(e) An application shall be accompanied by a filing fee of \$100 plus the cost of required notice.

(f) An application shall be accompanied by the engineering report. Engineer's seal must be affixed on the front cover of the engineering report or the cover letter if bound in the report. The engineering report shall contain:

(1) general information including:

(A) name of district, county, amount of bond issue requested, type bonds proposed, bond interest rate, issue number, series, section of the Water Code governing district powers, authority, and operation;

(B) general purpose of bond issue;

(C) total acreage within the district; total developable acreage within the district excluding public areas, undevelopable flood prone areas, etc.; acreage developed from proceeds of previous bond issues; acreage remaining to be developed after this proposed bond issue;

(D) table showing extent of previous and proposed improvements, i.e., number of acres and utility connections developed and to be developed by section and reserve;

(E) total projected connections and population at full development (Explain if different from projections previously provided.);

(F) table showing last bond issue utility connection projections vs. existing development at date of report preparation (Itemize by number and type housing under construction, completed, and occupied.);

(G) total bonds authorized by voters including dates of elections and authorized but unissued bonds after this proposed sale;

(H) source and adequacy of water supply and waste water treatment capacity for present and proposed district needs. Waste discharge permit must be sufficient for existing and proposed sewer connections;

(I) complete description and estimated cost of facilities proposed for installation outside the district boundaries including utility plants, force mains, gravity trunk lines, water mains, drainage ditches, and other water, wastewater, or drainage facilities;

(J) complete description of any unusual facilities required by entities having jurisdictional responsibilities, i.e., bridges, oversized utilities, concrete lined ditches, ditches designed for ultimate watershed development. Provide document or directive from the entity placing these requirements;

(K) if facilities proposed are of joint benefit to both the district and others, compute an equitable cost split based on benefits received and provide basis for cost split.

(2) History.

(A) Name the governmental entity authorizing district creation and give the effective date of the authorization and the initial acreage included.

(B) Give the present district acreage, and the date, authorization, and acreage added and/or deleted from the district.

(C) List any exceptions or waivers granted under previous or existing rules for construction prior to the proposed bond issue.

(D) Prepare a construction and nonconstruction cost summary of the last district bond project expenditures compared to the commission approved cost summary and explain deviation including change orders. A copy of the approved bond issue

cost summary will be provided by the commission on request.

(E) Prepare a brief summary of any bond anticipation notes to be refunded by the bond issue. Include amounts, dates of issuance, interest rates, dates due, purpose, purchaser, and cost breakdown showing how the note proceeds were used.

(F) Include other data considered pertinent for evaluation of the feasibility of the proposed project.

(3) Location. Describe the district location in relation to cities, streams, reservoirs, major highways, land surveys, and other prominent features.

(4) Topography and flood hazards.

(A) Describe land features including soil types, vegetation, streams, lakes or reservoirs, marshland, drainage patterns, etc. and provide high and low elevations mean sea level (msl) in the district and in the area to be developed under the proposed bond issue.

(B) Provide complete flood hazards information. For streams, the 100-year estimated flood elevation should be stated at points where the stream enters and exits the district and/or the area to be developed under this bond issue; state the acreage subject to flooding in the area under consideration; provide the source of the information, i.e., U.S. Corps of Engineers, county flood control engineer, stream gauge information, etc. If data was compiled by district's engineer, provide supporting information for conclusions, including backwater computations for 100-year flood elevations. If reservoirs are involved, the following shall be provided: top of conservation pool elevation; top of flood control easement; maximum design high-water level; established 100-year flood contour and source of information. For hurricane tide and wave hazards, provide estimated frequency of occurrence including the 100-year flood event and source of information. When area is subject to flooding, establish minimum habitable floor slab elevations. For districts not subject to flooding, provide complete justification for the conclusion.

(5) Proposed improvements.

(A) Consolidate itemized material quantities for this proposed project by area and facility. Also specifically identify all proposed improvements outside the district's boundaries.

(B) Describe each proposed facility or system and its relationship with existing or future improvements including past and projected oversizing of trunk lines, mains, ditches, plants, etc.

(6) Need for the improvements. Provide the specific needs for improvements.

(7) Basis of design. Describe basis of design for all facilities including water supply and distribution, wastewater treatment and collection, and drainage. Provide cross sections of existing gullies or streams

Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Register*.

Emergency meetings and agendas. Any of the governmental entities named above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol, Austin. These notices may contain more detailed agendas than what is published in the *Register*.

Texas Department of Agriculture

Monday, September 23, 1985, 10 a.m. The Texas Department of Agriculture will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the department will receive public comments regarding the European brown garden snail quarantine.

Contact: Ron White, P.O. Box 12847, Austin, Texas 78711, (512) 463-7443.

Filed: September 13, 1985, 9:59 a.m.
TRD-858464

Thursday, October 3, 1985. The Texas Department of Agriculture will meet in Suite C, 5501 West I-40, Amarillo. Times and agendas follow.

9 a.m. An administrative hearing to review possible violations of the Texas Agriculture Code, §75.005, by Jerry Monk, doing business as Kelly Green Seed Company.

10 a.m. An administrative hearing to review possible violations of the Texas Agriculture Code, §75.006(a), by Mike Chaney, doing business as Mike Chaney Fertilizer Company, a commercial applicator and dealer.

11 a.m. An administrative hearing to review possible violations of the Texas Agriculture Code, §75.005, by John Baca, doing business as Hub Aerial Spraying Service, a commercial dealer.

1:30 p.m. An administrative hearing to review possible violations of the Texas Agriculture Code, §76.116(a)(1), by Ken Russell, doing business as Farmer's Spraying Service, holder of a commercial applicator's license.

Contact: Deborah Brown, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: September 16, 1985, 2:05 p.m.
TRD-858528-858531

Friday, October 4, 1985, 9 a.m. The Texas Department of Agriculture will meet in Suite C, 5501 West I-40, Amarillo. According to the agenda, the department will conduct an administrative hearing to review a possible violation of the Texas Agriculture

Code, §76.116(a)(1) by Ted Stallings, doing business as Ted's Spraying Service, holder of a commercial applicator's license.

Contact: Deborah Brown, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: September 16, 1985, 2:06 p.m.
TRD-858532

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Texas Amusement Machine Commission

Monday, September 23, 1985, 9:30 a.m. The Texas Amusement Machine Commission will meet in Room A, Sunrise Hotel, 7622 IH 35 North at U.S. Highway 183, Austin. Items on the agenda summary include a report; discussion and adoption of administrative rule changes; a report and discussion of the request for an attorney general's opinion concerning the proration of fees and taxes; appointment of the advisory committee for fiscal year 1986; a report and discussion of the consumer information brochure; a report on current operations; and a report and recommendations of the advisory committee.

Contact: Jim Lusk, P.O. Box 13226, Austin, Texas 78711, (512) 835-4767.

Filed: September 12, 1985, 3:40 p.m.
TRD-858411

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Texas Cancer Council

Tuesday, September 24, 1985, 9 a.m. The Texas Cancer Council will meet in House Appropriations Room 309, State Capitol, Austin. Items on the agenda include introduction of membership and oath of office; background on Legislative Task Force on Cancer in Texas; review of legislation

creating the Texas Cancer Council and legislative appropriation; emergency and proposed rules concerning Texas Cancer Council concerning policies and procedures and consideration of a memorandum of understanding between the council and the Texas Department of Health covering coordination of function; consideration of the council budget allocation on operations, grants and contracts, and personnel hiring request; consideration of contracts and memorandum of understanding for specific activities on legislative task force on cancer in Texas and related workgroups, Texas Cancer Registry, public health nurse training, and special public health project in East Texas; request for input from various agencies and organizations for projects to be considered at future meetings; and discuss next meeting dates through September 1986.

Contact: Owen McCrory, M.D. Anderson Hospital, Houston, Texas, (713) 792-2203.

Filed: September 16, 1985, 4:10 p.m.
TRD-858547

Coordinating Board, Texas College and University System

Friday, September 27, 1985, 10:30 a.m. The Administrative Council of the Coordinating Board, Texas College and University System will meet in Room C-428, El Paso Community College, Val Verde Campus, 919 Hunter, El Paso. Items on the agenda include election of officers; final adoption of a proposed amendment to 19 TAC §25.72, concerning GRP standards; receipt and discussion of a staff recommendation on House Bill 1824; discussion of self-insurance; discussion of a staff recommendation for reviewing institutional group insurance programs; and the executive secretary's report.

Contact: James McWhorter, P.O. Box 12788, Austin, Texas 78711, (512) 475-4361.

Filed: September 13, 1985, 9:04 a.m.
TRD-858459

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Texas Education Agency

Thursday, September 12, 1985, 7:30 p.m. The Committee of the Whole of the State Board of Education of the Texas Education Agency made an emergency revision to the agenda for a meeting held in the Hill Country C Room, Hyatt Regency Hotel, 208 Barton Springs Road, Austin. According to the agenda, the committee met in executive session to discuss pending litigation in accordance with Texas Civil Statutes, Article 6252-17, §2(e), concerning pending litigation. The emergency status was necessary to ensure that the board is informed of the most current status of pending litigation so that the board can give appropriate and timely guidance to the commissioner of education and staff.

Contact: W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: September 12, 1985, 4:20 p.m.
TRD-858419

Friday, September 20, 1985, 10 a.m. The Study Design Subcommittee of the Advisory Committee for Accountable Costs of the Texas Education Agency will meet in conference room 3-108, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the subcommittee will conduct a work session to consider study design.

Contact: Tom Krueck, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9709.

Filed: September 12, 1985, 4:20 p.m.
TRD-858420

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Employees Retirement System of Texas

Thursday, September 26, 1985, 9 a.m. The Board of Trustees of the Employees Retirement System of Texas (ERS) will meet in the ERS Building, 18th and Brazos Streets, Austin. Items on the agenda include review and approval of the August 22, 1985, board of trustees meeting; report of retirements and death benefits granted for May 1, 1985-July 31, 1985; reports of payments for occupational deaths since June 14, 1985; report of payments to survivors of law enforcement officers, firemen, etc., since June 14, 1985; consideration of investment advisor recommendation and action on investment of system's funds; consideration and action on contract for fixed income advisory service for December 1, 1985, through August 31, 1986; consideration and action on addition to Investment Advisory Commission; action on revision to investment policy; consideration and action on additions to approved broker/dealer list; consideration and action on proposed revision to §81.7(f) relating to changes in insurance

coverage beyond the first 31 days of eligibility; consideration on action on request for proposals to conduct 1984-1985 audit of insurance carrier's operations regarding the Texas Employees Uniform Group Insurance Program; consideration and action on request for proposals to develop a contingency plan for self insurance; report of appointment to fill vacancy on Group Insurance Advisory Commission; authorization for executive director to appoint medical specialist; consideration and action on signature authorizations; designation of actuary, appointment of medical board, and determination of amounts of surety bonds needed for the Judicial Retirement System of Texas, plan two; consideration and action on a nonsubstantive amendment to §77.1, relating to reduction factors for judicial death benefits; consideration and action on amendments to §77.5 to designate eligible periods of military service and §77.3 to designate a time a retirement is to become effective in the Judicial Retirement System of Texas, plan two; appeals of contested cases—Carlyle, Garner, Kuchera, Lueking; a proposed 1986 operating budget revision; executive director's report; and confirmation of the October 24, 1985, meeting. The board will also meet in executive session to discuss personnel matters.

Contact: Clayton T. Garrison, 18th and Brazos Streets, Austin, Texas 78701, (512) 476-6431.

Filed: September 16, 1985, 11:51 a.m.
TRD-858523

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Texas Employment Commission

Monday, September 16, 1985, 8:30 a.m. The Texas Employment Commission (TEC) met in emergency session in Room 644, TEC Building, 15th Street and Congress Avenue, Austin. According to the agenda, the commission considered transfer of monies to ensure solvency of a trust fund. The emergency status was necessary because to consider transfer of monies to ensure the solvency of a trust fund.

Contact: C. Ed Davis, TEC Building, 15th Street and Congress Avenue, Austin, Texas, (512) 463-2291.

Filed: September 13, 1985, 3:10 p.m.
TRD-858488

Tuesday, September 24, 1985, 8:30 a.m. The Texas Employment Commission (TEC) will meet in Room 644, TEC Building, 101 East 15th Street, Austin. Items on the agenda include prior meeting notes, internal procedures of commission appeals, consideration and action on liability cases and higher level appeals in unemployment compensation cases on commission Docket 39, and setting the date of the next meeting.

Contact: Courtenay Browning, TEC Building, Room 608, 101 East 15th Street, Austin, Texas, (512) 463-2226.

Filed: September 16, 1985, 10:39 a.m.
TRD-858515

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Governor's Commission on Physical Fitness

Tuesday, September 24, 1985, 10:30 a.m. The Senior Adult Physical Fitness Task Force of the Governor's Commission on Physical Fitness will meet in Suite 508, 7703 North Lamar Boulevard, Austin. According to the agenda summary, the task force will review meeting objectives, review program history, set direction of the program, discuss the workshop format, discuss the resource development, present supplemental educational projects, consider funding sources for special projects, and other business.

Contact: Donald F. Haydon, 7703 North Lamar Boulevard, Suite 508, Austin, Texas 78756, (512) 467-7141.

Filed: September 16, 1985, 9:39 a.m.
TRD-858513

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Texas Grain Sorghum Producers Board

Wednesday, September 25, 1985, 8 a.m. The Texas Grain Sorghum Producers Board of the Texas Department of Agriculture will meet at the Quality Royale, 8111 Kirby Drive, Houston. Items on the agenda include a financial report; swearing in of a board member; a Nominating Committee report; election of officers; review of collection notification and implementation of the statewide assessments; policy decisions regarding hybrid forage seed; adoption of the 1985 administrative budget; and a market activity report.

Contact: Elbert Harp, Box R, Abernathy, Texas 78311, (806) 298-2543.

Filed: September 12, 1985, 1:16 p.m.
TRD-858402

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Texas Department of Health

Saturday, September 14, 1985, 9:30 a.m. The Texas Board of Health of the Texas Department of Health made an emergency addition to the agenda for a meeting held in Room T-610, 1100 West 49th Street, Austin. The addition concerned a resolution pertaining to financing procedures for resource recovery programs. The emergency status was necessary because the board

needed to adopt immediately a resolution informing the U.S. Congress of the impact of the president's tax proposal on the Texas solid waste program. The House Ways and Means Committee is reviewing the proposal.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: September 13, 1985, 4:12 p.m.
TRD-858492

Saturday, September 14, 1985, 9:30 a.m. The Texas Board of Health of the Texas Department of Health made an emergency addition to the agenda for a meeting held in Room T-610, 1100 West 49th Street, Austin. The addition concerned approval of a financial statement of the Texas commissioner of health. The emergency status was necessary because the State Appropriations Act, Article V-67, §86, effective September 1, 1985, requires the Board of Health to approve the commissioner's financial statement and the board needs to take this action immediately to meet the statutory mandate.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: September 13, 1985, 4:12 p.m.
TRD-858493

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Texas Health and Human Services Coordinating Council

Tuesday, September 24, 1985, 10 a.m. The Children and Youth Services Working Group of the Texas Health and Human Services Coordinating Council will meet in the Senate Reception Room, State Capitol, Austin. Items on the agenda include approval of the August 9, 1985, minutes and split funding.

Contact: Lynn Leverty, Ph.D., P.O. Box 12428, Austin, Texas 78711, (512) 475-1306.

Filed: September 13, 1985, 3:34 p.m.
TRD-858489

Tuesday, September 24, 1985, 10:30 a.m. The Studies Subcommittee of the Texas Health and Human Services Coordinating Council will meet in the Senate Reception Room, State Capitol, Austin. Items on the agenda include approval of the July 22, 1985, meeting; a final report on the project on the homeless in Texas; a final report on the project on adolescent pregnancy and parents; an update on residential contract care; and a year-end progress report.

Contact: Lynn Leverty, Ph.D., P.O. Box 12428, Austin, Texas 78711, (512) 475-1306.

Filed: September 13, 1985, 3:35 p.m.
TRD-858490

Tuesday, September 24, 1985, 1:30 p.m. The Public/Private Policy Group of the

Texas Health and Human Services Coordinating Council will meet in the Senate Reception Room, State Capitol, Austin. Items on the agenda include a council members and policy group joint discussion of issues and concerns regarding residential contract care levels and rates, reports from the Calendar and Program Committees, cost accounting and reporting, and uniform application process, and planning for the next meeting.

Contact: Lynn H. Leverty, P.O. Box 12428, Austin, Texas 78711, (512) 475-1306.

Filed: September 16, 1985, 4:45 p.m.
TRD-858548

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Texas Department of Human Services

Friday, September 20, 1985, 9 a.m. The Texas Council of Child Welfare Boards of the Texas Department of Human Services will meet in Classroom I, second floor, west tower, 701 West 51st Street, Austin. According to the agenda summary, the council will consider minutes, the treasurer's report, a report from the state office, the prompted intake project in Fort Worth, a case decision project, committee reports, issues, legislation, education, public information, and announcements. The committee also will meet in executive session to discuss plans for the full council meeting.

Contact: James C. Marquart, P.O. Box 2960 Austin, Texas 78769, (512) 450-3365.

Filed: September 12, 1985, 3:26 p.m.
TRD-858413

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Texas Advisory Commission on Intergovernmental Relations

Friday, September 13, 1985, 10:30 a.m. The Texas Advisory Commission on Intergovernmental Relations made emergency additions to the agenda for a meeting held in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. The additions concerned a resolution regarding a member serving on the board of directors for the Coastal Water Authority and a financial statement of employee responsible for entering contracts. The emergency status was necessary because documents concerning these items were not received in time for the regular agenda and required disposition as soon as possible.

Contact: Jay G. Stanford, P.O. Box 13205, Austin, Texas 78711, (512) 475-3728.

Filed: September 12, 1985, 3 p.m.
TRD-858408

State Board of Insurance

Tuesday, September 17, 1985, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance met in emergency session in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the section reopened a public hearing in Docket 8018—whether disciplinary action should be taken against James E. Davis, Jr., and Mary C. Davis, doing business as Guaranty Title Company of Grimes County, Anderson, which holds a title insurance agent's license issued by the board. The emergency status was necessary because of the unavailability of witnesses to attend the hearing at a later date in September.

Contact: John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 463-6326.

Filed: September 13, 1985, 9:51 a.m.
TRD-858463

The Commissioner's Hearing Section of the State Board of Insurance will conduct public hearings in Room 342, 1110 San Jacinto Street, Austin. Days, times, and dockets follow.

Friday, September 20, 1985, 9 a.m. In Docket 9060—whether disciplinary action should be taken against National County Mutual Fire Insurance Company, Dallas, which holds a certificate of authority issued by the board.

Contact: Staci Copelin, 1110 San Jacinto Street, Austin, Texas 78786, (512) 463-6498.

Filed: September 12, 1985, 4:19 p.m.
TRD-858417

Tuesday, September 24, 1985, 9 a.m. In Docket 9069—reinsurance agreement whereby Waldo Service Insurance Company, Sherman, will be reinsured by Sentinel American Life Insurance Company, Houston.

Contact: Staci Copelin, 1110 San Jacinto Street, Austin, Texas 78786, (512) 463-6498.

Filed: September 16, 1985, 10:55 a.m.
TRD-858516

Wednesday, September 25, 1985, 9 a.m. In Docket 9047—application of James Dillard Womack, Jr., DeSoto, for a legal reserve life insurance agent's license.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 463-6524.

Filed: September 16, 1985, 10:55 a.m.
TRD-858517

Wednesday, September 25, 1985, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 353, 1110 San Jacinto Street, Austin. According to the agenda, the section will consider Docket 9052—whether disciplinary action should be taken against Alvin Lee Beller, Colleyville, who holds a Group I legal reserve life insurance agent's license and Group II insurance agent's license issued by the board.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 463-6524.

Filed: September 16, 1985, 10:55 a.m.
TRD-858518

Thursday, September 26, 1985, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 353, 1110 San Jacinto Street, Austin. According to the agenda, the section will conduct a public hearing in Docket 9049—application of Milton Maxwell Dicks, Dallas, for a legal reserve life insurance agent's license.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 463-6524.

Filed: September 16, 1985, 10:55 a.m.
TRD-858519

The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. Days, times, and dockets follow.

Thursday, September 26, 1985, 9 a.m. In Docket 9054—whether disciplinary action should be taken against Fred Newell Elder, Dallas, who holds a Group II life insurance agent's license and local recording agent's license issued by the board.

Contact: Staci Copelin, 1110 San Jacinto Street, Austin, Texas 78786, (512) 463-6498.

Filed: September 16, 1985, 10:55 a.m.
TRD-858520

Thursday, September 26, 1985, 1:30 p.m. In Docket 9055—whether disciplinary action should be taken against Commercial Risks, Inc., Dallas, who holds a surplus lines agent's license and managing general agent's license issued by the board.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 463-6524.

Filed: September 16, 1985, 10:55 a.m.
TRD-858521

Friday, September 27, 1985, 9 a.m. In Docket 9077—application for original charter of Pinkston Life Insurance Company, Fort Worth.

Contact: John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 463-6525.

Filed: September 16, 1985, 10:55 a.m.
TRD-858522

Monday, October 14, 1985, 9 a.m. The State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the board will consider the appeal of Robert Mitchell from action of the Texas Catastrophe Property Insurance Association.

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

Filed: September 13, 1985, 9:03 a.m.
TRD-85441

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Commission on Jail Standards

Wednesday, September 25, 1985, 9 a.m. The Commission on Jail Standards will meet in Room 100, Employees Retirement System Building, 18th and Brazos Streets, Austin. Items on the agenda summary include reading and approval of the July 24, 1985, minutes; the director's report concerning old business, Denton, Frio, Midland, Polk, Rusk, Tarrant, Webb, a change to life safety standards, new business, Ochiltree, Rockwall; applications for variance for Brazos, Fayette, Harris, and Tarrant Counties; and new business for Hays County. The commission also will meet in executive session.

Contact: Robert O. Viterna, 411 West 13th Street, Suite 900, Austin, Texas 78701, (512) 475-2716.

Filed: September 13, 1985, 1:59 p.m.
TRD-858484

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Board of Pardons and Paroles

Wednesday, September 18, 1985, 10 a.m. The Board of Pardons and Paroles met in emergency session at the Criminal Justice Center, Sam Houston University, Huntsville. Items on the agenda include a workshop with the parole commissioners regarding implementation of new legislation and sunset review. The emergency status was necessary because board members could not adjust their schedules to meet at any other reasonable time.

Contact: Gladys Sommers, 8610 Shoal Creek Boulevard, Austin, Texas 78711, (512) 459-2704.

Filed: September 13, 1985, 10:58 a.m.
TRD-858481

Monday-Friday, September 23-27, 1985, 1:30 p.m. daily Monday-Thursday and 11 a.m. Friday. A three-member panel of the Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the panel will receive, review, and consider information and reports concerning prisoners and inmates and administrative releases subject to the board's jurisdiction and initiate and carry through with appropriate action.

Contact: Mike Roach, 8610 Shoal Creek Boulevard, Austin, Texas, (512) 459-2713.

Filed: September 13, 1985, 10:59 a.m.
TRD-858482

Tuesday, September 24, 1985, 1:30 p.m. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will consider executive clemency recommendations and related actions, other than out-of-country conditional pardons, including full pardons and restoration of civil rights of citizenship; emergency medical reprieves;

commutations of sentence; and other reprieves, remissions, and executive clemency actions.

Contact: Gladys Sommers, 8610 Shoal Creek Boulevard, Austin, Texas, (512) 459-2704.

Filed: September 13, 1985, 10:59 a.m.
TRD-858483

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Texas State Board of Public Accountancy

Wednesday, September 25, 1985, 10 a.m. A panel of the Texas State Board of Public Accountancy will conduct a hearing in Suite 340, 1033 La Posada, Austin. According to the agenda, the panel will review testimony presented at a hearing on September 10, 1985, regarding noncompliance with continuing education rules.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752, (512) 451-0241.

Filed: September 16, 1985, 2:07 p.m.
TRD-858533

Thursday and Friday, September 26 and 27, 1985, 11 a.m. and 9 a.m., respectively. The Texas State Board of Public Accountancy will meet in Suite 340, 1033 La Posada, Austin. Items on the agenda summary include committee reports and action thereon, consent orders, proposals for decision, a panel hearing and informal conference reports and action thereon, fiscal year 1986 budget approval, attorney general opinion reports, and other board business.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752, (512) 451-0241.

Filed: September 16, 1985, 2:07 p.m.
TRD-858534

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Public Utility Commission of Texas

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

Monday, September 23, 1985, 9 a.m. A prehearing conference in Docket 6295—complaint of Russell Whitehouse against Guadalupe Valley Electric Cooperative.

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

Filed: September 12, 1985, 2:56 p.m.
TRD-858424

Tuesday, September 24, 1985, 10 a.m. A third prehearing conference in Docket 6325—petition of Central Power and Light Company (CP&L) and Houston Lighting and

Power Company (HL&P) for a declaratory order regarding the South Texas Nuclear Project.

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

Filed: September 12, 1985, 2:56 p.m.
TRD-858425

Tuesday, September 24, 1985, 4:30 p.m. The Hearings Division of the Public Utility Commission of Texas will meet in the cafeteria, Gilmer Junior High School, Glade-water Highway, Gilmer. According to the agenda, the division will conduct a regional hearing in Docket 6380—application of Upshur-Rural Electric Cooperative Corporation for authority to change rates.

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

Filed: September 12, 1985, 2:55 p.m.
TRD-858426

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

Wednesday, September 25, 1985, 10 a.m. A hearing 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—Eules 138KV transmission line; appeals of Brazos Electric Power Cooperative, Inc., Tri-County Electric Cooperative, Inc., and Texas Utilities Electric Company of an ordinance of the Town of Westlake; and appeals of Texas Utilities Electric Company and Brazos Electric Power Cooperative, Inc., of an ordinance of the Town of Trophy Club.

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

Filed: September 12, 1985, 2:55 p.m.
TRD-858427

Friday, September 27, 1985, 1:30 p.m. A prehearing conference in Docket 5023—application of CP&L, HL&P, and SWEPSCO for a ±400KV HVdc transmission line from Walker County station south to the Matagorda station at the South Texas project.

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

Filed: September 16, 1985, 3:14 p.m.
TRD-858543

Thursday, October 3, 1985, 9 a.m. A hearing on the merits in Docket 6089—complaint of Kaufman County Liaison Committee against West Cedar Creek Municipal Utility District.

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

Filed: September 16, 1985, 3:13 p.m.
TRD-858544

Friday, October 4, 1985, 11 a.m. A prehearing conference in Docket 6480—application of Ingram Water Supply, Inc., for authority to change rates.

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

Filed: September 16, 1985, 3:13 p.m.
TRD-858545

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Railroad Commission of Texas

Monday, September 16, 1985, 9 a.m. The Transportation Division of the Railroad Commission of Texas submitted an emergency revised agenda for a meeting held in the first floor auditorium east, 1701 North Congress, Austin. According to the revised agenda, the commission considered Docket 013194A1AV—application of Rochester Armored Car Company, Inc., doing business as Magic Valley Armored Car Service for a new armored contract carrier permit. The emergency status was necessary because a substantial number of Rio Grande Valley shippers of coin, currency, and items of high intrinsic value do not have available to them an authorized armored carrier that uses armed guards. Transportation of such valuable commodities without armored vehicles and armed guards would constitute a substantial risk to the public safety and welfare.

Contact: Mike James, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7124.

Filed: September 13, 1985, 10:33 a.m.
TRD-858465

Monday, September 23, 1985, 9 a.m. The Railroad Commission of Texas will meet in the first floor auditorium east, William B. Travis Building, 1701 North Congress Avenue, Austin. The commission will consider and act on division agendas as follows.

The Administrative Services Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Roger Dillon, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7149.

Filed: September 13, 1985, 10:30 a.m.
TRD-858466

The Automatic Data Processing Division director's report on division administration, budget, procedures, equipment acquisitions, and personnel matters.

Contact: Bob Kmetz, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1204.

Filed: September 13, 1985, 10:33 a.m.
TRD-858467

The Flight Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Ken Fossler, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-7149.

Filed: September 13, 1985, 10:34 a.m.
TRD-858468

Various matters falling within the Gas Utilities Division's regulatory jurisdiction.

Contact: Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7003.

Filed: September 13, 1985, 10:30 a.m.
TRD-858469

The Office of Information Services director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Drawer 12967, Austin, Texas 78711-2967, (512) 463-7149.

Filed: September 13, 1985, 10:32 a.m.
TRD-858470

The LP-Gas Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Thomas D. Petru, P.O. Drawer 12967, Austin, Texas 78711-2967, (512) 463-6931.

Filed: September 13, 1985, 10:33 a.m.
TRD-858471

Various matters falling within the Oil and Gas Division's regulatory jurisdiction.

Contact: Timothy A. Poe, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6713.

Filed: September 13, 1985, 10:32 a.m.
TRD-858472

Additions to the previous agenda:

Consideration of category determinations under the Natural Gas Policy Act of 1978, §§102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108.

Contact: Margie L. Osborn, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6755.

Filed: September 13, 1985, 10:32 a.m.
TRD-858473

Consideration of Celeron Oil & Gas Company's application for rule making and motion for rehearing of commission letter orders of July 8, 1985, dealing with proposed statewide rules and field rules for the Panhandle fields and a commission letter to operators in the Panhandle fields, and various other requests for rule making with regard to the Panhandle fields.

Contact: Susan Cory, P.O. Box 12967, Austin, Texas 78711, (512) 463-6923.

Filed: September 13, 1985, 4:48 p.m.
TRD-858494

The Personnel Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Mark K. Bogan, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6981.

Filed: September 13, 1985, 10:31 a.m.
TRD-858474

The Office of Research and Statistical Analysis director's report on division administration, budget, procedures, and personnel matters.

Contact: Gail Gemberling, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6976.

Filed: September 13, 1985, 10:33 a.m.
TRD-858475

The Office of the Special Counsel director's report relating to pending litigation, state and federal legislation, and other budget, administrative, and personnel matters.

Contact: Walter Earl Lillie, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-7149.

Filed: September 13, 1985, 10:34 a.m.
TRD-858476

The Surface Mining and Reclamation Division director's report on division administration, budget, procedures, and personnel matters; consideration of the approval of the permit application of the Lower Colorado River Authority for its Cummins Creek Mine and protestants' request for oral argument (Docket 21); and consideration of the adoption of amendments to 16 TAC §11.221, which adopts by reference rules concerning lands unsuitable for mining, effluent limitations, prime farmland, and notices of violations.

Contact: J. Randel (Jerry) Hill, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas, (512) 463-7149.

Filed: September 13, 1985, 10:31 a.m.
TRD-858477

Various matters falling within the Transportation Division's regulatory jurisdiction.

Contact: Michael A. James, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7122.

Filed: September 13, 1985, 10:33 a.m.
TRD-858478

School Land Board

Tuesday, September 17, 1985, 10 a.m. The School Land Board made an emergency addition to the agenda of a meeting held in Room 831, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. The addition concerned a pooling application.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 837, Austin, Texas 78701, (512) 475-0219.

Filed: September 13, 1985, 4:10 p.m.
TRD-858491

Sunset Advisory Commission

Friday, September 20, 1985, 10 a.m. The Sunset Advisory Commission will meet in the Senate Chamber, State Capitol, Austin. According to the agenda summary, the commission will hear background testimony by the Board of Pardons and Paroles, Texas Juvenile Probation Commission, Texas Youth Commission, Board of Private Investigators and Private Security Agencies, Texas Adult Probation Commission, Texas Air Control Board, and Texas Department on Correction.

Contact: Cindy Unsell, John H. Reagan Building, Room 305, Austin, Texas 78711, (512) 475-1718.

Filed: September 12, 1985, 2:39 p.m.
TRD-858405

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University of Texas at Austin

Friday, September 20, 1985, 2 p.m. The Women's Athletic Council of the Intercollegiate Athletics for Women of the University of Texas at Austin will meet in Room 606, Bellmont Hall, 21st and San Jacinto Streets, Austin. Items on the agenda include introduction of new council members; approval of the previous meeting minutes; and announcements. The council will also meet in executive session.

Contact: Donna Lopiano, P.O. Box N, Austin, Texas 78712, (512) 471-7693.

Filed: September 12, 1985, 4:21 p.m.
TRD-858418

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University Interscholastic League

Wednesday, September 18, 1985, 10 a.m. The Schedule of Events and Participation Committee of the University Interscholastic League met in the Childress Room, Villa Capri Motor Hotel, 2400 IH 35 North, Austin. According to the agenda summary, the committee formulated recommendations regarding representation and scheduling of events to standing committees of the Legislative Council.

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

Filed: September 12, 1985, 4:06 p.m.
TRD-858421

Thursday, September 19, 1985, 8 a.m. The Waiver Review Board of the University Interscholastic League met in Room 3.108, Thompson Conference Center, 26th and Red River Streets, Austin. According to the agenda summary, the board conducted hearings regarding student waivers.

Contact: Bob Young, Box 8028, Austin, Texas 78712, (512) 471-5883.

Filed: September 12, 1985, 4:07 p.m.
TRD-858422

Thursday, September 19, 1985, 9 a.m. The One-Act Play Study Committee of the University Interscholastic League met in Room 2.108, Thompson Conference Center, 26th and Red River Streets, Austin. According to the agenda summary, the committee studied adjudication procedures in the one-act play contest and formulated recommendations to the Standing Committee of the Legislative Council.

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

Filed: September 12, 1985, 4:06 p.m.
TRD-858423

Texas Veterans Commission

Thursday, October 3, 1985, 1:30 p.m. The Texas Veterans Commission will meet on the sixth floor, E. O. Thompson Building, 10th and Colorado Streets, Austin. According to the agenda, the commission will consider reports, make decisions regarding administrative matters pertaining to veteran's counseling and assistance, and elect officers for the coming year.

Contact: Aubrey L. Bullard, P.O. Box 12277, Austin, Texas 78711, (512) 475-4185.

Filed: September 16, 1985, 9:39 a.m.
TRD-858514

Veterans Land Board

Wednesday, September 25, 1985, 3 p.m. The Veterans Land Board of the General Land Office will meet in Room 831, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the board will approve the July 24, 1985, board minutes; consider bids on the September 25, 1985, forfeited land sale; consider a proposed revision of board rules; discuss the status of board Account 410-52131, Clethus Wedgeworth, and 410-52131, Alonzo Wedgeworth; consider forfeiture action on delinquent board accounts; and hear a status report on the LaMoca Ranch subdivision.

Contact: Richard Keahey, Stephen F. Austin Building, Room 636, Austin, Texas 78701, (512) 475-6755.

Filed: September 17, 1985, 9:58 a.m.
TRD-858551

Texas Water Commission

Tuesday, September 17, 1985, 10 a.m. The Texas Water Commission made an emergency addition to the agenda of a meeting held in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. The addition concerned the application by Sabine Mining Company for an emergency permit pursuant to the Texas Water Code, §11.139. The emergency status was necessary because the applicant has stated that the inability to control adequately the dust on the Sabine's haulroads poses a po-

tential threat to the health, safety, and welfare of persons on the premises.

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

Filed: September 12, 1985, 3:32 p.m.
TRD-858409

Tuesday, September 24, 1985, 10 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Items on the agenda include water district bond issues, release from escrow, use of surplus funds, approval to decrease tax rate, set creation hearing date, water quality proposed permits, amendment and renewals, dismissal of water quality proposed permit and consideration of authorization for executive director to apply for all grants, and the issuance by the executive director of an emergency contract for clean-up of a spill near Stonewall.

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

Filed: September 13, 1985, 1:59 p.m.
TRD-858485

Monday, October 14, 1985, 9 a.m. The Texas Water Commission will meet in Room 215, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider the application of C. R. Freeman, Jr., 1904 Highway 80 East, San Marcos Texas 78666, to the commission for proposed Permit 13164-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 200,000 gallons per day from the proposed Country Glenn Sewage Treatment Plant, which the applicant proposes to construct in phases to serve a proposed residential subdivision.

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

Filed: September 12, 1985, 2:34 p.m.
TRD-858428

Wednesday, October 16, 1985, 9 a.m. The Texas Water Commission will meet in Central Jury Room 101, Smith County Courthouse, 100 North Broadway, Tyler. According to the agenda summary, the commission will consider the application of McKinney and Moore, Inc., P.O. Box 787, Jacksonville, Texas 75766, to the Texas Department of Water Resources for proposed Permit 13137-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 67,500 gallons per day from the proposed wastewater treatment facilities which are to serve a proposed residential subdivision.

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

Filed: September 12, 1985, 2:32 p.m.
TRD-858429

Wednesday, October 16, 1985, 9 a.m. The Texas Water Commission will meet in Central Jury Room 101, Smith County Courthouse, 100 North Broadway, Tyler. According to the agenda summary, the commission will consider the application of Texas Wedgewood Corporation, P.O. Box 219, Flint, Texas 75762, to the Texas Department of Water Resources for proposed Permit 13168-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 30,000 gallons per day from the proposed Cedar Valley Estates sewage treatment plant, which is to serve a proposed residential subdivision and shopping center.

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

Filed: September 12, 1985, 2:33 p.m.
TRD-858430

Thursday, October 17, 1985, 10 a.m. The Texas Water Commission will meet in Multiroom B, Pearland Community Center, 3523 Liberty Drive, Pearland. According to the agenda summary, the commission will consider the application of Joe Solhjou, doing business as Pin Oak Mobile Home Park, 911 Doral, Houston, Texas 77073, to the Texas Department of Water Resources for proposed Permit 13157-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 25,000 gallons per day from the proposed Pin Oak Wastewater Treatment Plant, which is to serve an existing mobile home park presently being served by malfunctioning septic tanks.

Contact: Michael E. Field, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: September 12, 1985, 2:33 p.m.
TRD-858431

Thursday, October 17, 1985, 10 a.m. The Texas Water Commission will meet in Multiroom B, Pearland Community Center, 3523 Liberty Drive, Pearland. According to the agenda summary, the commission will consider the application of Peek Road Utilities, Inc., 6319 Skyline Drive, Houston, Texas 77057, to the Texas Department of Water Resources for proposed Permit 13171-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 150,000 gallons per day from the proposed FM Road 518 Wastewater Treatment Plant, which is to serve a condominium development.

Contact: Michael E. Field, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: September 12, 1985, 2:33 p.m.
TRD-858432

Monday, October 21, 1985, 10 a.m. The Texas Water Commission will meet in rescheduled session in Room 618, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the

commission will consider Application 4588 of Wiggins Land Company, Inc., trustee, to impound 17 acre-feet of water per annum in a reservoir to be created by the reconstruction of a dam on Spring Branch, tributary of Williams Creek, tributary of Menard Creek, tributary of the Trinity River, Trinity River Basin, for recreation and domestic use, Polk County. The hearing was previously scheduled for September 9, 1985.

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

Filed: September 12, 1985, 2:32 p.m.
TRD-858433

Monday, October 21, 1985, 10 a.m. The Texas Water Commission will meet in rescheduled session in Room 618, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will consider Application 4584 of F. E. Appling Interests, a partnership for a permit to divert and use 166.75 acre-feet of water per annum from West Mustang Creek, tributary of Mustang Creek, tributary of Navidad River, tributary of Lavaca River, Lavaca River Basin, for irrigation purposes, in Wharton County. The meeting was originally scheduled for August 26, 1985.

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

Filed: September 12, 1985, 2:31 p.m.
TRD-858434

Wednesday, October 23, 1985, 10 a.m. The Texas Water Commission will meet in Room 116, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will consider a petition for creation of Fort Bend County Municipal Utility District 73, containing 570.3574 acres of land.

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

Filed: September 12, 1985, 3:33 p.m.
TRD-858410

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Regional Agencies Meetings Filed September 12

The Austin-Travis County Mental Health and Mental Retardation, Operations and Planning Committee, will meet in the boardroom, 1430 Collier, Austin, on September 20, 1985, at 7:30 a.m. Information may be obtained from Sharon Taylor, 1430 Collier, Austin, Texas 78704, (512) 447-4141.

The Region XI, Education Service Center, Board of Directors, will meet at 3001 North Freeway, Fort Worth, on September 20, 1985, at noon. Information may be ob-

tained from R. P. Campbell, Jr., 3001 North Freeway, Fort Worth, Texas 76106, (817) 625-5311, ext. 102.

The Grayson Appraisal District, Board of Directors, met at 205 North Travis, Sherman, on September 18, 1985, at noon. Information may be obtained from Sandra Bollier, 124 South Crockett, Sherman, Texas 75090, (214) 893-9673.

The Appraisal District of Jones County, Board of Directors, met at 1137 East Court Plaza, Anson, on September 19, 1985, at 9 a.m. Information may be obtained from John Steele, P.O. Box 348, Anson, Texas 79501, (915) 823-2422.

The Liberty County Central Appraisal District, Appraisal Review Board and Board of Directors, will meet at 1820 Sam Houston, Liberty, on September 20, 1985, and September 25, 1985, respectively, at 9:30 a.m. daily. Information may be obtained from Sherry Greak, P.O. Box 712, Liberty, Texas 77575, (509) 336-6771.

The Lone Star Municipal Power Agency met in the conference room, Huntsville City Hall, 1212 Avenue M, Huntsville, on September 16, 1985, at 5:30 p.m. Information may be obtained from Cathy Locke, 8240 MoPac Expressway, Austin, Texas 78759, (409) 764-3509.

The Lower Colorado River Authority, Energy Operations Committee, met at 3700 Lake Austin Boulevard, on September 18, 1985, at 8 a.m. The following committees met on the same day at the following times:

Audit and Budget Committee—9:30 a.m.
Committee on Planning and Public Policy—10:30 a.m.

Natural Resources Committee—1 p.m.

Finance and Administration Committee—3 p.m.

The Board of Directors met at the same location on September 19, 1985, at 9 a.m. Information may be obtained from Eloy H. Soderberg, P.O. Box 220, Austin, Texas 78767, (512) 473-3200.

The Lower Neches Valley Authority Industrial Development Corporation, Board of Directors, met at 7850 Eastex Freeway, Beaumont, on September 17, 1985, at 10 a.m. The Lower Neches Valley Authority Board of Directors met at the same location on the same day at 10:30 a.m. Information may be obtained from J. D. Nixon, P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011.

The North Central Council of Governments, Executive Board, met on the second floor, Centerpoint Two, 616 Six Flags Drive, Arlington, on September 19, 1985, at 12:45 p.m. Information may be obtained from Edwina J. Hicks, P.O. Drawer COG,

Arlington, Texas 76005-5888, (817) 640-3300.

The Pecan Valley Mental Health and Mental Retardation Region, Board of Trustees, met at the Life Skills Center, 102 Charles Street, Granbury, on September 18, 1985, at 8 a.m. Information may be obtained from Dr. Theresa Mulloy, P.O. Box 973, Stephenville, Texas 76401, (817) 965-7806.

The West Central Texas Council of Governments, Executive Committee, will meet at 1025 East North 10th Street, Abilene, on September 24, 1985, at 12:45 p.m. Information may be obtained from Brad Helbert, P.O. Box 3195, Abilene, Texas 79604, (915) 672-8544.

The West Texas Council of Governments, Board of Directors, met at 113 West Missouri, El Paso, on September 18, 1985, at 11 a.m. The Board of Directors annual meeting will be held at the same location on the same day at 11:30 a.m. Information may be obtained from Cecile C. Gamez, Two Civic Center Plaza, El Paso, Texas 79999, (915) 541-4689.
TRD-858395

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Meetings Filed September 13

The Atascosa County Appraisal District, Board of Directors, met at 1010 Zanderson, Jourdanon, on September 19, 1985, at 1:30 p.m. Information may be obtained from Vernon A. Warren, 1010 Zanderson, Jourdanon, Texas 78026, (512) 769-2730.

The Dallas Area Rapid Transit, Budget and Finance Committee, met in emergency session at 601 Pacific Avenue, Dallas, on September 16, 1985, at 4 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Deep East Texas Council of Governments, Board of Directors, met at the Woodville Inn, Highway 69, Woodville, on September 19, 1985, at 1:30 p.m. Information may be obtained from Betty Snowden, 274 East Lamar, Jasper, Texas 75951, (409) 384-5704.

The Region XVIII Education Service Center, Joint Committee, will meet at the Education Service Center, LaForce Boulevard, Midland Air Terminal, Midland, on October 2, 1985, at 11:30 a.m. The Board of Directors will meet at the same location on October 3, 1985, at 7:30 p.m. Information may be obtained from J. W. Donaldson, Box 6020, Midland, Texas 79701, (915) 563-2380.

The Hale County Appraisal District, Board of Directors, met in emergency session at the El Jardin Restaurant, 3301 Olton Road, Plainview, on September 13, 1985, at noon.

Information may be obtained from Linda Jaynes, Box 29, Plainview, Texas 79072, (806) 293-4226.

The Middle Rio Grande Development Council, Private Industry Council, met at the Campestre Convention Center, Crystal City, on September 18, 1985, at 10 a.m. Information may be obtained from Armando Herrera, P.O. Box 702, Carrizo Springs, Texas 78834, (512) 876-3533.

The Red River Authority of Texas, Board of Directors, met at Tanglewood on Lake Texoma, Pottsboro, on September 18, 1985, at 9 a.m. Information may be obtained from Ronald J. Glenn, 302 Hamilton Building, Wichita Falls, Texas 76301, (817) 723-8697.

The Sabine River Authority of Texas, Board of Directors, met at the Lake Country Inn, Center, on September 18, 1985, at 10 a.m. Information may be obtained from Sam F. Collins, P.O. Box 579, Orange, Texas 77630, (409) 883-2531.

TRD-858440

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Meetings Filed September 16

The Ark-Tex Council of Governments, Board of Directors, met at City Hall, Mount Pleasant, on September 19, 1985, at 7 p.m. Information may be obtained from Vivienne Arvin, Box 5307, Texarkana, Texas 75501, (214) 832-8636.

The Bosque County Appraisal Board met in the Bosque County Courthouse, Meridian, on September 19, 1985, at 7 p.m. Information may be obtained from David G. Cooper, Box 393, Meridian, Texas 76665, (817) 435-2304.

The Deep East Texas Private Industry Council, met in emergency session in the community room, Citizens State Bank, Woodville, on September 19, 1985, at 2 p.m. Information may be obtained from Charlene Meadows, Box 1463, Lufkin, Texas 75901, (409) 634-4432.

The Deep East Texas Regional Mental Health and Mental Retardation Services, Board of Directors, will meet in the Ward R. Burke Community Room, 4101 South Medford Drive, Lufkin, at 5:30 p.m. Information may be obtained from Jim McDermott, 4101 South Medford Drive, Lufkin, Texas 75901, (409) 639-1141.

The East Texas Council of Governments, met at the Holiday Inn-Estes Parkway, Longview, on September 19, 1985, at 7:30 p.m. Information may be obtained from Glynn J. Knight, 3800 Stone Road, Kilgore, Texas 75662, (214) 984-8641.

The Gillespie County Appraisal District, Board of Directors, will meet in the City Hall Assembly Room, Fredericksburg, on September 25, 1985, at 9 a.m. Information may be obtained from Gary Neffendorf, P.O. Box 429, Fredericksburg, Texas 78624, (512) 997-7655.

The Golden Crescent Regional Planning Commission, General Assembly, will meet at the LaBahia Restaurant, Goliad, on September 23, 1985, at 7:30 p.m. The Board of Directors will meet at the same location on the same day at 9 p.m. Information may be obtained from Patrick J. Kennedy, P.O. Box 2028, Victoria, Texas 77902, (512) 578-1587.

The Houston-Galveston Area Council, Board of Directors, met in the fourth floor conference room, 3555 Timmons, Houston, on September 17, 1985, at 9:30 a.m. Information may be obtained from Jack Steel, Box 22777, Houston, Texas 77227, (713) 627-3200.

The Lee County Appraisal District, Board of Directors, met in an emergency session at 218 East Richmond Street, Giddings, on September 18, 1985, at 9 a.m. The Board

of Directors also will meet at the same location on September 25, 1985, at 9 a.m.. Information may be obtained from James L. Dunham, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618.

The Middle Rio Grande Development Council, Texas Review and Comment System Committee, met in an emergency session at the Campstre Center, Crystal City, on September 18, 1985, at noon. Information may be obtained from Oralia Salda, Del Rio National Bank Building, Suite 3307, Del Rio, Texas 78840, (512) 774-4949.

The North Central Texas Council of Governments for North Central Texas Job Training, Consortium Private Industry Council, will meet in the boardroom, 616 Six Flags Drive, Arlington, on September 25, 1985, at 10 a.m. Information may be obtained from Mike Gilmore, P.O. Drawer COG, Arlington, Texas 76005-5888, (817) 640-3300.

The North Texas Municipal Water District, Board of Directors, will meet at the Westin Hotel, 13340 North Dallas Parkway, Dallas, on September 28 and 29, 1985, at 8:30 a.m. daily. Information may be obtain-

ed from Carl W. Riehn, Drawer C, Wylie, Texas 75098, (214) 442-5405.

The Northeast Texas Municipal Water District, Board of Directors, will meet at 1003 Linda Drive, Daingerfield, on September 23, 1985, at 7 p.m. Information may be obtained from Homer Tanner, P.O. Box 680, Daingerfield, Texas 75638, (214) 645-2241.

The Upper Leon River Municipal Water District, Board of Directors, will meet in the general office of the filter plant, Proctor Lake, on September 26, 1985, at 6:30 p.m. Information may be obtained from Zollie D. Skaggs, Box 67, Comanche, Texas 76442, (817) 879-2258.

The Wise County Appraisal District met in emergency session, at 206 South State, Decatur, on September 18, 1985, at 10 a.m. The Board of Directors met in joint emergency session at the same location on the same day at the same time. Information may be obtained from Angela Smith, P.O. Box 509, Decatur, Texas 76234, (817) 627-3081.

TRD-858512

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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.

Automated Information and Telecommunications Council Address and Phone Change

The Automated Information and Telecommunications Council (formerly the Automated Information Systems Advisory Council) has moved from the third floor to Suite 216, second floor, 510 South Congress. Effective October 1, 1985, the new telephone number will be (512)-463-5530 and (STS) 255-5530.

Issued in Austin, Texas, on September 12, 1985.

TRD-858399 Charlotte D. Craig
Administrative Assistant
Automated Information and
Telecommunications Council

Filed: September 12, 1985
For further information, please call (512) 475-2362.



State Banking Board Hearing Cancellation

The date of the hearing for the change of domicile application of First State Bank, Pflugerville, previously scheduled for September 18, 1985, has been cancelled. The hearing has not been rescheduled as of this date.

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

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

TRD-858385 William F. Aldridge
Director of Corporate Activities
Texas Department of Banking

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



Banking Department of Texas Applications to Acquire Control of State Banks

Texas Civil Statutes, Article 342-401a, require any person who intends to buy control of a state bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On August 20, 1985, the banking commissioner received an application to acquire control of Lockhart State Bank, Lockhart, by Carroll N. Sullivan, Jr., Georgetown; Ted C. Connell, Killeen; JoAnn Finley, Burnet; and Jay C. Evans, Georgetown.

On September 11, 1985, notice was given that the application would not be denied.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on September 11, 1985.

TRD-858480 William F. Aldridge
Director of Corporate
Activities
Banking Department of
Texas

Filed: September 13, 1985
For further information, please call (512) 475-4451.



Texas Civil Statutes, Article 342-401a, require any person who intends to buy control of a state bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On September 11, 1985, the banking commissioner received an application to acquire control of Columbia Bancshares, Inc., West Columbia, by Donald J. Ethridge, Lake Jackson; and David J. Tippeconnic, Stephen D. Wiehe, and Michael A. Decker, all of West Columbia.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on September 11, 1985.

TRD-858481 William F. Aldridge
Director of Corporate
Activities
Banking Department of
Texas

Filed: September 13, 1985
For further information, please call (512) 475-4451.



Texas Department of Community Affairs

Extension of Deadline

In the August 9, 1985, issue of the *Texas Register* (10 Tex-Reg 3030), the Texas Department of Community Affairs (TDCA) published a request for proposals to operate Older Worker Model Programs under the Job Training Partnership Act (JTPA). The deadline for submittal of proposals for the Older Workers Model Programs has been extended from 4 p.m., on Friday, September 20, 1985, to 4 p.m., on Friday, October 4, 1985.

Only the proposal deadline has been extended. All other requirements remain as described in the request for proposals for Older Workers Model Programs in the August 9, 1985, issue of the *Texas Register*.

For further information, please contact Enrique Barrera or Arturo Gil at (512) 834-6092 or at Texas Department of Community Affairs, Training and Employment Development Division, 8317 Cross Park Drive, P.O. Box 13166, Austin, Texas 78711.

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

TRD-858495 Douglas C. Brown
General Counsel
Texas Department of Community Affairs

Filed: September 16, 1985
For further information, please call (512) 834-6060.

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Office of Consumer Credit Commissioner

Rate Ceilings

The consumer credit commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

Type of Rate Ceilings Effective Period (Dates are Inclusive)	Consumer ⁽²⁾ Agricultural/Commercial ⁽⁴⁾ thru \$250,000	Commercial ⁽⁴⁾ over \$250,000
Indicated (Weekly) Rate—Article 1.04(a)(1) 09/23/85-09/29/85	18.00%	18.00%
Monthly Rate—Article 1.04(c)(1) 09/01/85-09/30/85	18.00%	18.00%
Standard Quarterly Rate—Article 1.04(a)(2) 10/01/85-12/31/85	18.00%	18.00%
Retail Credit Card Quarterly Rate—Article 1.11 ⁽³⁾ 10/01/85-12/31/85	18.00%	N/A
Lender Credit Card Quarterly Rate—Article 15.02(d) ⁽³⁾ 10/01/85-12/31/85	14.46%	N/A
Standard Annual Rate—Article 1.04(a)(2) ⁽²⁾ 10/01/85-12/31/85	18.00%	18.00%

Type of Rate Ceilings Effective Period (Dates are Inclusive) Consumer⁽²⁾ Agricultural/Commercial⁽⁴⁾ thru \$250,000 Commercial⁽⁴⁾ over \$250,000

Retail Credit Card Annual Rate—Article 1.11⁽³⁾
10/01/85-12/31/85 18.00% N/A

Annual Rate Applicable to Pre-July 1, 1983, Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from 10/01/85-12/31/85 18.00% N/A

Judgment Rate—Article 1.05, §2
10/01/85-10/31/85 10.00% 10.00%

- (1) For variable rate commercial transactions only.
(2) Only for open-end credit as defined in Texas Civil Statutes, Article 5069-1.01(f).
(3) Credit for personal, family, or household use.
(4) Credit for business, commercial, investment, or other similar purpose.

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

TRD-858497 Sam Keiley
Consumer Credit Commissioner

Filed: September 16, 1985
For further information, please call (512) 479-1290.

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Texas Department of Health Emergency Impoundment Order

The Texas Department of Health gives notice that Allen J. Kemp, possessing a source of radiation described as a machine that produces x-rays when energized and designed for the performance of industrial radiographic operations, while not possessing a certificate of registration authorizing the possession and operation of the x-ray producing machine(s), and having performed radiographic x-ray exposures without the presence of required film badge or thermoluminescent dosimeters and without an appropriate radiation survey meter for the energy range of x-ray in use, was ordered by the Bureau of Radiation Control to surrender for impoundment all sources of radiation in his possession including the industrial x-ray machine. The issued order follows this notice.

In accordance with the *Texas Regulations for Control of Radiation*, Part 13.10(f)(1), the person receiving the order has been given opportunity for hearing if the person makes a written application to the agency within 30 days of the order date.

A copy of all material submitted is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Texas, from 9 a.m.-5 p.m., Monday-Friday (except holidays).

The emergency impoundment order is as follows.

Whereas, the Bureau of Radiation Control, which is the Radiation Control Program (the agency), has found that Allen J. Kemp (social security number 487-38-6016) possesses a source of radiation described as a machine that produces x-rays when energized and designed for the performance of industrial radiographic operations;

Whereas, it is unlawful for any person to use, manufacture, produce, transport, transfer, receive, acquire, possess, process, or dispose of any source of radiation unless licensed, registered, or exempted by the agency in accordance with the provisions of the Radiation Control Act, Texas Civil Statutes, Article 4590f;

Whereas, Allen J. Kemp does not possess a certificate of registration for the possession and operation of the x-ray producing machine(s);

Whereas Allen J. Kemp was observed on August 5, 1985, to perform radiographic x-ray exposures without the presence of required film badge or thermoluminescent dosimeters and without an appropriate radiation survey meter for the energy range of x-ray in use;

Whereas, the possession of a source of radiation by any person who is not equipped to observe or fails to observe the provision of Texas Civil Statutes, Article 4590f, or any rules issued thereunder constitutes a hazard threatening the health and safety of the people of Texas;

Whereas, the agency finds that an emergency exists requiring immediate action to protect the public health and safety and the environment; and

Now therefore, premises considered, and pursuant to Texas Civil Statutes, Article 4590f, §11(d) and §14, it is hereby ordered that Allen J. Kemp shall immediately surrender for impoundment all sources of radiation in his possession including the industrial x-ray machine.

The order was signed on August 7, 1985, by Richard A. Ratliff, P.E., Division of Compliance and Inspection, Bureau of Radiation Control, Texas Department of Health.

Issued in Austin, Texas, on September 9, 1985.

TRD-858384 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of Health

Filed: September 11, 1985
For further information, please call (512) 458-7236.

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Intent to Revoke Certificates of Registration

The Bureau of Radiation Control, Texas Department of Health, filed a complaint against B. C. Hall II, D.C., P.O. Box 1963, Corsicana, Texas 75710, holder of Certificate of Registration 4-03339, pursuant to *Texas Regulations for Control of Radiation* (TRCR), Part 13.8. The agency intends to revoke Certificate of Registration 4-03339, order the registrant to cease and desist use of radiation machine(s), and order the registrant to either disable the machine(s) or divest himself of it, presenting evidence satisfactory to the Bureau of Radiation Control that he has complied with the order and the provisions of Texas Civil Statutes, Article 4590f. The complaint follows this notice.

This notice affords the opportunity for a hearing to show cause why the certificate of registration should not be revoked. A written request for a hearing must be received within 30 days from the date of service of the complaint to be valid. Such written request must be filed with David K. Lacker, Director, Radiation Control Program, 1100

West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed, the certificate of registration will be revoked at the end of the 30-day period of notice.

A copy of all relevant material is available for inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Texas, from 8 a.m.-5 p.m., Monday-Friday (except holidays).

Complaint

The Division of Compliance and Inspection, Bureau of Radiation Control, Texas Department of Health (the agency), through its division director, makes the following complaint against B. C. Hall II, D.C., P.O. Box 1963, Corsicana, Texas 75710, (the registrant), holder of Certificate of Registration 4-03339.

Texas Regulations for Control of Radiation (TRCR), Part 12.11(b), requires payment of an annual fee for each certificate of registration for radiation machines, in the amount indicated for the appropriate category in Schedule 12.31 of TRCR. The fee shall be received each year on or before the last day of the month of issuance of the certificate of registration. On December 7, 1984, B. C. Hall II, D.C., was billed \$65 for fees due on Certificate of Registration 4-03339 covering the period from April 1984-May 1985. On June 21, 1985, the agency informed the registrant of the delinquency of payment, giving the registrant opportunity to show compliance with all requirements of the law for retention of the certificate of registration. Payment of fees has not been received.

Therefore, the agency, as provided in *Texas Regulations for Control of Radiation*, Part 13.8(c), requests that an order be issued revoking the certificate of registration of the registrant and ordering the registrant to cease and desist use of such machine(s), and further that the registrant, in order to be in compliance with *Texas Regulations for Control of Radiation*, Part 13.8(a), either disable the machine(s) or divest himself of it, presenting evidence satisfactory to the Bureau of Radiation Control that he has complied with this order and the provisions of Texas Civil Statutes, Article 4590f.

The complaint was signed by Richard A. Ratliff, P.E., director, Division of Compliance and Inspection, Bureau of Radiation Control, Texas Department of Health.

Issued in Austin, Texas, on September 9, 1985.

TRD-858381 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of Health

Filed: September 11, 1985
For further information, please call (512) 458-7236.

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The Bureau of Radiation Control, Texas Department of Health, filed a complaint against Ronald E. Grocoff, D.P.M., 601 West Parker Road, Suite 116, Plano, Texas, 75023, holder of Certificate of Registration 5-11224, pursuant to *Texas Regulations for Control of Radiation* (TRCR), Part 13.8. The agency intends to revoke Certificate of Registration 5-11224, order the registrant to cease and desist use of radiation machine(s), and order the registrant to either disable the machine(s) or divest himself of it, presenting evidence satisfactory to the Bureau of Radiation Control that he has complied with the order and the provisions of Texas Civil Statutes, Article 4590f. The complaint follows this notice.

This notice affords the opportunity for a hearing to show cause why the certificate of registration should not be revoked. A written request for a hearing must be received within 30 days from the date of service of the complaint to be valid. Such written request must be filed with David K. Lacker, Director, Radiation Control Program, 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed, the certificate of registration will be revoked at the end of the 30-day period of notice.

A copy of all relevant material is available for inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Texas, from 8 a.m.-5 p.m., Monday-Friday (except holidays).

Complaint

The Division of Compliance and Inspection, Bureau of Radiation Control, Texas Department of Health (the agency), through its division director, makes the following complaint against Ronald E. Grocoff, D.P.M., 601 West Parker Road, Suite 116, Plano, Texas 75023 (the registrant), holder of Certificate of Registration 5-11224.

Texas Regulations for Control of Radiation (TRCR), Part 12.11(b), requires payment of an annual fee for each certificate of registration for radiation machines, in the amount indicated for the appropriate category in schedule 12.31 of TRCR. The fee shall be received each year on or before the last day of the month of issuance of the certificate of registration. On February 20, 1985, Ronald E. Grocoff, D.P.M., was billed \$40 for fees due on Certificate of Registration 5-11224 covering the period from April 1984-April 1985. On June 17, 1985, the agency informed the registrant of the delinquency of payment, giving the registrant opportunity to show compliance with all requirements of the law for retention of the certificate of registration. Payment of fees has not been received.

Texas Regulations for Control of Radiation, Part 42.8, requires written notification to the agency within 30 days of any change which would render the information on the certificate of registration no longer accurate. On November 5, 1984, the agency informed the registrant of the requirement and supplied the appropriate instrument with which to report the change. On January 14, 1985, the agency informed the registrant of his violation of TRCR, Part 42.8, and supplied the appropriate instrument with which to report the change. On June 17, 1985, the agency notified the registrant of the violation, giving the registrant opportunity to show compliance with all requirements of the law for retention of the certificate of registration. Notification of change of information has not been received.

Therefore, the agency, as provided in *Texas Regulations for Control of Radiation*, Part 13.8(c), requests that an order be issued revoking the certificate or registration of the registrant and ordering the registrant to cease and desist use of such machine(s), and further that the registrant, in order to be in compliance with *Texas Regulations for Control of Radiation*, Part 13.8(a), either disable the machine(s) or divest himself of it, presenting evidence satisfactory to the Bureau of Radiation Control that he has complied with this order and the provisions of Texas Civil Statutes, Article 4590f.

The complaint was signed by Richard A. Ratliff, P.E., director, Division of Compliance and Inspection, Bureau of Radiation Control, Texas Department of Health.

Issued in Austin, Texas, on September 9, 1985.

TRD-883982 Robert A. Maclean
Deputy Commissioner
Professional Services
Texas Department of Health

Filed: September 11, 1985

For further information, please call (512) 458-7238.

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The Bureau of Radiation Control, Texas Department of Health, filed a complaint against Randy W. Jones, D.V.M., North Harris County Animal Emergency Clinic, 21242 FM Road 149, Houston, Texas 77070, holder of Certificate of Registration 11-12279, pursuant to *Texas Regulations for Control of Radiation (TRCR)*, Part 13.8. The agency intends to revoke Certificate of Registration 11-12279, order the registrant to cease and desist use of radiation machine(s), and order the registrant to either disable the machine(s) or divest himself of it, presenting evidence satisfactory to the Bureau of Radiation Control that he has complied with the order and the provisions of Texas Civil Statutes, Article 4590f. The complaint follows this notice.

This notice affords the opportunity for a hearing to show cause why the certificate of registration should not be revoked. A written request for a hearing must be received within 30 days from the date of service of the complaint to be valid. Such written request must be filed with David K. Lacker, Director, Radiation Control Program, 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed, the certificate of registration will be revoked at the end of the 30-day period of notice.

A copy of all relevant material is available for inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Texas, from 8 a.m.-5 p.m., Monday-Friday (except holidays).

Complaint

The Division of Compliance and Inspection, Bureau of Radiation Control, Texas Department of Health (the agency), through its division director, makes the following complaint against North Harris County Animal Emergency Clinic (the registrant), 21242 FM Road 149, Houston, Texas 77070, holder of Certificate of Registration 11-12279.

Texas Regulations for Control of Radiation (TRCR), Part 12.11(b), requires payment of an annual fee for each certificate of registration for radiation machines, in the amount indicated for the appropriate category in Schedule 12.31 of TRCR. The fee shall be received each year on or before the last day of the month of issuance of the certificate of registration. On December 7, 1984, North Harris County Animal Emergency Clinic was billed \$43 for fees due on Certificate of Registration 11-12279 covering the period from April 1984-May 1985. On July 1, 1985, the agency informed the registrant of the delinquency of payment, giving the registrant opportunity to show compliance with all requirements of the law for retention of the certificate of registration. Payment of fees has not been received.

Therefore, the agency, as provided in *Texas Regulations for Control of Radiation*, Part 13.8(c), requests that an order be issued revoking the certificate or registration of the registrant and ordering the registrant to cease and desist use of such machine(s), and further that the registrant, in order to be in compliance with *Texas Regulations for Control of Radiation*, Part 13.8(a), either disable the machine(s) or divest himself of it, presenting evidence satisfactory to the Bureau of Radiation Control that he has complied with this order and the provisions of Texas Civil Statutes, Article 4590f.

The complaint was signed by Richard A. Ratliff, P.E., director, Division of Compliance and Inspection, Bureau of Radiation Control, Texas Department of Health.

Issued in Austin, Texas, on September 9, 1985.

TRD-858383 Robert A. Maclean
Deputy Commissioner
Professional Services
Texas Department of Health

Filed: September 11, 1985
For further information, please call (512) 458-7236.

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Texas Health and Human Services Coordinating Council Consultant Contract Award

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Health and Human Services Coordinating Council has awarded a contract for consulting services.

The consultant proposal request was published in the August 6, 1985, issue of the *Texas Register* (10 TexReg 2571).

Description of Study. The consultant will assist in the implementation of the council's study on residential contract care for children. This implementation will include developing guidelines and procedures for the coordination of placement, monitoring, and oversight activities.

Name and Address of Consultant. The consultant contract was awarded to Patrice Olympius Thomas, 1905 Overland Hills Circle, Austin, Texas 78746.

Value and Dates of Contract. The contract begins on September 3, 1985, and will end on August 31, 1986. The total value is not to exceed \$26,000.

Due Date for Report. The consultant will file a report with the council on September 30, 1986.

Issued in Austin, Texas, on September 9, 1985.

TRD-858394 Lynn H. Lavery
Executive Director
Texas Health and Human Services
Coordinating Council

Filed: September 12, 1985
For further information, please call (512) 475-1306.

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Texas Parks and Wildlife Department Shell Dredging Permit Renewal Hearing

A hearing will be held to consider renewal of existing Texas Parks and Wildlife Department shell permits issued

to Radcliff Materials, Inc., P.O. Box 2068, Mobile, Alabama 36601, and Heldenfels Brothers, P.O. Box 4957, Corpus Christi, Texas 78408. The permits would authorize removal of shell and mudshell from selected state tracts in San Antonio Bay, Southeast Lavaca Bay, Northwest Matagorda Bay, Northeast Matagorda Bay, and Sabine Lake.

A hearing on these applications will be held at 1 p.m. on October 7, 1985, in the commission hearing room (B-100), Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, by a hearing officer designated by the executive director, at which time all interested parties may appear and be heard. There are, at present, no ongoing shell-dredging activities in Texas bays; if these permits are renewed they would be the only authorized shell-dredging operations in state waters. Any evidence for or against the dredging of buried oyster shell from the bay waters of the state should be presented at this time. Evidence or testimony may be presented orally, or in writing by affidavit or deposition. Written evidence should be filed with the department prior to the hearing date.

Issued in Austin, Texas, on September 5, 1985.

TRD-858403 Boyd Johnson
General Counsel
Texas Parks and Wildlife Department

Filed: September 12, 1985
For further information, please call (512) 479-4805.

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Texas Tech University Consultant Contract Award

Description. This notice is filed pursuant to Texas Civil Statutes, Article 6252-11c. Following publication of the consultant proposal request in the April 23, 1985, issue of the *Texas Register* (10 TexReg 1305), Texas Tech University and Texas Tech University Health Sciences Center executed a contract with Peat, Marwick, Mitchell & Company, P.O. Box 4545, Houston, Texas 77210, to serve as a consultant. Under the contract, the consultant will assist in the preparation of systems modification specifications; design, program, test, and implement modifications to the Texas Tech financial information system (TECHFIM) to satisfy fiscal year-end closing requirements; assist with project implementation, including project management, functional assistance, and contingency technical assistance.

Cost and Dates. The amount of the contract will not exceed \$115,500. The beginning date of this contract is June 6, 1985, and the closing date is August 31, 1985.

Due Dates for Documents. The consultant will report to the University on or before August 31, 1985.

Issued in Lubbock, Texas, on September 9, 1985.

TRD-858407 Freda Pierce
Secretary of the Board of Regents
Texas Tech University

Filed: September 12, 1985
For further information, please call (806) 742-3841.

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**Texas State Treasury Department
Consultant Contract Amendment**

On July 31, 1985, the contract between the Texas State Treasury and Arthur Anderson & Company was amended. The original contract was dated June 25, 1984. (See notice of award in the November 13, 1984, issue of the *Texas Register* (9 TexReg 5862).) The amendment increases the number of Arthur Anderson personnel involved, accelerates the completion date of the contract, and increases Arthur Anderson's compensation by \$110,000.

Issued in Austin, Texas, on September 11, 1985.

TRD-858412 J. Stephen Ravel
General Counsel
Texas State Treasury Department

Filed: September 12, 1985
For further information, please call (512) 493-6971.

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**Texas Water Commission
Disposition Table for Texas Department
of Water Resources Rules**

Senate Bill 249, 69th Legislature, 1985, effective September 1, 1985, abolished the Texas Department of Water Resources. The jurisdiction and responsibilities of the department were divided and reassigned to the Texas Water Commission and Texas Water Development Board. The commission and board are authorized to adopt rules to administer their respective jurisdictions. By virtue of Senate Bill 249, §10.002, the rules of the department are to remain in effect until the Texas Water Commission and the Texas Water Development Board adopt new rules for their areas of responsibility. New rules must be adopted and in force not later than January 1, 1986. The commission is currently engaged in the drafting of proposed permanent rules which will be published in later issues of the *Texas Register*. The following is a disposition table of department rules which have been replaced by emergency rules of the Texas Water Commission.

Old TDWR (TWDB) Sections	New TWC Emergency Sections
341.71	338.71
341.91	338.91
341.92	338.92
341.93	338.93
341.94	338.94
341.95	338.95
341.101	338.101
341.102	338.102
341.103	338.103
341.110	338.110
341.121	338.121
341.122	338.122
341.131	338.131
341.132	338.132
341.133	338.133
341.134	338.134
341.135	338.135
341.136	338.136
341.137	338.137
341.138	338.138

341.139	338.139
341.151	338.151
341.152	338.152
341.153	338.153
341.154	338.154
341.160	338.160
341.180	338.180
341.185	338.185
341.186	338.186
341.191	338.191
341.192	338.192
341.193	338.193
341.194	338.194
341.195	338.195
341.196	338.196
341.197	338.197
341.198	338.198
341.199	338.199
341.200	338.200
341.221	338.221
341.225	338.225
341.230	338.230
341.235	338.235
341.240	338.240
341.241	338.241
341.261	338.261
341.262	338.262
341.265	338.265
341.266	338.266
341.267	338.267
341.268	338.268
341.269	338.269
341.270	338.270
341.271	338.271
341.275	338.275
341.280	338.280
341.281	338.281
341.285	338.285
341.286	338.286
341.287	338.287
341.290	338.290
341.311	338.311
341.312	338.312
341.313	338.313
341.314	338.314
341.315	338.315
341.316	338.316
341.317	338.317
341.341	338.341
341.342	338.342
341.343	338.343
341.344	338.344
341.345	338.345
341.346	338.346
341.361	338.361
341.362	338.362
341.363	338.363
341.364	338.364
341.371	338.371
341.372	338.372
341.373	338.373
341.374	338.374
341.401	338.401
341.402	338.402
341.403	338.403
341.404	338.404
341.405	338.405
341.406	338.406
341.407	338.407

303.1	303.1	305.35	305.35
303.2	303.2	307.1	307.1
303.3	303.3	307.2	307.2
303.5	303.5	307.3	307.3
303.6	303.6	307.11	307.11
303.7	303.7	307.12	307.12
303.8	303.8	307.21	307.21
303.11	303.11	307.22	307.22
303.12	303.12	307.31	307.31
303.13	303.13	307.32	307.32
303.14	303.14	307.33	307.33
303.21	303.21	307.41	307.41
303.22	303.22	307.42	307.42
303.23	303.23	307.61	307.61
303.24	303.24	307.62	307.62
303.25	303.25	307.63	307.63
303.26	303.26	307.71	307.71
303.27	303.27	307.81	307.81
303.28	303.28	307.91	347.91
303.29	303.29	307.101	307.101
303.30	303.30	307.121	307.121
303.31	303.31	307.122	307.122
303.32	303.32		
303.33	303.33	315.1	315.1
303.34	303.34	315.11	315.11
303.35	303.35	315.12	315.12
303.36	303.36	315.21	315.21
303.37	303.37	315.22	315.22
303.51	303.51	315.23	315.23
303.52	303.52	315.31	315.31
303.53	303.53	315.32	315.32
303.61	303.61	315.33	315.33
303.62	303.62	315.34	315.34
303.71	303.71	315.35	315.35
303.72	303.72	315.36	315.36
303.73	303.73	315.37	315.37
303.81	303.81	315.38	315.38
303.82	303.82	315.39	315.39
303.83	303.83	315.40	315.40
303.91	303.91	315.41	315.41
303.92	303.92	315.51	315.51
303.93	303.93	315.52	315.52
303.101	303.101	315.53	315.53
303.102	303.102	315.54	315.54
303.111	303.111	315.55	315.55
303.112	303.112	315.56	315.56
303.113	303.113	315.57	315.57
303.114	303.114	315.58	315.58
303.115	303.115		
303.116	303.116	357.1	340.1
303.117	303.117	357.2	340.2
303.118	303.118	357.3	340.3
303.119	303.119	357.4	340.4
303.120	303.120	357.5	340.5
303.121	303.121	357.6	340.6
303.122	303.122	357.7	340.7
305.1	305.1	315.59	315.59
305.2	305.2	315.60	315.60
305.11	305.11	315.61	315.61
305.12	305.12	315.62	315.62
305.13	305.13	315.63	315.63
305.14	305.14	315.71	315.71
305.21	305.21	315.72	315.72
305.22	305.22	315.81	315.81
305.23	305.23	315.82	315.82
305.31	305.31	315.83	315.83
305.32	305.32	315.84	315.84
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305.34	305.34	311.5	311.5
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Issued in Austin, Texas, on September 9, 1985.

TRD-858274

James K. Rourke, Jr.
General Counsel
Texas Water Commission

Filed: September 9, 1985
For further information, please call (512) 463-7875.

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