

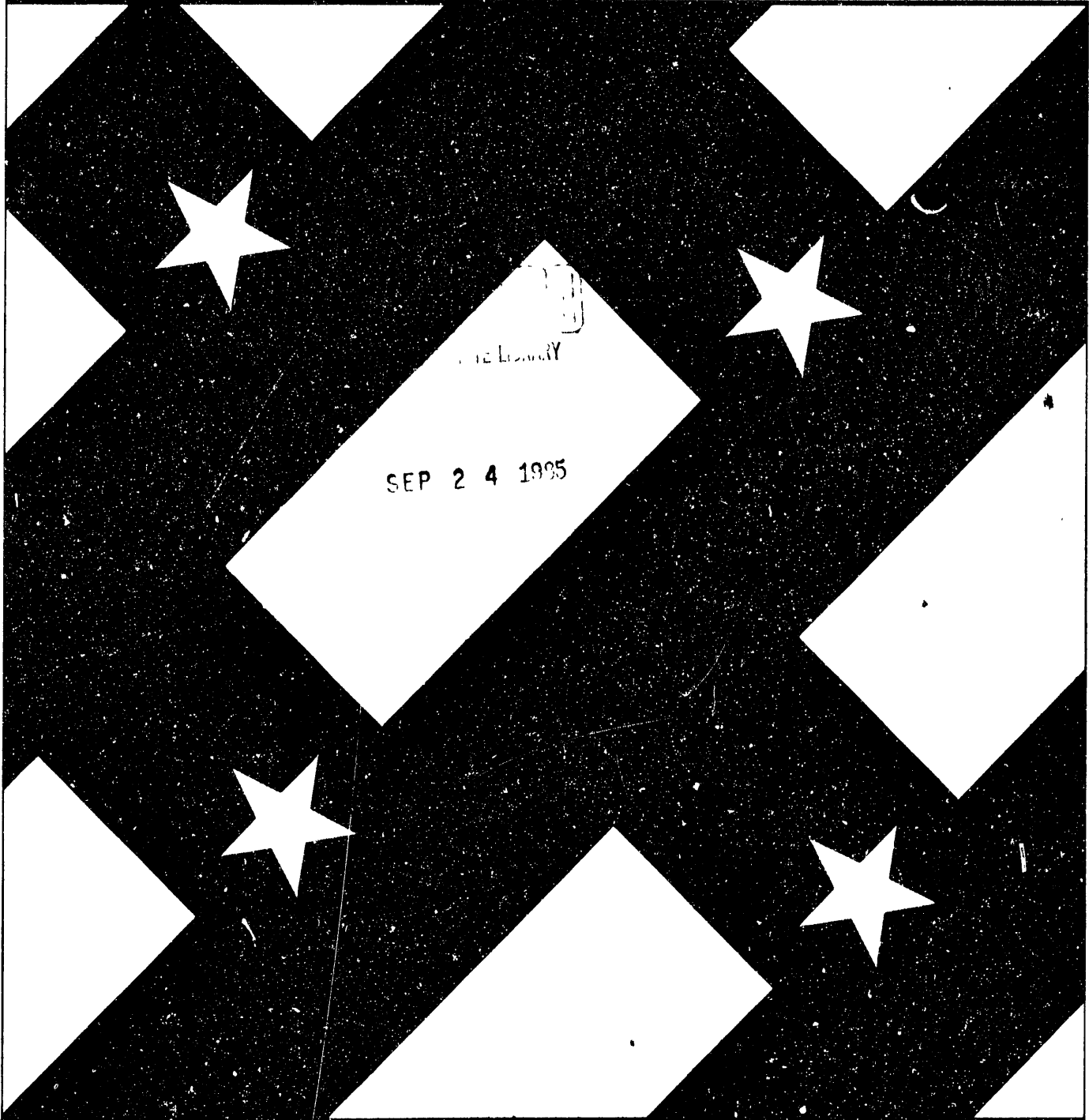
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Texas Register

Volume 10, Number 71, September 24, 1985

Pages 3645 - 3700



Highlights

The Texas Department of Health adopts emergency new sections concerning a cancer registry. Effective date - September 18. **page 3650**

The State Board of Medical Examiners

proposes an amendment concerning district review committees. Earliest possible date of adoption - October 25. **page 3673**

The Comptroller of Public Accounts proposes an amendment concerning bingo regulation and tax. Earliest possible date of adoption - October 25. **page 3680**

Office of
the Secretary
of State

Texas Register

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

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

Governor—appointments, executive orders, and proclamations
Secretary of State—summaries of opinions based on election laws
State Ethics Advisory Commission—summaries of requests for opinions and opinions

Attorney General—summaries of requests for opinions, opinions, and open records decisions

Emergency Rules—rules adopted by state agencies on an emergency basis

Proposed Rules—rules proposed for adoption

Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date

Adopted Rules—rules adopted following a 30-day public comment period

Open Meetings—notices of open meetings

The Legislature—bills submitted to, signed by, and vetoed by the Governor and bills that are submitted to the Governor and enacted without his signature

In Addition—miscellaneous information required to be published by statute or provided as a public service

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

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

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

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

Texas Administrative Code

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

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

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

TAC stands for the *Texas Administrative Code*;

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



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The Governor

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

Appointments Made September 12

Sabine River Authority

For a term to expire July 6, 1991:

John Harvey Butts
Route 2, Box 1104
San Augustine, Texas 75972

Mr. Butts is being reappointed.

State Board of Chiropractic Examiners

For a term to expire August 3, 1991:

Dennis Wayne Teal
652 Sides Circle
Canton, Texas 75103

Dr. Teal is replacing Dr. Bill G. Williams of Waco, whose term expired.

Dr. V. C. Salyer, Jr.
200 E. Blackjack
Dublin, Texas 76446

Dr. Salyer is replacing Dr. Jerry E. Whitehead of Perryton, whose term expired.

Health and Human Services Coordinating Council

For a term to expire September 1, 1987:

Marshall W. Cooper
Giristown U.S.A.
Whiteface, Texas 79379

Mr. Cooper is being reappointed.

Texas Juvenile Probation Commission

For a term to expire August 31, 1987:

Marshall W. Cooper
Giristown U.S.A.
Whiteface, Texas 79379

Mr. Cooper is appointed pursuant to the Human Resources Code, §75.024(a) and (b).

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

TRD-858576

Mark White
Governor of Texas

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Appointments Made September 13

State Board of Chiropractic Examiners

For a term to expire August 3, 1991:

Ben H. Procter, Ph.D.
2506 Boyd Street
Fort Worth, Texas 76109

Dr. Procter is replacing Dr. R. L. "Bob" Matkin of Mount Pleasant, whose term expired.

Health and Human Services Coordinating Council

For a term to expire September 1, 1987:

Jerry Kane
Chairman

Texas Commission on Rehabilitation
118 East Riverside
Austin, Texas 78704

Mr. Kane is replacing Rafael Quintanilla of Austin, whose term expired.

Veterans Land Board

For a term to expire December 29, 1986:

Jim Sale
5607 Ursula
Dallas, Texas 75229

Mr. Sale is replacing Jack M. Rains of Houston, who resigned.

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

TRD-858576

Mark White
Governor of Texas

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Appointment Made September 16

Texas Board of Health

For a term to expire February 1, 1991:

Isadore Roosth
2212 South Chilton
Tyler, Texas 75701

Mr. Roosth is being reappointed.

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

TRD-858576

Mark White
Governor of Texas

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Emergency Rules

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

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

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 91. Cancer Cancer Registry

★ 25 TAC §§91.1-91.5

The Texas Department of Health adopts on an emergency basis new §§91.1-91.5, concerning a cancer registry. The new sections cover the reporting of cancer cases to the department to be included in a cancer registry and the establishment of a fee to compensate reporting facilities. The emergency status is necessary because House Bill 4, 69th Legislature, 1985, requires the Texas Board of Health to establish rules covering the registry, the reporting of cases, and the fees, effective September 1, 1985. Therefore, to implement the statutory mandate, the board is adopting these sections on an emergency basis.

The new sections are adopted on an emergency basis under the Texas Cancer Control Act, Texas Civil Statutes, Article 4477-40, §5, which authorizes the board to adopt rules to implement the Cancer Control Act; Article 4477-40, §7, as amended by House Bill 4, 69th Legislature, 1985, which covers reporting and fee requirements; and Article 6252-13a, §5(d), which authorizes the board to adopt emergency rules.

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

Board—Texas Board of Health.

Cancer—Includes a large group of diseases characterized by uncontrolled growth and spread of abnormal cells; any condition of tumors having the properties of anaplasia, invasion, and metastasis; a cellular tumor the natural course of which is fatal; and malignant neoplasm.

Department—Texas Department of Health.

Division—The Cancer Registry Division of the Texas Department of Health which gathers, edits, analyzes, and produces aggregate information on the incidence of cancer as the authorized representative of the Texas Board of Health.

Precancerous disease—Abnormality of development and organization of adult

cells; a condition of early cancer, without invasion of neighboring tissue.

Tumorous disease—A new growth of tissue in which the multiplication of cells is uncontrolled and progressive, also called neoplasm; a swelling, enlargement, or abnormal mass, either benign or malignant, which performs no useful functions.

§91.2. Reporting Requirements.

(a) At the request of the division, each hospital in the state with at least 100 beds shall furnish to the division on the Texas Department of Health confidential cancer registry abstract form (SCRCP 1) required data from each medical record in its custody or under its control of a case of cancer or of those precancerous or tumorous diseases specified by the board in §91.3 of this title (relating to List of Reportable Diseases).

(b) At the request of the division, each hospital with less than 100 beds, clinical laboratory, and cancer treatment center within the state shall:

(1) furnish to the division on the Texas Department of Health confidential cancer registry abstract form (SCRCP 1) required data from each medical record in its custody or under its control of a case of cancer or of those precancerous or tumorous diseases specified by the board in §91.3 of this title (relating to List of Reportable Diseases); or

(2) make available each medical record to division staff on presentation of proper identification, during normal working hours, on the premises of the respective hospital, clinical laboratory, or cancer treatment center, for the purpose of recording the required data about a patient's cancer, precancerous disease, or tumorous disease, on the Texas Department of Health confidential cancer registry abstract form (SCRCP 1).

(c) The department will furnish to each hospital, clinical laboratory, and cancer treatment center within the state the requisite forms to be completed on all cancer cases.

(d) The data required to be produced or furnished shall include, but are not limited to:

- (1) diagnosis;
- (2) stage of disease;
- (3) medical history, including occupational information when available;
- (4) laboratory data;
- (5) tissue diagnosis;

(6) method of treatment; and

(7) family history of cancer.

(e) The division may approve in advance alternate formats to SCRCP 1 on an individual facility basis.

(f) The required information may be submitted to the division on computerized magnetic tape, but only if the format and edits have been approved in advance by the division.

(g) In the case of individuals who have more than one form of cancer, a separate form shall be submitted for each primary cancer diagnosed.

(h) At the request of the division, data will be accepted from hospitals with at least 100 beds on all cases of the reportable diseases diagnosed on or after January 1, 1985, and relating to patients with active disease diagnosed in previous years seen in the facility on or after January 1, 1985.

§91.3. List of Reportable Diseases.

(a) Cases of cancer or those of precancerous or tumorous diseases to be reported to the division are as follows.

(1) all neoplasms with a behavior code of two or three in the most current edition of the International Classification of Diseases for Oncology (ICD-O);

(2) all benign neoplasms of the brain and central nervous system;

(3) myelofibrosis (ICD-O codes T169. and M99808);

(4) polycythemia vera (ICD-O codes T169. and M99501);

(5) any neoplasm specified malignant.

(b) *International Classification of Diseases-9th Revision Clinical Modification Codes* which correspond to the Cancer Registry Division reportable list are:

(1) 140.0—208.9 malignant neoplasms;

(2) 225.0—225.9 benign neoplasms of brain and nervous system;

(3) 230.0—234.9 carcinoma in situ;

(4) 236.1 hydatidiform mole, malignant;

(5) 238.4 polycythemia vera;

(6) 289.8 myelofibrosis.

§91.4. Fee for Collection of Cancer Data.

(a) The board determines that \$6.00 per abstract form is a reasonable fee to compensate the hospital, clinical laboratory, or cancer treatment center for the cost of collection, production, or furnishing of information to the department.

(b) The department's obligation to

make payments for abstract forms is subject to the availability of funds allocated for that purpose and the reimbursement fee established in subsection (a) of this section. In the event funds for payment of reimbursement fees are not available, the division will notify each reporting hospital, clinical laboratory, and cancer treatment center of such fact in writing.

(c) The department's obligation to make payments for abstract forms is subject to the eligibility of each form for payment. In order to be eligible for reimbursement, if funds are available for that purpose, each abstract form shall:

(1) be legible and contain all data items required in §91.2(d)(1)-(7) of this title (relating to Reporting Requirements) and complete documentation;

(2) meet all quality control standards utilized by the division; and

(3) not replicate the data items required in §91.2(d)(1)-(7) of this title (relating to Reporting Requirements).

(d) To determine eligibility, each abstract form will be visually reviewed by division personnel for completeness and accuracy. After each abstract form is appropriately coded from the documentation, data from the form will be entered into the department's main computer. The computerized data will be electronically edited against established quality control standards. If the data meet these standards, they will be incorporated into the master file. An alphabetical listing will be generated for each reporting institution which will be visually checked for duplications. Abstract forms which do not meet the standards as set forth in subsection (c) of this section will be considered ineligible for reimbursement for the current payment cycle.

(e) Abstract forms received by the division during the first eight weeks of each fiscal quarter will be processed for eligibility determination for that payment cycle. Abstract forms received after the end of the eighth week of each fiscal quarter will be processed during the subsequent payment cycle.

(f) The division will issue a statement to the reporting institution within 15 working days from the end of each fiscal quarter listing the eligibility status of the abstract forms received by the eighth week of the fiscal quarter. Notification accompanying the statement will contain explanations of why any ineligible forms were rejected.

(g) Any ineligible forms that are rejected during a particular payment cycle may be corrected and resubmitted during a subsequent payment cycle.

(h) Payment of eligible abstract forms will be made to the reporting institution within 15 working days of the end of each fiscal quarter, subject to the provision in subsection (b) of this section.

§91.5 Confidentiality and Disclosure. Pursuant to the Texas Cancer Control Act, Article 4477-40, §8, all data

obtained directly from medical records of individual patients are for the confidential use of the department, the private and public entities, or the persons that the board determines are necessary to carry out the intent of this Act. The data are privileged and may not otherwise be divulged or made public so as to disclose the identity of an individual whose medical records have been used for acquiring data. Information that could possibly identify individuals whose medical records have been used for collecting data may not be included in materials available to public inspection under the Texas Open Records Act, Texas Civil Statutes, Article 6252-17a. Statistical information collected under this Act shall be open and accessible to the public.

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Deputy Commissioner
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For further information, please call
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Title 31. NATURAL RESOURCES

AND CONSERVATION

Part IX. Texas Water Commission

Chapter 335. Industrial Solid Waste and Municipal Hazardous Waste

Subchapter A. Industrial Solid Waste and Municipal Hazardous Waste Management in General

★31 TAC §§335.1-335.16

The Texas Water Commission adopts on an emergency basis new §§335.1-335.16, 335.41-335.48, 335.61-335.63, 335.65-335.71 and 335.73-335.76, concerning industrial solid waste and municipal hazardous waste management in general, hazardous waste management/general provisions, and standards applicable to generators of hazardous industrial solid waste.

Senate Bill 249, passed by the 69th Legislature, 1985, and effective on September 1, 1985, amended the Texas Solid Waste Disposal Act to transfer authority to regulate municipal hazardous waste to the Texas Water Commission. Municipal hazardous waste management was previously under the jurisdiction of the Texas Department of Health. In addition, Senate Bill 249 abolished the Texas Department of Water Resources and transferred jurisdiction under the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, to the Texas Water Commission. The pur-

pose of these emergency sections is to extend the substantive requirements of rules adopted by the Texas Water Development Board for the former Texas Department of Water Resources, to extend certain requirements of the existing commission rules relating to industrial solid waste management to municipal hazardous waste, and to change references in the sections to reflect the transfer of jurisdiction to the Texas Water Commission. By virtue of Senate Bill 249, §10.002, the rules of the Texas Department of Water Resources relating to Industrial Solid Waste (Chapter 335) cease being effective when the Texas Water Commission adopted these new sections.

The following changes are adopted in Subchapter A relating to industrial solid waste and municipal hazardous waste management in general, as a result of this emergency action.

Section 335.1 provides conforming amendments to the definitions of facility, generator, permit, shipment, transporter, and water (bulk shipment); and provides definitions of municipal hazardous waste and municipal solid waste.

Section 335.2 extends the requirement to obtain a permit for the storage, processing or disposal of municipal hazardous waste; establishes provisions for interim status for existing facilities managing municipal hazardous waste; and incorporates the provisions of §325.275(a) of the rules of the Texas Department of Health, concerning the effect of filing Part A permit applications with the United States Environmental Protection Agency, into §335.2(c); and provides for interim status for facilities which become subject to hazardous waste requirements after November 19, 1980.

Section 335.3 refers to technical guidelines concerning municipal hazardous waste. Section 335.4 includes municipal hazardous waste within the scope of the prohibitions. Section 335.5 requires deed recordation prior to the disposal of municipal hazardous waste.

Section 335.6 imposes immediate notification requirements on persons managing municipal hazardous waste regarding changes in waste composition, management methods, plans and specifications, and facility geology, to require generators of municipal hazardous waste in quantities greater than or equal to 1,000 kilograms or acute hazardous waste in excess of quantities specified in §335.61(c)(5) to notify the executive director; to specify information required for such notifications, including those relating to industrial solid waste; requires that person generating more than 100 kilograms but less than 1000 kilograms of municipal hazardous waste notify the executive director on forms provided by the executive director; imposes notification requirements on transporters of

municipal hazardous waste and clarifies that persons operating transfer facilities must notify as transporters; requires that upon request of the executive director, persons managing municipal hazardous waste perform chemical analysis of the waste or furnish samples; and requires that persons storing, processing, or disposing of municipal hazardous waste provide notice of closure activities and facility expansions;

Section 335.7 concerns bond required to include municipal hazardous waste facilities within the scope of the requirements to obtain a bond for closure. Section 335.8 concerns closure applicable to municipal hazardous waste. Section 335.9 deals with shipping and reporting procedures applicable to generators to require record keeping for generators of municipal hazardous waste in quantities greater than 100 kilograms in a calendar month.

Sections 335.10-335.15 establish manifest and record-keeping requirements applicable to generators, transporters, and facility owners and operators, to include municipal hazardous waste within the scope of these requirements. The sections require the initiation of a manifest for a shipment of municipal hazardous waste which is a part of a total quantity generated by a generator generating greater than 100 kilograms of waste in a calendar month or quantities of acute hazardous waste in excess of quantities specified in §335.61(c)(5).

The following changes are made to Subchapter B relating to hazardous waste management general provisions.

Section 335.41(e) provides that Chapter 335, Subchapters B-T, do not apply to persons who store, process, or dispose of hazardous waste in quantities less than 1,000 kilograms in a calendar month at a facility under the jurisdiction of the Texas Department of Health

Section 335.42 provides conforming amendments to the definitions of facility, generator, manifest, on-site storage, processing, or disposal; and provides definitions of municipal hazardous waste, and municipal solid waste.

Section 335.43 concerns permits required to provide for interim status for facilities which become subject to hazardous waste requirements after November 19, 1980.

Section 335.45 relates to effect on existing facilities to provide that Subchapters B-T apply to permitted municipal hazardous waste management facilities and to provide interim status to off-site facilities which commenced the storage, processing or disposal of those hazardous wastes or activities within the scope of federal requirements promulgated by the United States Environmental Protection Agency on January 4, 1985 (50 FedReg 614).

The following changes are made to Subchapter C relating to standards applicable to generators of hazardous waste.

Sections 335.61, 335.62, 335.70, 335.71, and 335.75 to extend the applicability of these requirements to municipal hazardous waste.

Section 335.61(c) removes paragraph (10), which allowed small quantities of hazardous waste to be shipped without a manifest if such shipments were within 50 miles of the point of generation and to a facility owned or effectively controlled by the generator. The effect of this section is to apply the definition of on-site storage, processing, or disposal in §335.42 to shipments of small quantities of hazardous waste.

Sections 335.91, 335.111, 335.112, 335.131, 335.151, 335.171, 335.241, 335.261, 335.281, 335.301, 335.321, 335.341, 335.361, 335.381, 335.401, and 335.501 are adopted to extend the scope of the commission's hazardous waste rules to municipal hazardous waste.

The commission finds that an urgent need exists to adopt these sections on an emergency basis to maintain a state hazardous waste program which is equivalent to the federal program under the federal Resource Conservation and Recovery Act of 1976 (RCRA), §3006(c), 42 United States Code, §6901 *et seq.* As of September 1, 1985, the effective date of Senate Bill 249, rules of the Texas Department of Health relating to municipal hazardous waste do not remain in effect to govern these activities

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

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

Act—The Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7.

Administrator—The administrator of the United States Environmental Protection Agency or his designee.

Class I wastes—Any industrial solid waste or mixture of industrial solid wastes which because of its concentration, or physical or chemical characteristics, is toxic, corrosive, flammable, a strong sensitizer or irritant, a generator of sudden pressure by decomposition, heat, or other means, and may pose a substantial present or potential danger to human health or the environment when improperly processed, stored, transported, or disposed of or otherwise managed, including hazardous industrial waste.

Class II wastes—Any individual solid waste or combination of industrial solid

waste which cannot be described as Class I or Class III as defined in this regulation.

Class III wastes—Inert and essentially insoluble industrial solid waste, usually including, but not limited to, materials such as rock, brick, glass, dirt, and certain plastics and rubber, etc., that are not readily decomposable.

Discharge—The accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of waste in to or on any land or water.

Disposal facility—A facility or part of a facility at which solid waste is intentionally placed into or on any land or water, and at which waste will remain after closure.

Essentially insoluble—Any material, which if, representatively sampled and placed in static or dynamic contact with deionized water at ambient temperature for seven days, will not leach any quantity of any constituent of the material into the water in excess of current United States Public Health Service or United States Environmental Protection Agency limits for drinking water as published in the *Federal Register*.

Facility—Includes all contiguous land, and structures, other appurtenances, and improvements on the land for storing, processing, or disposing of municipal hazardous waste or industrial solid waste. A facility may consist of several storage, processing, or disposal operational units (e.g., one or more landfills, surface impoundments, or combinations thereof).

Generator—Any person, by site, who produces municipal hazardous waste or industrial solid waste; any person who possesses municipal hazardous waste or industrial solid waste to be shipped to any other person; or any person whose act first causes the solid waste to become subject to regulation under this chapter. For the purposes of this regulation, a person who generates or possesses Class III wastes only shall not be considered a generator.

Hazardous industrial waste—Any industrial solid waste or combination of industrial solid wastes identified or listed as a hazardous waste by the administrator of the United States Environmental Protection Agency pursuant to the Resource Conservation and Recovery Act of 1976, §3001. The administrator has identified the characteristics of hazardous wastes and listed certain wastes as hazardous in Title 40 Code of Federal Regulations Part 261, Subparts C and D, respectively. The executive director will maintain in the offices of the commission a current list of hazardous wastes, a current set of characteristics of hazardous waste, and applicable appendices, as promulgated by the administrator.

Industrial solid waste—Solid waste resulting from or incidental to any process of industry or manufacturing, or mining, or agricultural operation.

Manifest—The uniform hazardous

waste manifest form furnished by the executive director to accompany shipments of Class I industrial solid waste.

Manifest document number—A number assigned to the manifest by the commission for reporting and record-keeping purposes.

Municipal hazardous waste—A municipal solid waste or mixture of municipal solid wastes which has been identified or listed as a hazardous waste by the administrator, United States Environmental Protection Agency.

Municipal solid waste—Solid waste resulting from or incidental to municipal, community, commercial, institutional, and recreational activities; including garbage, rubbish, ashes, street cleaning, dead animals, abandoned automobiles, and all other solid waste other than industrial waste.

Off-site storage, processing, or disposal—Any storage, processing, or disposal of industrial solid waste or municipal hazardous waste which cannot be characterized as on-site storage, processing, or disposal.

On-site storage, processing, or disposal—On-site storage, processing, or disposal occurs when industrial solid waste is: collected, handled, stored, processed, or disposed of within the property boundaries of a tract of land owned or otherwise effectively controlled by the owners or operators of the particular industrial plant, manufacturing plant, mining operation, or agricultural operation from which the waste results or is produced, and which tract of land is within 50 miles from the plant or operation which is the source of the industrial waste; and the industrial solid waste is not collected, handled, stored, processed, or disposed of with solid waste from any other source or sources. An industrial plant, manufacturing plant, mining operation, or agricultural operation owned by one person shall not be considered an "other source" with respect to other plants and operations owned by the same person. Except as provided in §335.61(c)(10) of this title (relating to Purpose, Scope, and Applicability), where the on-site storage, processing, or disposal is of hazardous industrial solid waste, on-site storage, processing, or disposal shall have the meaning given in §335.42 of this title (relating to Definitions).

Operator—The person responsible for the overall operation of a facility.

Owner—The person who owns a facility or part of a facility.

Permit—A written permit issued by the commission which, by its conditions, may authorize the permittee to construct, install, modify, or operate a specified municipal hazardous waste or industrial solid waste storage, processing, or disposal facility in accordance with specified limitations.

Person—Individual, corporation, organization, government or governmental subdivision or agency, business trust, partnership, association, or any other legal entity.

Processing—The extraction of materials, transfer, volume reduction, conversion to energy, or other separation and preparation of solid waste for reuse or disposal, including the treatment or neutralization of hazardous waste, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material from the waste or so as to render such waste nonhazardous, or less hazardous; safer to transport, store or dispose of; or amenable for recovery, amenable for storage, or reduced in volume. The transfer of solid waste for reuse or disposal as used in this definition, does not include the actions of a transporter in conveying or transporting solid waste by truck, ship, pipeline, or other means. Unless the executive director determines that regulation of such activity is necessary to protect human health or the environment, the definition of processing does not include activities relating to those materials exempted by the administrator of the Environmental Protection Agency pursuant to the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 United States Code §6901 *et seq.*

Shipment—Any action involving the conveyance of municipal hazardous waste or industrial solid waste by any means off-site.

Solid waste—Any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations, and from community and institutional activities, but does not include: solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows, or industrial discharges subject to regulation by permit issued pursuant to the Texas Water Code, Chapter 26; soil, dirt, rock, sand, and other natural or man-made inert solid materials used to fill land if the object of the fill is to make the land suitable for the construction of surface improvements; or waste materials which result from activities associated with the exploration, development, or production of oil and gas and are subject to control by the Texas Railroad Commission. For purposes of this chapter, solid waste shall not include the radiation hazard associated with the wastes which are controlled by the Texas Department of Health.

Storage—The holding of solid waste for a temporary period, at the end of which the waste is processed, disposed of, or stored elsewhere.

Transporter—Any person who conveys or transports municipal hazardous waste or industrial solid waste by truck, ship, pipeline, or other means.

Water (bulk shipment)—The bulk transportation of Class I industrial solid

waste which is loaded or carried on board municipal hazardous waste or a vessel without containers or labels.

§335.2. Permit Required.

(a) Except with regard to storage, processing, or disposal to which subsections (c), (d), (e), and (f) of this section apply, and as provided in §335.45(b) of this title (relating to Effect on Existing Facilities), no person may cause, suffer, allow, or permit any activity of storage, processing, or disposal of any industrial solid waste or municipal hazardous waste unless such activity is authorized by a permit, amended permit, or other authorization from the Texas Water Commission or its predecessor agencies; the Texas Department of Health, or other valid authorization from a Texas state agency. No person may commence physical construction of a new hazardous waste management facility without first having submitted Part A and Part B of the permit application and received a finally effective permit.

(b) In accordance with the requirement of subsection (a) of this section, no generator, transporter, owner, or operator of a facility, or any other person may cause, suffer, allow, or permit its wastes to be stored, processed, or disposed of at an unauthorized facility or in violation of a permit. In the event this requirement is violated, the executive director will seek recourse against not only the person who stored, processed, or disposed of the waste, but also against the generator, transporter, owner, or operator, or other person who caused, suffered, allowed, or permitted its waste to be stored, processed, or disposed.

(c) Any person who has commenced on-site storage, processing, or disposal of a hazardous waste on or before November 19, 1980, and who has filed a hazardous waste permit application with the commission on or before November 19, 1980, and in accordance with the rules and regulations of the commission, may continue the on-site storage, processing, or disposal of hazardous waste until such time as the Texas Water Commission approves or denies the application. Owners or operators of municipal hazardous waste facilities which satisfied this requirement by filing an application on or before November 19, 1980, with the United States Environmental Protection Agency are not required to submit a separate application with the Texas Department of Health. Applications filed under this section shall meet the requirements of §335.44 of this title (relating to Application for Existing On-Site Facilities). Owners and operators of hazardous waste management facilities who have commenced the on-site storage, processing, and disposal of hazardous waste as defined in this subsection, or of hazardous waste management facilities in existence on the effective date of statutory or regulatory amendments under the Solid Waste Disposal Act, Article 4477-7, that render the facility subject to the requirement to have a hazardous waste permit, may con-

tinue to operate if Part A of their permit application is submitted no later than six months after the date of publication of regulations by the United States Environmental Protection Agency pursuant to the Resource Conservation and Recovery Act of 1976, which first require them to comply with the standards set forth in Subchapters E-T of this chapter (relating to General Facility Standards; Preparedness and Prevention; Contingency Plan and Emergency Procedures; Recordkeeping and Reporting Requirements; Groundwater Monitoring; Closure and Post-Closure; Financial Requirements; Use and Management of Containers; Tanks; Surface Impoundments; Waste Piles; Land Treatment; Landfills; Incinerators; Thermal Processing; Chemical, Physical, and Biological Processing) respectively, or Subchapter X of this chapter (relating to Standards for the Management of Specific Wastes and Specific Types of Facilities); or 30 days after the date they first become subject to the standards set forth in these subchapters, whichever occurs first. This subsection shall not apply to a facility if it has been previously denied a hazardous waste permit or if authority to operate the facility has been previously terminated. Applications filed under this section shall meet the requirements of §335.44 of this title (relating to Application for Existing On-Site Facilities). For purposes of this subsection, a person has commenced the on-site storage, processing, or disposal of hazardous waste if the owner or operator has obtained all necessary federal, state, and local pre-construction approvals or permits, as required by applicable federal, state, and local hazardous waste control statutes, regulations, or ordinances; and either:

(1) a continuous physical, on-site construction program has begun; or

(2) the owner or operator has entered into contractual obligations, which cannot be cancelled or modified without substantial loss, for construction of the facility to be completed within a reasonable time.

(d) No permit shall be required for the on-site storage, processing, or disposal of industrial solid waste unless such waste is hazardous industrial waste. However, any person who intends to conduct such activity shall comply with notification requirements of §335.6 of this title (relating to Notification Requirements).

(e) No permit shall be required for the on-site storage of hazardous waste by a person who is a small quantity generator as defined in §335.61(c) of this title (relating to Purpose, Scope, and Applicability) of this chapter.

(f) No permit under this chapter shall be required for the storage, processing or disposal of hazardous waste by a person described in §335.41(b), (c), and (d) of this title (relating to Purpose, Scope and Applicability) or for the storage of hazardous waste under the provisions of 40 Code of

Federal Regulations §261.4(c) and (d)

(g) Owners or operators of hazardous waste management units must have permits during the active life (including the closure period) of the unit, and, for any unit that receives hazardous waste after January 25, 1983, during any post-closure care period required under 40 Code of Federal Regulations §264.117 and during any compliance period specified under §335.462 of this title (relating to Compliance Period) including any extension of that period.

§335.3. Technical Guidelines. In order to promote the proper collection, handling, storage, processing, and disposal of industrial solid waste or municipal hazardous waste in a manner consistent with the purposes of the Solid Waste Disposal Act, Article 4477-7, the executive director will make available on request, copies of technical guidelines outlining methods designed to aid in the prevention of the conditions prohibited in these sections. Guidelines should be considered as suggestions only.

§335.4. General Prohibitions. In addition to the requirements of §335.2 of this title (relating to Permit Required), no person may cause, suffer, allow, or permit the collection, handling, storage, processing, or disposal of industrial solid waste or municipal hazardous waste in such a manner so as to cause:

(1) the discharge or imminent threat of discharge of industrial solid waste or municipal hazardous waste into or adjacent to the waters in the state without obtaining specific authorization for such a discharge from the Texas Water Commission;

(2) the creation and maintenance of a nuisance; or

(3) the endangerment of the public health and welfare.

§335.5. Deed Recordation.

(a) Recording required. No person may cause, suffer, allow, or permit the disposal of industrial solid waste or municipal hazardous waste prior to recording in the county deed records of the county or counties in which the disposal takes place, the following information:

(1) a metes and bounds description of the portion or portions of the tract of land on which disposal of solid waste will take place;

(2) the class or classes of wastes to be disposed of and waste description; and

(3) the name or permanent address of the person or persons operating the facility where more specific information on the waste can be secured.

(b) Proof of recordation. Proof of recordation shall be provided to the executive director in writing prior to instituting disposal operations.

(c) Additional requirements. Owners of property on which facilities for disposal of hazardous waste are located are subject to further requirements of §335.220 of this

title (relating to Notice in Deed to Property).

§335.6. Notification Requirements.

(a) A person who intends to conduct the on-site storage, processing, or disposal of industrial solid waste, other than hazardous waste as defined in these rules, unless such hazardous waste activity is exempt from the requirement of a permit pursuant to §335.2(e) or (f) of this title (relating to Permit Required), shall notify the executive director in writing that storage, processing, or disposal activities are planned, at least 90 days prior to engaging in such activities. Such person shall submit to the executive director upon request such information as may reasonably be required to enable the executive director to determine whether such storage, processing, or disposal is compliant with the terms of these sections. Such information may include, but is not limited to, information concerning waste composition, waste management methods, facility engineering plans and specifications, or the geology where the facility is located. Any information provided under this subsection shall be submitted to the executive director in duplicate form.

(b) Any person who stores, processes, or disposes of municipal hazardous waste or industrial solid waste shall have the continuing obligation to immediately provide written notice to the executive director of any changes or additional information concerning waste composition, waste management methods, facility engineering plans and specifications, and the geology where the facility is located, to that reported in subsection (a) of this section, authorized in any permit, or stated in any application filed with the commission. Any information provided under this subsection shall be submitted to the executive director in duplicate form.

(c) Any person who generates municipal hazardous waste in quantities greater than or equal to 1,000 kilograms in a calendar month or quantities of acute municipal hazardous waste in excess of quantities specified in §335.61(c)(5) of this title (relating to Purpose Scope and Applicability) in a calendar month; or any quantities of industrial solid waste shall notify the executive director of such activity on forms furnished or approved by the executive director. Such person shall also submit to the executive director upon request such information as may reasonably be required to enable the executive director to determine whether the storage, processing, or disposal is compliant with the terms of these sections. Notifications submitted pursuant to this section shall be in addition to information provided in any permit applications required by §335.2 of this title (relating to Permit Required), or any reports required by §335.9 of this title (relating to Shipping and Reporting Procedures Applicable to Generators), §335.10 of this title (relating to Shipping and Reporting Procedures Applicable

to Generators of Municipal Hazardous Waste or Class I Industrial Solid Waste), and §335.13 of this title (relating to Recordkeeping and Reporting Procedures Applicable to Generators of Municipal Hazardous Waste or Class I Industrial Solid Waste). Any person who notifies pursuant to this subsection shall have the continuing obligation to immediately provide written notice to the executive director of any changes or additional information, to that reported previously. The information submitted pursuant to the notification shall include, but is not limited to:

- (1) a description of the waste;
- (2) a description of the process generating the waste;
- (3) the composition of the waste;
- (4) a proper hazardous waste determination. Generators must determine whether such waste is hazardous as defined in 40 Code of Federal Regulations Part 261 and submit the results of that hazardous waste determination to the executive director;

(5) the disposition of each solid waste generated, if subject to the notification requirement of this subsection, including the following information:

(A) whether the waste is managed on-site and/or off-site;

(B) a description of the type and use of each on-site waste management facility unit;

(C) a listing of the wastes managed in each unit;

(D) whether each unit is permitted, or qualified for an exemption, under §335.2 of this title (relating to Permit Required).

(d) Persons generating more than 100 kilograms but less than 1,000 kilograms or hazardous municipal waste in any given calendar month shall notify the executive director of such activity on forms provided by the executive director. Such person shall also submit to the executive director upon request such information as may be reasonably required to enable the executive director to determine whether the storage, processing, or disposal of such waste is compliant with the terms of these sections. Notifications submitted pursuant to this section shall be in addition to any information provided on any permit application required by §335.2 of this title (relating to Permit Required), or any reports required by §335.9 of this title (relating to Shipping and Reporting Procedures Applicable to Generators), §335.10 of this title (relating to Shipping and Reporting Procedures Applicable to Generators of Municipal Hazardous Waste or Class I Industrial Solid Waste), and §335.13 of this title (relating to Recordkeeping and Reporting Procedures Applicable to Generators of Municipal Hazardous Waste or Class I Industrial Solid Waste).

(e) Any person who transports municipal hazardous waste or Class I waste

shall notify the executive director of such activity on forms furnished or approved by the executive director. Persons operating transfer facilities in accordance with §335.94 of this title (relating to Transfer Facility Requirements) shall notify the executive director of such activity.

(f) Upon written request of the executive director, any person who ships, stores, processes, or disposes of industrial solid waste or municipal hazardous waste, as defined in this subchapter, shall perform a chemical analysis of the solid waste, provide results of the analysis to the executive director, or furnish samples of the waste for analysis in order to assign a waste classification.

(g) A person who stores, processes or disposes of industrial solid waste or municipal hazardous waste shall notify the executive director in writing of any closure activity or activity of facility expansion not authorized by permit, at least 90 days prior to conducting such activity. Such person shall submit to the executive director upon request such information as may reasonably be required to enable the executive director to determine whether such activity is compliant with this chapter. Any information provided under this subsection shall be submitted to the executive director in duplicate form.

§335.7. Bond Required. Authority to store, process, or dispose of industrial solid waste or municipal hazardous waste pursuant to a permit issued by the commission is contingent upon the execution and maintenance of a surety bond or other financial assurance acceptable to the executive director, in an amount specified in the permit, which provides for the closing of the solid waste storage, processing, or disposal facility in accordance with the permit issued for the facility and all other rules of the commission. The commission may require the execution and maintenance of a surety bond or other financial assurance acceptable to the executive director for the closing of any solid waste facility exempt from the requirement of a permit under this chapter but subject to the requirement of a permit under Texas Water Code, Chapter 26. Persons storing, processing, or disposing of hazardous waste are subject to further requirements concerning closure and post-closure contained in Subchapter V of this title (relating to Permitting Standards for Owners and Operators of Hazardous Waste Storage, Processing, or Disposal Facilities).

§335.8. Closing.

(a) Any person who stores, processes, or disposes of industrial solid waste or municipal hazardous waste at a facility permitted under §335.2(a) of this title (relating to Permit Required), shall, unless specifically modified by other order of the commission, close the facility in accordance with the closing provisions of the permit.

(b) Any person who stores, pro-

cesses, or disposes of hazardous waste is subject to the provisions of §§335.211-335.220 of this title (relating to Closure and Post-Closure) and §335.452 of this title (relating to Permitting Standards).

§335.9. Shipping and Reporting Procedures Applicable to Generators.

(a) Except with regard to the shipments of municipal hazardous waste or Class I industrial solid waste to which §335.10 of this title (relating to Shipping and Reporting Procedures Applicable to Generators of Municipal Hazardous Waste or Class I Industrial Solid Waste) applies, and except with regard to generators of Class II industrial solid waste with less than 100 employees, each generator shall:

(1) keep records of:

(A) all industrial solid waste storage, processing, and disposal activities, and

(B) all municipal hazardous waste storage, processing, or disposal activities for all hazardous waste generated or accumulated on-site in quantities greater than 100 kilograms in a calendar month or quantities of acute hazardous waste in excess of those quantities specified in §335.61 (c)(5) of this title (relating to Purpose, Scope, and Applicability). Records pertaining to on site activities shall include, at a minimum, information regarding the waste character, classification, and quantity, and the method (as described by codes in Subchapter B, Appendix I, Table 2, "Handling Codes for Storage, Processing and Disposal Methods") and location of storage, processing, and disposal. Records regarding off-site activities shall include, at a minimum, the transporter identity, date of shipment and waste character, classification, and quantity;

(2) retain such records required by paragraph (1) of this subsection for a minimum of three years from the date of reporting in paragraph (3) of this subsection; and

(3) submit an annual storage, processing, and disposal summary on forms furnished or approved by the executive director containing such information for the calendar year as is specified in paragraph (1) of this subsection to the Texas Water Commission on or before January 21 of each year; provided, however, upon request by the generator the executive director may authorize a modification in the reporting period.

(b) Any generator who stores, processes, or disposes of hazardous waste on-site shall submit an annual report in accordance with the requirements of §335.71 of this title (relating to Annual Reporting).

§335.10. Shipping and Reporting Procedures Applicable to Generators of Municipal Hazardous Waste or Class I Industrial Solid Waste.

(a) No generator of Class I industrial solid waste and no generator of municipal hazardous waste shipping municipal hazar-

dous waste which is a part of a total quantity of waste generated in quantities greater than 100 kilograms in a calendar month, or quantities of acute hazardous waste in excess of quantities specified in §335.61(c)(5) of this title (relating to Purpose, Scope, and Applicability) shall cause, suffer, allow, or permit the shipment of municipal hazardous waste or Class I waste consigned to an off-site solid waste, storage, processing, or disposal facility in Texas without preparing a Texas Water Commission (TWC) manifest. Any municipal hazardous waste or Class I waste generated in Texas for consignment to another state must be accompanied by the consignment state's manifest, if provided, or by a TWC manifest if the consignment state does not provide a manifest. A generator shall designate on the manifest one facility which is authorized to receive the waste described on the manifest. A generator may also designate one alternate facility which is authorized to receive the waste to the primary designated facility. An alternate facility shall be identified on the manifest in the item marked "special handling instructions and additional information." If the transporter is unable to deliver the waste to the designated facility or the alternate facility, the generator must either designate another facility or instruct the transporter to return the waste.

(b) The manifest shall contain the following information:

(1) the generator's U. S. Environmental Protection Agency (EPA) 12-digit identification number and the unique five-digit number assigned to the manifest (applicable to hazardous waste only);

(2) the total number of pages used to complete the manifest, plus the number of continuation sheets, if any (page 1 of ____);

(3) the company name, mailing address, and telephone number of the generator;

(4) the Texas Water Commission (TWC) state generator's registration and/or permit number;

(5) the first transporter's company name, EPA 12-digit identification number (applicable to hazardous waste only), and the state transporter's registration number;

(6) the company name, EPA 12-digit identification number (applicable to hazardous waste only), and state transporter's registration number for the second transporter. If more than two transporters are used, enter each additional transporter's company name, EPA 12-digit identification number, if applicable, and the state transporter's registration number on the continuation sheet. Each continuation sheet has space to record two additional transporters. Every transporter must be listed;

(7) the company name, site address, EPA 12-digit identification number (applicable to hazardous waste only) and TWC state facility permit number of the storage, processing, or disposal facility and

an alternate facility, if designated. The generator shall designate on the manifest only those storage, processing, or disposal facilities which are authorized under the Resource Conservation and Recovery Act (RCRA), 1976, Subtitle C, or an approved state hazardous waste program administered in lieu thereof (applicable to hazardous waste only).

(8) the U.S. Department of Transportation (DOT) proper shipping name, hazard class, and ID number (UN/NA) for each hazardous waste as identified in 49 Code of Federal Regulations Parts 171-177. For Class I nonhazardous waste, use the TWC waste classification code description as it appears on the TWC notice of registration. If additional space is needed for waste descriptions, enter these additional descriptions in item 28 on the continuation sheet. The uniform hazardous waste manifest form has been designed to allow the listing of both federally-regulated wastes and wastes regulated solely by the state. In order to distinguish between federally-regulated wastes and other wastes, as required by DOT regulations (49 Code of Federal Regulations §172.201(a)(1)), the TWC has added a hazardous materials (HM) column on the manifest before the DOT description. When a waste shipment consists of both federally regulated materials and state-regulated wastes, the hazardous materials (HM) column must be checked or marked for only those line entries which are regulated under federal law as hazardous wastes or hazardous materials;

(9) the number of containers for each waste and the appropriate abbreviation from Subchapter A, Appendix I, Table 1, for the type of container;

(10) the total quantity and unit of measure of each waste described on each line; The appropriate abbreviation for the unit of measure may be found in Subchapter B, Appendix I, Table 1 in §335.48 of this title (relating to Appendices I Through IV);

(11) the TWC waste classification code as assigned by the state; and

(12) a certification by the generator stating: "I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and national governmental regulations, including applicable state regulations." If a mode other than highway is used, the word "highway" should be lined out and the appropriate mode (rail, water, or air) inserted in the space provided below the word highway. If another mode in addition to the highway mode is used, enter the appropriate additional mode (e.g., and rail) in the space provided below the word highway.

(c) The manifest shall consist of at least the number of copies which will provide the generator, each transporter, and the

owner or operator of the storage, processing, or disposal facility with one copy each for their records and another copy to be returned to the generator.

(d) At the time of waste transfer, the generator shall:

(1) sign the manifest by hand;

(2) obtain the handwritten signature of the initial transporter and date of acceptance on the manifest;

(3) retain one copy, in accordance with §335.13(a) of this title (relating to Recordkeeping and Reporting Procedures Applicable to Generators of Municipal Hazardous Waste or Class I Industrial Solid Waste); and

(4) give the transporter the remaining copies of the manifest.

(e) For shipments of municipal hazardous waste or Class I waste within the United States solely by water (bulk shipments only), the generator shall send three copies of the manifest dated and signed in accordance with this section to the owner or operator of the designated facility or to the last water (bulk shipment) transporter to handle the waste in the United States if exported by water. Copies of the manifest are not required for each transporter.

(f) For rail shipments of municipal hazardous waste or Class I waste within the United States which originate at the site of generation, the generator shall send at least three copies of the manifest dated and signed in accordance with this section to:

(1) the next non-rail transporter, if any; or

(2) the designated facility if transported solely by rail; or

(3) the last rail transporter to handle the waste in the United States if exported by rail.

§335.11. Shipping Requirements for Transporters of Municipal Hazardous Waste or Class I Industrial Solid Waste.

(a) No transporter may cause, suffer, allow, or permit the shipment of solid waste for which a manifest is required under §335.10 of this title (relating to Shipping and Reporting Procedures Applicable to Generators of Municipal Hazardous Waste or Class I Industrial Solid Waste) to an off-site storage, processing, or disposal facility, unless the transporter:

(1) obtains a manifest completed by the generator in accordance with §335.10 of this title (relating to Shipping and Reporting Procedures Applicable to Generators of Municipal Hazardous Waste or Class I Industrial Solid Waste);

(2) upon receipt and prior to shipment, signs and dates the manifest acknowledging the acceptance of waste from the generator; and

(3) returns a signed copy to the generator before leaving generator's property.

(b) The transporter shall ensure that the manifest accompanies the municipal ha-

zardous waste or Class I waste.

(c) No transporter may cause, suffer, allow, or permit the delivery of a shipment of municipal hazardous waste or Class I waste to another transporter designated on the manifest, unless the transporter:

(1) obtains the date of delivery and the handwritten signature of the accepting transporter on the manifest;

(2) retains one copy of the manifest in accordance with §335.14(a) of this title (relating to Recordkeeping Requirements Applicable to Transporters of Municipal Hazardous Waste or Class I Industrial Solid Waste); and

(3) gives the remaining copies of the manifest to the accepting transporter.

(d) No transporter may cause, suffer, allow, or permit the delivery of a shipment of municipal hazardous waste or Class I waste to a storage, processing, or disposal facility, unless the transporter:

(1) obtains the date of delivery and the handwritten signature on the manifest, of the owner or operator of the facility designated on the manifest;

(2) retains one copy of the manifest in accordance with §335.14(a) of this title (relating to Recordkeeping Requirements Applicable to Transporters of Municipal Hazardous Waste or Class I Industrial Solid Waste); and

(3) gives the remaining copies of the manifest to the owner or operator of the facility designated on the manifest.

(e) The requirements of subsections (b), (d) and (f) of this section do not apply to water (bulk shipment) transporters if:

(1) the waste is delivered by water (bulk shipment) to the facility designated on the manifest;

(2) a shipping paper containing all the information required on the manifest (excluding the identification numbers, generator certification, and signatures) accompanies the waste;

(3) the delivering transporter obtains the date of delivery and handwritten signature of the owner or operator of the facility on either the manifest or the shipping paper;

(4) the person delivering the waste to the initial water (bulk shipment) transporter obtains the date of delivery and the signature of the water (bulk shipment) transporter on the manifest and forwards it to the facility; and

(5) a copy of the shipping paper or manifest is retained by each water (bulk shipment) transporter in accordance with §335.14(b) of this title (relating to Recordkeeping Requirements Applicable to Transporters of Municipal Hazardous Waste or Class I Industrial Solid Waste).

(f) For shipments involving rail transportation, the requirements of subsections (b)-(e) of this section do not apply and the following requirements do apply:

(1) When accepting Class I waste from a nonrail transporter, the initial rail

transporter must:

(A) sign and date the manifest acknowledging acceptance of the waste;

(B) return a copy of the manifest to the nonrail transporter;

(C) forward at least three copies of the manifest to:

(i) the next nonrail transporter, if any; or

(ii) the designated facility, if the shipment is delivered to that facility by rail; or

(iii) the last rail transporter designated to handle the waste in the United States;

(D) retain one copy of the manifest and rail shipping paper in accordance with §335.14(c) of this title (relating to Recordkeeping Requirements Applicable to Transporters of Municipal Hazardous Waste or Class I Industrial Solid Waste).

(2) Rail transporters must ensure that a shipping paper containing all the information required on the manifest (including the EPA identification numbers, generator certification, and signatures) accompanies the waste at all times. Intermediate rail transporters are not required to sign either the manifest or shipping paper.

(3) When delivering Class I waste or municipal hazardous waste to the designated facility, a rail transporter must:

(A) obtain the date of delivery and handwritten signature of the owner or operator of the designated facility on the manifest or shipping paper (if the manifest has not been received by the facility); and

(B) retain a copy of the manifest or signed shipping paper in accordance with §335.14(c) of this title (relating to Recordkeeping Requirements Applicable to Transporters of Municipal Hazardous Waste or Class I Industrial Solid Waste).

(4) When delivering municipal hazardous waste or Class I waste to a nonrail transporter, a rail transporter must:

(A) obtain the date of delivery and the handwritten signature of the next nonrail transporter on the manifest; and

(B) retain a copy of the manifest in accordance with §335.14(c) of this title (relating to Recordkeeping Requirements Applicable to Transporters of Municipal Hazardous Waste or Class I Industrial Solid Waste).

(5) Before accepting municipal hazardous waste or Class I waste from a rail transporter, a nonrail transporter must sign and date the manifest and provide a copy to the rail transporter.

(g) Transporters who transport municipal hazardous waste or Class I industrial solid waste out of the United States shall:

(1) indicate on the manifest the date the municipal hazardous waste or Class I waste left the United States under the item labeled "special handling instructions and additional information";

(2) sign the manifest and retain one copy in accordance with §335.14(c) of this

title (relating to Recordkeeping Requirements Applicable to Transporters of Municipal Hazardous Waste or Class I Industrial Solid Waste); and

(3) return a signed copy of the manifest to the generator.

(h) The transporter must deliver the entire quantity of municipal hazardous waste or Class I waste which he has accepted from a generator or a transporter to:

(1) the designated facility listed on the manifest; or

(2) the alternate designated facility if the waste cannot be delivered to the designated facility because an emergency prevents delivery; or

(3) the next designated transporter; or

(4) the place outside the United States designated by the generator.

(i) If the transporter cannot deliver the waste in accordance with subsection (h) of this section, the transporter must contact the generator for further directions and must revise the manifest according to the generator's instructions.

§335.12. Shipping Requirements Applicable to Owners or Operators of Storage, Processing, or Disposal Facilities.

(a) No owner or operator of a storage, processing, or disposal facility may accept delivery of solid waste for which a manifest is required under §335.10 of this title (relating to Shipping and Reporting Procedures Applicable to Generators of Municipal Hazardous Waste or Class I Industrial Solid Waste), for off-site storage, processing, or disposal unless:

(1) a manifest accompanies the shipment which designates that facility to receive the waste; and

(2) the owner or operator signs the manifest and immediately gives at least one copy of the signed manifest to the transporter; and

(3) retains one copy of the manifest in accordance with §335.15(a) of this title (relating to Recordkeeping and Reporting Requirements Applicable to Owners or Operators of Storage, Processing, or Disposal Facilities); and

(4) within 30 days after the delivery, sends a copy of the manifest to the generator.

(b) If a facility receives, from a rail or water (bulk shipment) transporter, municipal hazardous waste or Class I waste which is accompanied by a shipping paper containing all the information required on the manifest, the owner or operator, or his agent, shall:

(1) sign and date each copy of the manifest or shipping paper (if the manifest has not been received) to certify that the municipal hazardous waste or Class I waste covered by the manifest or the shipping paper was received;

(2) immediately give the rail or water (bulk shipment) transporter at least one

copy of the manifest or shipping paper (if the manifest has not been received);

(3) within 30 days after the delivery, send a copy of the signed and dated manifest to the generator; however, if the manifest has not been received within 30 days after delivery, the owner or operator, or his agent, must send a copy of the shipping paper signed and dated to the generator; and

(4) retain at the facility a copy of each shipping paper and manifest in accordance with §335.15(a) of this title (relating to Recordkeeping and Reporting Requirements Applicable to Owners or Operators of Storage, Processing, or Disposal Facilities).

(c) If a facility receives municipal hazardous waste or Class I waste accompanied by a manifest, or in the case of shipments by rail or water (bulk shipment), by a shipping paper, the owner or operator, or his agent, must note any significant discrepancies on each copy of the manifest or shipping paper (if the manifest has not been received).

(1) Manifest discrepancies are differences between the quantity or type of municipal hazardous waste or Class I waste designated on the manifest or shipping paper, and the quantity or type of municipal hazardous waste or Class I waste a facility actually received. Significant discrepancies in quantity are:

(A) for bulk weight, variations greater than 10% in weight; and

(B) for batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload

(2) Significant discrepancies in type are obvious differences which can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or toxic constituents not reported in the manifest or shipping paper.

(3) Upon discovering a significant discrepancy, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator must immediately submit to the executive director a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue. The commission does not intend that the owner or operator of a facility perform the analysis required by §335.114(c) of this title (relating to General Waste Analysis) before signing the manifest and giving it to the transporter. However, subsection (c) does require reporting an unreconciled discrepancy discovered during later analysis

§335.13. Recordkeeping and Reporting Procedures Applicable to Generators of Municipal Hazardous Waste or Class I Industrial Solid Waste.

(a) The generator shall retain a copy of each manifest required by §335.10 of this title (relating to Shipping and Reporting

Procedures Applicable to Generators of Municipal Hazardous Waste or Class I Industrial Solid Waste) for a minimum of three years from the date of shipment by the generator.

(b) The generator shall prepare a monthly summary from the manifests, regardless of whether shipments were made during the month, summarizing the quantity and classification of each waste shipment itemized by manifest document number. Such monthly summary shall be submitted to the Texas Water Commission on the 25th day of each month for shipments originating during the previous month on monthly summary forms provided or approved by the executive director. A generator must keep a copy of each summary for a period of at least three years from the due date of the summary. A generator required to comply with this subsection shall continue to prepare and submit monthly summaries, regardless of whether shipments were made during a particular month, by preparing and submitting a monthly summary indicating that no shipments were made during that month. Upon request of the generator, the executive director may authorize a modification in the reporting period.

(c) The periods of record retention required by this section are automatically extended during the course of any unresolved enforcement action regarding the regulated activity.

(d) In addition to the requirements of this section, generators of hazardous waste are subject to the reporting and recordkeeping requirements of §335.70 of this title (relating to Recordkeeping) and §335.71 of this title (relating to Annual Reporting).

(e) A generator who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days of the date that the waste was accepted by the initial transporter must contact the transporter and/or the owner or operator of the designated facility to determine the status of the municipal hazardous waste or Class I industrial solid waste.

(f) A generator must submit an exception report to the commission if he has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date that the waste was accepted by the initial transporter. The exception report must include:

(1) a legible copy of the manifest for which the generator does not have confirmation of delivery; and

(2) a copy of a letter signed by the generator or his authorized representative explaining the efforts taken to locate the municipal hazardous waste or Class I industrial solid waste and the results of those efforts.

§335.14. Recordkeeping Requirements Applicable to Transporters of Municipal

Hazardous Waste or Class I Industrial Solid Waste.

(a) A transporter of municipal hazardous waste or Class I industrial solid waste shall retain a copy of each manifest signed by the generator, the transporter, and the next designated transporter, or the owner or operator of the facility designated on the manifest for a minimum of at least three years from the date of initial shipment.

(b) For shipments delivered to the facility designated on the manifest by water (bulk shipment), each water (bulk shipment) transporter must retain a copy of a shipping paper containing all the information required by §335.11(e) of this title (relating to Shipping Requirements for Transporters of Municipal Hazardous Waste or Class I Industrial Solid Waste) for a minimum of three years from the date of initial shipment.

(c) For shipments of municipal hazardous waste or Class I waste by rail within the United States:

(1) the initial rail transporter must keep a copy of the manifest and shipping paper with all of the information required in §335.11(f)(2) of this title (relating to Shipping Requirements for Transporters of Municipal Hazardous Waste or Class I Industrial Solid Waste) for a period of three years from the date the municipal hazardous waste or Class I waste was accepted by the initial transporter; and

(2) the final rail transporter must keep a copy of the signed manifest (or the shipping paper if signed by the designated facility in lieu of the manifest) for a period of three years from the date the municipal hazardous waste or Class I waste was accepted by the initial transporter.

(d) A transporter who transports waste out of the United States must retain a copy of the manifest indicating that the municipal hazardous waste or Class I waste left the United States for a minimum of three years from the date of initial shipment.

(e) The periods of record retention required by this section are automatically extended during the course of any unresolved enforcement action regarding the regulated activity.

§335.15. Record keeping and Reporting Requirements Applicable to Owners or Operators of Storage, Processing, or Disposal Facilities. This section does not apply to owners and operators that store, process, or dispose of municipal hazardous waste or Class I industrial solid waste on-site and do not receive any Class I waste from off-site sources.

(1) The owner or operator of the storage, processing, or disposal facility designated on the manifest shall retain a copy of each manifest or, in the case of shipments by rail or water (bulk shipment), a copy of each manifest and shipping paper, for a minimum of three years from the date of ini-

tial shipment by the generator.

(2) The owner or operator shall prepare a monthly summary from his copy of all manifests received during the month, summarizing the quantity, character, and the method of storage, processing, and disposal of each municipal hazardous waste or Class I waste shipment received, itemized by manifest document number. Such monthly summary report shall be submitted to the Texas Water Commission on the 25th day of each month for wastes or manifests received during the prior month and on monthly summary forms provided or approved by the executive director. Persons who store, process, or dispose of hazardous waste are subject to the further requirements of §335.175(a) of this title (relating to Reporting Requirements) for the preparation of a monthly summary. The appropriate abbreviations from Subchapter B, Appendix I, Table 1 and Table 2 in §335.48 of this title (relating to Appendices I Through IV) are to be used for units of measure and for handling codes for storage, processing, and disposal methods.

(3) The owner or operator shall submit a monthly report on forms provided

or approved by the executive director summarizing the types and volumes of any municipal hazardous waste or Class I waste received without manifests, as in the case of shipments by rail or water (bulk shipments) without shipping papers. This report shall be prepared with respect to any Class I waste or municipal hazardous waste received without a manifest, regardless of quantity and shall include the following information:

(A) the Environmental Protection Agency (EPA) identification number (applicable to hazardous waste only), name, and address of the facility;

(B) the date the facility received the waste;

(C) the EPA identification number (applicable to hazardous waste only), name, and address of the generator and the transporter, if available;

(D) a description and the quantity of each municipal hazardous waste or Class I industrial solid waste the facility received which was not accompanied by a manifest;

(E) the method of storage, processing, or disposal for each municipal ha-

zardous waste or Class I industrial solid waste;

(F) the certification signed by the owner or operator of the facility or his authorized representative; and

(G) a brief explanation of why the waste was unaccompanied by a manifest, if known.

(4) The owner or operator shall retain a copy of each summary required by paragraph (2) and paragraph (3) of this subsection for a minimum of three years from the date of each summary.

(5) The periods of record retention required by this section are automatically extended during the course of any unresolved enforcement action regarding the regulated activity

§335.16. Appendix I. The following appendix will be used for the purposes of Subchapter A which relate to municipal hazardous waste and industrial solid waste. (Appendix I—Uniform Hazardous Waste Manifest Form and Continuation Page.)

P.O. Box 13087, Capitol Station
Austin, Texas 78711



Please print or type (Form designed for use on elite (12-pitch) typewriter)

Form approved. OMS No 2000-0404 Expires 7-31-86

UNIFORM HAZARDOUS WASTE MANIFEST		1 Generator's US EPA ID No	Manifest Document No	2. Page 1 of	Information in the shaded areas is not required by Federal law	
3 Generator's Name and Mailing Address				A State Manifest Document Number		
4 Generator's Phone ()				B State Generator's ID		
5 Transporter 1 Company Name		6 US EPA ID Number		C State Transporter's ID		
7 Transporter 2 Company Name		8 US EPA ID Number		D Transporter's Phone		
9 Designated Facility Name and Site Address		10 US EPA ID Number		E State Transporter's ID		
				F Transporter's Phone		
				G State Facility's ID		
				H Facility's Phone		
11A HM	11 US DOT Description (including Proper Shipping Name, Hazard Class, and ID Number)	12 Containers No	Type	13 Total Quantity	14 Unit Wt/Vol	15 Waste No
	a					
	b					
	c					
	d					
J Additional Descriptions for Materials Listed Above				K Handling Codes for Wastes Listed Above		
16 Special Handling Instructions and Additional Information						
16 GENERATOR'S CERTIFICATION I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and national government regulations, including applicable state regulations						
Printed/Typed Name				Signature		Date Month Day Year
17 Transporter 1 Acknowledgement of Receipt of Materials				Signature		Date Month Day Year
18 Transporter 2 Acknowledgement of Receipt of Materials				Signature		Date Month Day Year
19 Discrepancy Indication Space						
20 Facility Owner or Operator Certification of receipt of hazardous materials covered by this manifest except as noted in item 19						
Printed/Typed Name				Signature		Date Month Day Year

EPA Form 8700-22 (3-84) White - original Pink-TSD Facility Yellow-Transporter Green-Generator's first copy
TDWR-0311

When using the Uniform Waste Manifest for rail or water (bulk shipment) or international shipments refer to the applicable TDWR or TDH regulations.

REPORT SPILLS AND/OR DISCHARGES TO THE TEXAS SPILL RESPONSE CENTER AT 612/476-2651 (24 HOURS)

INSTRUCTIONS TO GENERATOR (Please Type or Print Clearly)

- (1) Enter the generator's U.S. EPA twelve digit identification number and the unique five digit number assigned to this manifest by the generator if you are shipping hazardous waste.
- (2) Enter the total number of pages used to complete this manifest
- (3) Enter the company name and mailing address
- (4) Provide a phone number where an authorized agent of your firm may be reached in the event of an emergency.
- (5) Enter the company name of the first transporter and their U.S. EPA ID Number.
- (6) If applicable, enter the company name of the second transporter and their U.S. EPA ID Number. If more than two transporters are used, enter each additional transporter's information on the Continuation Sheet (EPA form 8700-22A)
- (7) Enter the company name, site address, and U.S. EPA ID Number of the facility designated to receive the waste listed on this manifest
- (8) **COMPLETE ALL STATE OF TEXAS INFORMATION A. THROUGH H. IN THE SHADED AREAS.**
- (9) Complete the waste description table as follows:
 - (A) **ITEM 1: A**—When shipping an EPA/DOT regulated hazardous waste or material in conjunction with solely state regulated waste enter an "x" in the HM box before each EPA/DOT regulated waste/material description
 - (B) **ITEM 11**—Enter the U.S. DOT Proper Shipping Name, Hazard Class, and ID Number (UN/NA) for each waste identified. If it is a Class I nonhazardous waste use the Texas Waste Code description
 - (C) **ITEM 12**—Enter the number of containers for each waste and the appropriate abbreviation for type located in Subchapter A of the TDWR Industrial Solid Waste Rules
 - (D) **ITEM 13**—Enter the total quantity of waste described on each line
 - (E) **ITEM 14**—Enter the appropriate letter from the table below for the unit of measure.

G = Gallons (liquids only)	L = Liter (liquids only)
P = Pounds	K = Kilograms
T = Tons (2000 lbs)	M = Metric Tons (1000 kg)
Y = Cubic Yards	N = Cubic Meters
 - (F) **ITEM 1**—Enter the appropriate TDWR/TDH State Waste Code for each waste you are shipping.
- (10) The Generator must read, sign (by hand), and date the certification statement. If a mode other than highway is used, the word "highway" should be lined out and the appropriate mode (rail, water or air) inserted in the space below.
- (11) The manifest must be signed and dated by the first transporter in the presence of the Generator. If more than one transporter is to be used, the Generator must provide additional copies for their use
- (12) Generator retains green copy, sending remaining copies with the driver

INSTRUCTIONS FOR THE TRANSPORTER (Please Type or Print Clearly)

- (1) As driver of the transport vehicle, you are responsible for ensuring that all waste received by you arrives at the specified destination
- (2) Sign and date the space provided, certifying the waste amounts in PART I were received for transport. **NOTE:** If you are unable to carry out the delivery of the shipment as specified, dial the emergency phone numbers given in PART I notifying the **GENERATOR**
- (3) Upon delivery of the shipment, the TSD Facility Owner/Operator is to sign for the shipment in your presence and fill in "date received"
- (4) Separate the yellow copy and retain for your records. Leave the remaining copies with the TSD Facility Owner/Operator

INSTRUCTIONS TO TREATMENT, STORAGE AND DISPOSAL (TSD) FACILITY OWNER/OPERATOR (Please Type or Print Clearly)

- (1) The authorized representative of the designated (or alternate) facility's owner or operator must note in **ITEM 19** any significant discrepancy between the waste described on the manifest and the waste actually received at the facility
- (2) Enter date received and sign in the presence of the driver declaring receipt of the wastes and verifying the quantities in the table in **PART I**.
- (4) Retain the pink copy for your records and return the completed original (white) copy to the **GENERATOR**

- * U.S. EPA, TDWR and TDH regulations require that copies of this Shipping-Control Ticket be retained for a period of three (3) years in your company records. Do not send to TDWR or TDH unless otherwise notified by these departments.

Please print or type (Form designed for use on elite (12-pitch) typewriter.)

Form approved OMB No. 2000-0404 Expires 7-31-86

UNIFORM HAZARDOUS WASTE MANIFEST (Continuation Sheet)		21 Generator's US EPA ID No		Manifest Document No		22 Page	Information in the shaded areas is not required by Federal law	
23 Generator's Name						L State Manifest Document Number		
						M State Generator's ID		
24 Transporter _____ Company Name				25 US EPA ID Number		N State Transporter's ID		
						O Transporter's Phone		
26 Transporter _____ Company Name				27 US EPA ID Number		P State Transporter's ID		
						Q Transporter's Phone		
28A HM	28 US DOT Description (including Proper Shipping Name, Hazard Class, and ID Number)			29 Containers No Type		30 Total Quantity	31 Unit Wt/Vol	R Waste No
	a							
	b							
	c							
	d							
	e							
	f							
	g							
	h							
	i							
S Additional Descriptions for Materials Listed Above						T Handling Codes for Wastes Listed Above		
32 Special Handling Instructions and Additional Information								
TRANSPORTER	33 Transporter _____ Acknowledgement of Receipt of Materials						Date	
	Printed/Typed Name				Signature		Month Day Year	
	34 Transporter _____ Acknowledgement of Receipt of Materials						Date	
	Printed/Typed Name				Signature		Month Day Year	
FACILITY	35 Discrepancy Indication Space							

EPA Form 8700-22 (3-84) White - original Pink-TSD Facility Yellow-Transporter Green-Generator's first copy
TDWR-0311B

Table 1

Types of Containers

DM = Metal drums, barrels, kegs
DW = Wooden Drums, barrels, kegs
DF = Fiberboard or plastic drums, barrels, kegs
TP = Tanks portable
TT = Cargo tanks (tank trucks)
TC = Tank cars
DT = Dump truck
CY = Cylinders
CM = Metal boxes, cartons, cases (including roll-offs)
CW = Wooden boxes, cartons, cases
CF = Fiber or plastic boxes, cartons, cases
BA = Burlap, cloth, paper or plastic bags.

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

TRD-858077

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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**Subchapter B. Hazardous Waste
Management General Provisions**

★31 TAC §§335.41-335.48

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.

§335.41. Purpose, Scope, and Applicability.

(a) The purpose of these sections is to implement a state hazardous waste program which controls from point of generation to ultimate disposal those wastes which have been identified by the administrator of the United States Environmental Protection Agency (EPA) in 40 Code of Federal Regulations Part 261.

(b) Subchapters E-T of this chapter (relating to General Facility Standards; Preparedness and Prevention; Contingency

Plan and Emergency Procedures; Record-Keeping and Reporting Requirements; Groundwater Monitoring; Closure and Postclosure; Financial Requirements; Use and Management of Containers; Tanks; Surface Impoundments; Waste Piles; Land Treatment; Landfills; Incinerators; Thermal Processing; Chemical, Physical, and Biological Processing); Subchapter V of this chapter (relating to Permitting Standards for Owners and Operators of Hazardous Waste, Storage, Processing, and Disposal Facilities), §335.12 of this title (relating to Shipping Requirements Applicable to Owners or Operators of Storage, Processing, or Disposal Facilities), and §335.15 of this title (relating to Record-Keeping and Reporting Requirements Applicable to Owners or Operators of Storage, Processing, or Disposal Facilities) do not apply to an owner or operator of a totally enclosed treatment facility, as defined in §335.42 of this title (relating to Definitions).

(c) Except as provided in §335.47 of this title (relating to Special Requirements for Persons Eligible for a Federal Permit by Rule), Subchapters E-T of this chapter (relating to General Facility Standards; Preparedness and Prevention; Contingency Plan and Emergency Procedures; Record-Keeping and Reporting Requirements; Groundwater Monitoring; Closure and Postclosure; Financial Requirements; Use and Management of Containers; Tanks; Surface Impoundments; Waste Piles; Land

Treatment; Landfills; Incinerators; Thermal Processing; Chemical, Physical, and Biological Processing), and Subchapter V of this chapter (relating to Permitting Standards for Owners and Operators of Hazardous Waste, Storage, Processing, and Disposal Facilities) do not apply to:

(1) the owner or operator of a publicly-owned treatment works (POTW) which processes, stores, or disposes of hazardous waste;

(2) persons disposing of hazardous waste by means of underground injection. Subchapters E-T of this chapter (relating to General Facility Standards; Preparedness and Prevention; Contingency Plan and Emergency Procedures; Recordkeeping and Reporting Requirements; Groundwater Monitoring; Closure and Post Closure; Financial Requirements; Use and Management of Containers; Tanks; Surface Impoundments; Waste Piles; Land Treatment; Landfills; Incinerators; Thermal Processing; Chemical, Physical, and Biological Processing) do apply to the above ground storage or processing of hazardous waste before it is injected underground.

(d) Subchapters E-T of this chapter (relating to General Facility Standards; Preparedness and Prevention; Contingency Plan and Emergency Procedures; Record-Keeping and Reporting Requirements; Groundwater Monitoring; Closure and Postclosure; Financial Requirements; Use and Management of Containers; Tanks; Surface Impoundments; Waste Piles; to Land Treatment; Landfills; Incinerators; Thermal Processing; Chemical, Physical, and Biological Processing; Permitting Standards for Owners and Operators of Hazardous Waste, Storage, Processing, and Disposal Facilities) do not apply to:

(1) the owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in §335.42 of this title (relating to Definitions) of this subchapter;

(2) persons with respect to those activities which are carried out to immediately contain a spill of hazardous waste or material which, when spilled, becomes a hazardous waste, except that, with respect to such activities, the appropriate requirements of Subchapter F of this chapter (relating to Preparedness and Prevention) and Subchapter G of this chapter (relating to Contingency Plan and Emergency Procedures) are applicable to owners and operators of storage, processing, or disposal facilities. The provisions of this paragraph apply only to activities taken in immediate response to a spill. After the immediate response activities are completed, Subchapters E-T of this chapter (relating to General Facility Standards; Preparedness and Prevention; Contingency Plan and Emergency Procedures; Record-Keeping and Reporting Requirements; Groundwater Monitoring; Closure and Postclosure; Financial Requirements; Use and Management of Con-

tainers; Tanks; Surface Impoundments; Waste Piles; Land Treatment; Landfills; Incinerators; Thermal Processing; Chemical, Physical, and Biological Processing; and Subchapter V of this chapter (relating to Permitting Standards for Owners and Operators of Hazardous Waste, Storage, Processing, and Disposal Facilities) apply fully to the management of any spill residue or debris which is a hazardous waste;

(3) persons adding absorbent material to waste in a container, as defined in §335.42 of this chapter (relating to Definitions), and persons adding waste to absorbent material in a container, provided that these actions occur at the time that waste is first placed in the container, and §335.118(b) of this chapter (relating to General Requirements for Ignitable, Reactive, or Incompatible Wastes), §335.242 of this chapter (relating to Condition of Containers) and §335.243 of this chapter (relating to Compatibility of Waste With Container) are complied with.

(e) Subchapters B-T of this chapter (relating to Hazardous Waste Management General Provisions; Standards Applicable to Generators of Hazardous Industrial Solid Waste; Standards Applicable to Transporters of Hazardous Waste; General Facility Standards; Preparedness and Prevention; Contingency Plan and Emergency Procedures; Record-Keeping and Reporting Requirements; Groundwater Monitoring; Closure and Postclosure; Financial Requirements; Use and Management of Containers; Tanks; Surface Impoundments; Waste Piles; to Land Treatment; Landfills; Incinerators; Thermal Processing; Chemical, Physical, and Biological Processing; Permitting Standards for Owners and Operators of Hazardous Waste, Storage, Processing, and Disposal Facilities) do not apply to:

(1) a person who stores, processes, or disposes of hazardous waste onsite and meets the requirements of §335.61(c) of this title (relating to Purpose, Scope and Applicability) of this Chapter; or

(2) a person who stores, processes, or disposes of hazardous waste in quantities less than 1000 kilograms in a calendar month at a facility under the jurisdiction of the Texas Department of Health (TDH).

(f) The following requirements apply to residues of hazardous waste in containers.

(1) Subchapters B-T of this chapter (relating to General Facility Standards; Preparedness and Prevention; Contingency Plan and Emergency Procedures; Record-Keeping and Reporting Requirements; Groundwater Monitoring; Closure and Postclosure; Financial Requirements; Use and Management of Containers; Tanks; Surface Impoundments; Waste Piles; to Land Treatment; Landfills; Incinerators; Thermal Processing; Chemical, Physical, and Biological Processing), and Subchapter V of this chapter (relating to Permitting Standards for Owners and Operators of

Hazardous Waste, Storage, Processing, and Disposal Facilities) do not apply to any hazardous waste remaining in either an empty container or an inner liner removed from an empty container, as defined in paragraph (2) of this subsection. This exemption does not apply to any hazardous waste in either a container that is not empty or an inner liner removed from a container that is not empty.

(2) For purposes of determining whether a container is empty under this subsection, the following rules apply:

(A) a container or an inner liner removed from a container that has held any hazardous waste, except a waste that is a compressed gas or nat is identified in 40 Code of Federal Regulations §261.33(c) is empty if:

(i) all wastes have been removed that can be using the practices commonly employed to remove materials from that type of container, e.g., pouring, pumping, and aspirating, and

(ii) no more than 2.5 centimeters (one inch) of residue remains on the bottom of the container or inner liner, or

(iii) no more than 3.0% by weight of the total capacity of the container remains in the container or inner liner if the container is less than or equal to 110 gallons in size, or no more than 0.3% by weight of the total capacity of the container remains in the container or inner liner if the container is greater than 110 gallons in size;

(B) a container that has held a hazardous waste that is a compressed gas is empty when the pressure in the container approaches atmosphere;

(C) a container or an inner liner removed from a identified in 40 Code of Federal Regulations §261.33(c) is empty if:

(i) the container or inner liner has been triple rinsed using a solvent capable of removing the commercial chemical product or manufacturing chemical intermediate;

(ii) the container or inner liner has been cleaned by another method that has been shown in the scientific literature, or by tests conducted by the generator, to achieve equivalent removal; or

(iii) in the case of a container, the inner liner that prevented contact of the commercial chemical product or manufacturing chemical intermediate with the container, has been removed.

(g) Subchapters B-T of this chapter (relating to Hazardous Waste Management General Provisions; Standards Applicable to Generators of Hazardous Industrial Solid Waste; Standards Applicable to Transporters of Hazardous Waste; General Facility Standards; Preparedness and Prevention; Contingency Plan and Emergency Procedures; Record-Keeping and Reporting Requirements; Groundwater Monitoring; Closure and Postclosure; Financial Requirements; Use and Management of Containers;

Tanks; Surface Impoundments; Waste Piles; to Land Treatment; Landfills; Incinerators; Thermal Processing; Chemical, Physical, and Biological Processing) do not apply to hazardous waste which is:

(1) being beneficially used or reused or legitimately recycled or reclaimed, or

(2) being accumulated, stored, or physically, chemically or biologically processed prior to beneficial use or reuse or legitimate recycling or reclamation, provided that the hazardous waste is not a sludge, a waste listed in 40 Code of Federal Regulations Part 261, Subpart D, or a waste containing one or more hazardous wastes listed in Subpart D.

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

Act—The Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7.

Active portion—That portion of a facility where processing, storage, or disposal operations are being or have been conducted after November 19, 1980, and which is not a closed portion. (See also closed portion and inactive portion.)

Administrator—The administrator of the Environmental Protection Agency (EPA), or his designee.

Aquifer—A geologic formation, group of formations, or part of a formation capable of yielding a significant amount of ground water to wells or springs.

Authorized representative—The person responsible for the overall operation of a facility or an operational unit (i.e., part of a facility), e.g., the plant manager, superintendent, or person of equivalent responsibility.

Certification—A statement of professional opinion based upon knowledge and belief.

Closed portion—That portion of a facility which an owner or operator has closed in accordance with the approved facility closure plan and all applicable closure requirements. (See also active portion and inactive portion.)

Confined aquifer—An aquifer bounded above and below by impermeable beds or by beds of distinctly lower permeability than that of the aquifer itself; an aquifer containing confined ground water.

Container—Any portable device in which a material is stored, transported, processed, or disposed of, or otherwise handled.

Contingency plan—A document setting out an organized, planned, and coordinated course of action to be followed in case of a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment.

Designated facility—A hazardous waste storage, processing, or disposal facility which has received an Environmental

Protection Agency (EPA) permit (or a facility with interim status) in accordance with the requirements of 40 Code of Federal Regulations Parts 122 and 124, or a permit from a state authorized in accordance with 40 Code of Federal Regulations Part 123, that has been designated on the manifest by the generator pursuant to §335.10 of this title (relating to Shipping and Reporting Procedures Applicable to Generators of Municipal Hazardous Waste or Class I Industrial Solid Waste).

Dike—An embankment or ridge of either natural or manmade materials used to prevent the movement of liquids, sludges, solids, or other materials.

Discharge or hazardous waste discharge—The accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of hazardous waste into or on any land or water.

Disposal—The discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste (whether containerized or uncontainerized) into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

Disposal facility—A facility or part of a facility at which solid waste is intentionally placed into or on any land or water, and at which waste will remain after closure.

Elementary neutralization unit—A device which:

(A) is used for neutralizing wastes which are hazardous only because they exhibit the corrosivity characteristic defined in 40 Code of Federal Regulations §261.22, or are listed in 40 Code of Federal Regulations Part 261, Subpart D, only for this reason; and

(B) meets the definition of tank, container, transport vehicle, or vessel as defined in this section.

Environmental Protection Agency hazardous waste number—The number assigned by the Environmental Protection Agency to each hazardous waste listed in 40 Code of Federal Regulations Part 261, Subpart D, and to each characteristic identified in 40 Code of Federal Regulations Part 261, Subpart C.

Environmental Protection Agency identification number—The number assigned by the Environmental Protection Agency or the commission to each generator, transporter, and processing, storage, or disposal facility.

Equivalent method—Any testing or analytical method approved by the administrator under 40 Code of Federal Regulations §260.20 and §260.21.

Existing portion—That land surface area of an existing waste management unit, included in the original Part A permit application on which wastes have been placed prior to the issuance of a permit.

Facility—All contiguous land, and structures, other appurtenances, and improvements on the land used for storing, processing or disposing of municipal hazardous waste or industrial solid waste. A facility may consist of several storage, processing, or disposal operational units (e.g., one or more landfills, surface impoundments, or combination thereof).

Food-chain crops—Tobacco, crops grown for human consumption, and crops grown for feed for animals whose products are consumed by humans.

Freeboard—The vertical distance between the top of a tank or surface impoundment dike, and the surface of the waste contained therein.

Free liquids—Liquids which readily separate from the solid portion of a waste under ambient temperature and pressure.

Generator—Any person, by site, who produces municipally hazardous waste or industrial solid waste; any person who possesses municipal hazardous waste or industrial solid waste to be shipped to any other person; or any person whose act first causes a solid waste to become subject to regulation under this chapter.

Groundwater—Water below the land surface in a zone of saturation.

Hazardous industrial waste—Any industrial solid waste or combination of industrial solid wastes identified or listed by the administrator of the United States Environmental Protection Agency pursuant to the Resource Conservation and Recovery Act of 1976, §3001. The administrator has identified the characteristics of hazardous waste and listed certain wastes as hazardous in 40 Code of Federal Regulations Part 261, Subparts C and D, respectively. The executive director will maintain in the offices of the commission a current list of hazardous wastes, a current set of characteristics of hazardous waste, and applicable appendices, as promulgated by the administrator.

Hazardous waste constituent—A constituent that caused the administrator to list the hazardous waste in 40 Code of Federal Regulations Part 261, Subpart D, or a constituent listed in Table 1 of 40 Code of Federal Regulations §261.24.

Inactive portion—That portion of a facility which is not operated after November 19, 1980. (See also active portion and closed portion.)

Incinerator—An enclosed device using controlled flame combustion, the primary purpose of which is to thermally break down hazardous waste. Examples of incinerators are rotary kiln, fluidized bed, and liquid injection incinerators.

Incompatible waste—A hazardous waste which is unsuitable for:

(A) placement in a particular device or facility because it may cause corrosion or decay of containment materials (e.g., container inner liners or tank walls); or

(B) commingling with another

waste or material under uncontrolled conditions because the commingling might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, mists fumes, or gases, or flammable fumes or gases.

Individual generation site—The contiguous site at or on which one or more hazardous wastes are generated. An individual generation site, such as a large manufacturing plant, may have one or more sources of hazardous waste but is considered a single or individual generation site if the site or property is contiguous.

Industrial solid waste—Solid waste resulting from or incidental to any process of industry or manufacturing, or mining or agricultural operation.

In operation—Refers to a facility which is processing, storing, or disposing of hazardous waste.

Injection well—A well into which fluids are injected. (See also "underground injection".)

Inner liner—A continuous layer of material placed inside a tank or container which protects the construction materials of the tank or container from the contained waste or reagents used to treat the waste.

International shipment—The transportation of hazardous waste into or out of the jurisdiction of the United States.

Landfill—A disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a land treatment facility, a surface impoundment, or an injection well.

Landfill cell—A discrete volume of hazardous waste landfill which uses a liner to provide isolation of wastes from adjacent cells or wastes. Examples of landfill cells are trenches and pits.

Land treatment facility—A facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface; such facilities are disposal facilities if the waste will remain after closure.

Leachate—Any liquid, including any suspended components in the liquid, that has percolated through or drained from hazardous waste.

Liner—A continuous layer of natural or man-made materials, beneath or on the sides of a surface impoundment, landfill, or landfill cell, which restricts the downward or lateral escape of hazardous waste, hazardous waste constituents, or leachate.

Management or hazardous waste management—The systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous waste.

Manifest—The uniform hazardous waste manifest form furnished by the executive director to accompany shipments of municipal hazardous waste or Class I industrial solid waste.

Manifest document number—A number assigned to the manifest by the

commission for reporting and record-keeping purposes.

Movement—That hazardous waste transported to a facility in an individual vehicle.

Municipal hazardous waste—A municipal solid waste or mixture of municipal solid wastes which has been identified or listed as a hazardous waste by the administrator, United States Environmental Protection Agency.

Municipal solid waste—Solid waste resulting from or incidental to municipal, community, commercial, institutional and recreational activities; including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and all other solid waste other than industrial waste.

Off-site storage, processing, or disposal—Any storage, processing, or disposal which cannot be characterized as on-site storage, processing, or disposal, as defined in this subchapter.

On-site storage, processing or disposal—On-site storage, processing, or disposal occurs when municipal hazardous waste or industrial solid waste is collected, handled, stored, processed, or disposed of on the same or geographically contiguous property which may be divided by public or private rights-of-way, provided the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing, as opposed to going along, the right-of-way. Noncontiguous properties owned by the same person but connected by a right-of-way which the public does not have access, is also considered onsite property.

Open burning—The combustion of any material without the following characteristics:

(A) control of combustion air to maintain adequate temperature for efficient combustion;

(B) containment of the combustion-reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and

(C) control of emission of the gaseous combustion products. (See also incineration and thermal treatment.)

Operator—The person responsible for the overall operation of a facility.

Owner—The person who owns a facility or part of a facility.

Partial closure—The closure of a discrete part of a facility in accordance with the applicable closure requirements of this chapter. For example, partial closure may include the closure of a trench, a unit operation, a landfill cell, or a pit, while other parts of the same facility continue in operation or will be placed in operation in the future.

Permit—A written permit issued by the commission which, by its conditions, may authorize the permittee to construct, install, modify, or operate a specified municipal hazardous waste or industrial solid

waste storage, processing, or disposal facility in accordance with specified limitations.

Person—Any individual, corporation, organization, government, or governmental subdivision or agency, business trust, estate, partnership, and any other legal entity or association.

Personnel or facility personnel—All persons who work at, or oversee the operations of, a hazardous waste facility, and whose actions or failure to act may result in noncompliance with the requirements of this chapter.

Pile—Any noncontainerized accumulation of solid, nonflowing hazardous waste that is used for processing or storage.

Processing—The extraction of materials, transfer, volume reduction, conversion to energy, or other separation and preparation of solid waste for reuse or disposal, including the treatment or neutralization of hazardous waste, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material from the waste or so as to render such waste nonhazardous, or less hazardous; safer to transport, store or dispose of; or amenable for recovery, amenable for storage, or reduced in volume. The transfer of solid waste for reuse or disposal as used above, does not include the actions of a transporter in conveying or transporting solid waste by truck, ship, pipeline, or other means. Unless the executive director determines that regulation of such activity is necessary to protect human health or the environment, the definition of processing does not include activities relating to those materials exempted by the administrator of the Environmental Protection Agency pursuant to the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 United States Code §6901, *et seq.*, as amended.

Public-owned treatment work (POTW)—Any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature which owned by a state or municipality (as defined by the Clean Water Act, §502(4)). The definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

Regional administrator—The regional administrator for the Environmental Protection Agency region in which the facility is located, or his designee.

Representative sample—A sample of a universe or whole (e.g., waste pile, lagoon, ground water) which can be expected to exhibit the average properties of the universe or whole.

Run-off—Any rainwater, leachate, or other liquid that drains over land from any part of a facility.

Run-on—Any rainwater, leachate, or other liquid that drains over land onto

any part of a facility.

Saturated zone or zone of saturation—That part of the earth's crust in which all voids are filled with water.

Shipment—Any action involving the conveyance of municipal hazardous waste or industrial solid waste by any means off-site.

Spill—The accidental spilling, leaking, pumping, emitting, emptying, or dumping of hazardous wastes or materials which, when spilled, become hazardous wastes into or on any land or water.

Storage—The holding of solid waste for a temporary period, at the end of which the waste is processed, disposed of, or stored elsewhere.

Surface impoundment or impoundment—A facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with manmade materials), which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons.

Tank—A stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.

Thermal processing—The processing of hazardous waste in a device which uses elevated temperatures as the primary means to change the chemical, physical, or biological character or composition of the hazardous waste. Examples of thermal processing are incineration, molten salt, pyrolysis, calcination, wet air oxidation, and microwave discharge. (See also incinerator and open burning.)

Totally enclosed treatment facility—A facility for the processing of hazardous waste which is directly connected to an industrial production process and which is constructed and operated in a manner which prevents the release of any hazardous waste or any constituent thereof into the environment during processing. An example is a pipe in which acid waste is neutralized.

Transfer facility—Any transportation-related facility including loading docks, parking areas, storage areas and other similar areas where shipments of hazardous waste are held during the normal course of transportation.

Transport vehicle—A motor vehicle or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, railroad freight car, etc.) is a separate transport vehicle. Vessel includes every description of watercraft, used or capable of being used as a means of transportation on the water.

Transporter—Any person who conveys or transports municipal hazardous

waste or industrial solid waste by truck, ship, pipeline, or other means.

Treatment zone—A soil area of the unsaturated zone of a land treatment unit within which hazardous constituents are degraded, transferred or immobilized.

Underground injection—The subsurface emplacement of fluids through a bored, drilled, or driven well; or through a dug well, where the depth of the dug well is greater than the largest surface dimension. (See also injection well.)

Unsaturated zone or zone of aeration—The zone between the land surface and the water table.

Uppermost aquifer—The geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected within the facility's property boundary.

Wastewater treatment unit—A device which:

(A) is part of a wastewater treatment facility subject to regulation under either of the Federal Water Pollution Control Act, §402 or §307(b), as amended, 33 United States Code 466 *et seq.*; and

(B) receives and processes or stores an influent waste water which is a hazardous waste, or generates and accumulates a wastewater treatment sludge which is a hazardous waste, or processes or stores a wastewater treatment sludge which is a hazardous waste; and

(C) meets the definition of tank as defined in this section.

Water (bulk shipment)—The bulk transportation of hazardous waste which is loaded or carried on board a vessel without containers or labels.

Well—Any shaft or pit dug or bored into the earth, generally of a cylindrical form, and often walled with bricks or tubing to prevent the earth from caving in.

§335.43. Permit Required.

(a) Except as provided in subsection (b) of this section and §335.2 of this title (relating to Permit Required), no person shall store, process, or dispose of hazardous waste without first having obtained a permit from the Texas Water Commission.

(b) Any person who has commenced onsite storage, processing, or disposal of hazardous waste on or before November 19, 1980, and who has filed a hazardous waste permit application with the commission on or before November 19, 1980, and in accordance with the rules and regulations of the commission, may continue the onsite storage, processing, or disposal of hazardous waste until such time as the Texas Water Commission approves or denies the application. Owners and operators of hazardous waste management facilities who have commenced the onsite storage, processing, or disposal of hazardous waste as defined in subsection (c) of this section, or of hazardous waste management facilities in existence on the effective date of statutory or regu-

latory amendments under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, that render the facility subject to the requirement to have a hazardous waste permit, may continue to operate if Part A of their permit application is submitted no later than:

(1) six months after the date of publication of regulations by the United States Environmental Protection Agency pursuant to the Resource Conservation and Recovery Act of 1976, as amended, which first require them to comply with the standards set forth in Subchapters E-T of this chapter (relating to General Facility Standards; Preparedness and Prevention; Contingency Plan and Emergency Procedures; Record-Keeping and Reporting Requirements; Groundwater Monitoring; Use and Management of Containers; Tanks, Surface Impoundments; Waste Piles; Land Treatment; Landfills; Incinerators; Thermal Processing; Chemical, Physical and Biological Processing) respectively, or Subchapter X of this chapter (relating to Standards for the Management of Specific Wastes and Specific Types of Facilities); or

(2) 30 days after the date they first become subject to the standards set forth in Subchapters E-T of this chapter (relating to General Facility Standards; Preparedness and Prevention; Contingency Plan and Emergency Procedures; Record-Keeping and Reporting Requirements; Groundwater Monitoring; Closure and Post-closure; Financial Requirements; Use and Management of Containers; Tanks, Surface Impoundments; Waste Piles; Land Treatment; Landfills; Incinerators; Thermal Processing; Chemical, Physical, and Biological Processing) respectively, or Subchapter X of this chapter (relating to Standards for the Management of Specific Wastes and Specific Types of Facilities); whichever first occurs.

(c) For the purposes of subsection (b) of this section, the following definitions shall apply.

(1) On-site storage, processing, or disposal. Onsite storage, processing, or disposal occurs when industrial solid waste is:

(A) collected, handled, stored, processed, or disposed of within the property boundaries of a tract of land owned or otherwise effectively controlled by the owners or operators of the particular industrial plant, manufacturing plant, mining operation, or agricultural operation from which the waste results or is produced, and which tract of land is within 50 miles from the plant or operation which is the source of the industrial waste; and

(B) the industrial solid waste is not collected, handled, stored, processed, or disposed of with solid waste from any other source or sources. An industrial plant, manufacturing plant, mining operation, or agricultural operation owned by one person shall not be considered an other source with

respect to other plants and operations owned by the same person.

(2) Commenced onsite storage, processing, or disposal of hazardous waste. A person has commenced onsite storage, processing, or disposal of hazardous waste if the owner or operator has obtained all necessary federal, state, and local preconstruction approvals or permits as required by applicable federal, state, and local hazardous waste control statutes, regulations, or ordinances; and either:

(A) a continuous physical, onsite construction program has begun; or

(B) the owner or operator has entered into contractual obligations, which cannot be cancelled or modified without substantial loss, for construction of the facility to be completed within a reasonable time.

§335.44. Application for Existing Onsite Facilities.

(a) In order to satisfy the application deadline specified in §335.43(b) of this title (relating to Permit Required), an application must be submitted prior to that date which contains information defining the following:

(1) owner(s) and operator(s) of the facility;

(2) description of the site;

(3) description of the facility and all facility components;

(4) identification of wastes generated, stored, processed, or disposed, together with quantities and sources;

(5) methods and types of operations used in the storage, processing, or disposal of wastes;

(b) of this section to the information required in subsection (a), above, a complete application, required prior to action on an application by the commission, must include the following:

(1) engineering plans and specifications and other documentation necessary to demonstrate that all components of the facility design, construction, and operation conform to standards established by the commission; and

(2) information describing actions necessary to bring existing facilities into compliance with commission standards and a schedule for completion of such actions.

(c) An application form can be obtained from the executive director for each geographical location for which the storage, processing, or disposal of hazardous waste is proposed.

(d) The application shall be signed by the applicant or by a duly authorized agent, employee, officer, or representative of the applicant and shall be verified before a notary public.

§335.45. Effect on Existing Facilities.

(a) Effect on permitted off-site facilities. Subchapters B-T of this chapter (relating to Hazardous Waste Management in General Provisions; Standards Applicable

to Generators of Hazardous Industrial Solid Waste; Standards Applicable to Transporters of Hazardous Waste; General Facility Standards; Preparedness and Prevention; Contingency Plan and Emergency Procedures; Record-Keeping and Reporting Requirements; Groundwater Monitoring; Closure and Postclosure; Financial Requirements; Use and Management of Containers; Tanks; Surface Impoundments; Waste Piles; to Land Treatment; Landfills; Incinerators; Thermal Processing; Chemical, Physical, and Biological Processing) provide minimum requirements applicable to all persons generating, transporting, storing, processing, and disposing of hazardous waste. All persons holding permits or any other authorizations from the commission, or its predecessor agencies, which relate to hazardous waste, shall meet the requirements of these rules. However, where the permit or authorization specifies additional or more stringent requirements, the provisions of the permit or authorization shall be compiled with.

(b) Effect on offsite facilities without a permit to reuse, recycle or reclaim hazardous waste. Any person who has commenced, on or before July 5, 1985, the off-site storage, processing, or disposal of those hazardous wastes or activities that are listed, identified or described by the administrator of the United States Environmental Protection Agency in 40 Code of Federal Regulations Part 261, as amended by the regulations published on January 4, 1985, at 50 FedReg 614, shall file an application with the commission on or before July 5, 1985, which includes the applicable information required by §335.44 of this title (relating to Application for Existing Onsite Facilities). Any person who has commenced off-site storage, processing, or disposal of hazardous waste on or before July 5, 1985, who has filed a hazardous waste permit application with the commission on or before July 5, 1985, in accordance with rules and regulations of the commission, and who complies with requirements in this chapter applicable to such activities, may continue the off-site storage, processing, or disposal of the newly listed or identified wastes or waste activities until such time as the Texas Water Commission approves or denies the application. Facilities that have received a permit for the reuse, recycling, or reclamation of hazardous waste in accordance with Subchapter V of this chapter (relating to Permitting Standards for Owners and Operators of Hazardous Waste Storage, Processing, or Disposal Facilities) are not required to comply with this subsection and may operate pursuant to their existing permit. Such permits, however, are subject to amendment under §338.225 of this title (relating to Amendment) to reflect new regulatory requirements.

§335.46. Sharing of Information. Any information obtained or used by the commission in the administration of a hazard-

ous waste program authorized under the Resource Conservation and Recovery Act of 1976, 3006, and 40 Code of Federal Regulations Part 123 shall be available to the Environmental Protection Agency upon request without restriction. If the information has been submitted to the commission under a claim of confidentiality, the commission shall submit that claim to the Environmental Protection Agency when providing information under this section. Any information obtained from the commission and subject to a claim of confidentiality will be treated by the Environmental Protection Agency in accordance with 40 Code of Federal Regulations Part 2. If the Environmental Protection Agency obtains information that is not claimed to be confidential, the Environmental Protection Agency may make that information available to the public without further notice.

§335.47. Special Requirements for Persons Eligible for a Federal Permit by Rule.

(a) The following persons are eligible for a permit by rule under 40 Code of Federal Regulations §270.60:

(1) the owner or operator of a barge or other vessel which accepts hazardous waste for ocean disposal;

(2) the owner or operator of a publicly-owned treatment works (POTW) which accepts hazardous waste for treatment; and

(3) the owner or operator of an injection well used to dispose of hazardous waste.

(b) To be eligible for a permit by rule, such person shall comply with the requirements of 40 Code of Federal Regulations §122.26 and the following rules:

(1) 40 Code of Federal Regulations §264.11 (EPA identification number);

(2) 40 Code of Federal Regulations §264.72 (manifest discrepancies);

(3) 40 Code of Federal Regulations §264.73(a) and (b)(1) (operating record);

(4) 40 Code of Federal Regulations §264.76 (unmanifested waste report);

(5) §335.12 of this title (relating to Shipping Requirements Applicable to Owners or Operators of Storage, Processing, or Disposal Facilities) and §335.15 of this title (relating to Record-Keeping and Reporting Requirements Applicable to Owners or Operators of Storage, Processing, or Disposal Facilities) (shipping and reporting procedures); and

(5) §335.15 of this title (relating to Record-Keeping and Reporting Requirements Applicable to Owners or Operators of Storage, Processing, or Disposal Facilities) and §335.175 of this title (relating to Reporting Requirements) (annual and monthly reports).

(c) In addition to the requirements stated in subsection (b) of this section, the owners or operators of an injection well used to dispose of hazardous waste shall:

(1) comply with the applicable personnel training requirements of 40 Code of

Federal Regulations §264.16; and

(2) when abandonment is completed, submit to the executive director certification by the owner or operator and certification by an independent registered professional engineer that the facility has been closed in accordance with the specifications in §353.46 of this title (relating to Plugging and Abandonment Standards). Persons who dispose of hazardous waste by means of underground injection must obtain a permit under the Texas Water Code, Chapter 27.

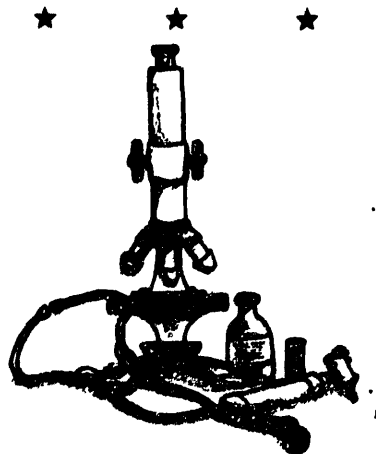
§335.48. Appendices I-IV. Appendices I-IV, as amended December 1984, will be used for the purposes of this subchapter, and Subchapter C-T of this chapter (relating to Standards Applicable to Generators of Hazardous Industrial Waste; Standards Applicable to Transporters of Hazardous Waste; to General Facility Standards; Preparedness and Prevention; Contingency Plan and Emergency Procedures; Record-Keeping and Reporting Requirements; Groundwater Monitoring; Closure and Postclosure; Financial Requirements; Use and Management of Containers; Tanks; Surface Impoundments; Waste Piles; to Land Treatment; Landfills; Incinerators; Thermal Processing; Chemical, Physical, and Biological Processing) which relate to hazardous industrial solid waste: Appendix I—Record-Keeping Instructions; Appendix II—Environmental Protection Agency Interim Primary Drinking Water Standards; Appendix III—Tests for Significance; and Appendix IV—Examples of Potentially Incompatible Waste. These appendices are adopted by reference, and copies may be obtained from the Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711, (512) 475-8087.

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General Counsel
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Commission

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For further information, please call
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**Subchapter C. Standards
Applicable to Generators of
Hazardous Industrial Solid
Waste**

**★31 TAC §§335.63, 335.65-335.71,
335.73-335.76**

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.

§335.61. Purpose, Scope, and Applicability.

(a) Except as provided in subsections (b) and (c) of this section, this subchapter establishes standards for generators of hazardous waste. These standards are in addition to any applicable provisions contained in §§335.1-335.16 of this title (relating to Industrial Solid Waste and Municipal Hazardous Waste).

(b) The provisions of this subchapter with which a generator who stores, processes, or disposes of hazardous waste on-site must comply are §335.62 of this title (relating to Hazardous Waste Determination), §335.63 of this title (relating to EPA Identification Numbers), and §335.70 of this title (relation to Record Keeping).

(c) Generators of small quantities of hazardous waste are subject to the following requirements.

(1) A generator is a small quantity generator in a calendar month if he generates less than 1,000 kilograms of hazardous waste in that month.

(2) Except as provided in paragraphs (5) and (6) of this subsection, a small-quantity generator is not subject to regulation under this subchapter, provided the generator complies with the requirements of paragraph (7) of this section. Persons exempted under this provision who generate hazardous waste are still subject to the requirements in Subchapter A applicable to generators of municipal hazardous waste of Class I waste.

(3) Hazardous waste that is beneficially used or reused or legitimately recycled or reclaimed and that is excluded from regulation by §335.41 of this title (relating to Purpose, Scope, and Applicability) is not included in the quantity determinations of this section. Hazardous waste that is subject to the requirements of Subchapters B-T of this chapter (relating to Hazardous Waste Management General Provisions; Standards Applicable to Generators or Hazardous Waste; Standards Applicable to Transporters of Hazardous Waste; General Facility Standards; Preparedness and Prevention; Contingency Plan and Emergency Procedures; Record Keeping and Reporting Requirements; Groundwater Monitoring; Closure and Post Closure; Financial Requirements; Use and Management of Containers; Tanks; Surface Impoundments; Waste Piles; Land Treatment; Landfills; In-

cinerators; Thermal Processing; and Chemical, Physical, and Biological Processing) is included in the quantity determinations of this subsection.

(4) In determining the quantity of hazardous waste he generates a generator need not include:

(A) his hazardous waste when it is removed from on-site storage; or

(B) hazardous waste produced by on-site processing of his hazardous waste.

(5) A small quantity generator who generates acutely hazardous waste in a calendar month in quantities greater than set forth in subparagraph (A) and subparagraph (B) of this paragraph is subject to the requirements of this subchapter as follows:

(A) a total of one kilogram of commercial chemical products and manufacturing chemical intermediates having the generic names listed in 40 Code of Federal Regulations §261.33(e), and off-specification commercial chemical products and manufacturing chemical intermediates which, if they met specifications, would have the generic names listed in 40 Code of Federal Regulations §261.33(e); or

(B) a total of 100 kilograms of any residue or contaminated soil, water, or other debris resulting from the clean-up of a spill, into or on any land or water, of any commercial chemical products or manufacturing chemical intermediates having the same generic names listed in 40 Code of Federal Regulations §261.33(e).

(6) A small quantity generator may accumulate hazardous waste on-site. A generator who accumulates at any time hazardous waste in quantities equal to or exceeding 1,000 kilograms, or acutely hazardous wastes in quantities greater than set forth in paragraphs (5)(A) or (5)(B) of this subsection is subject to the requirements of this subchapter with respect to all accumulated hazardous waste. The time period of §335.69 of this title (relating to Accumulation Time) for accumulation of wastes on-site begins for a small quantity generator when the accumulated wastes exceed the applicable exclusion level.

(7) In order for a generator to be excluded from regulation under this subsection, the generator must:

(A) comply with §335.62 of this title (relating to Hazardous Waste Determination) of this subchapter;

(B) store it in compliance with the requirements of paragraph (6) of this subsection if he stores his hazardous waste on site; and

(C) either process or dispose of the hazardous waste in an on-site facility, or ensure delivery to an off-site storage, processing, or disposal facility in either of which is:

(i) permitted by the Environmental Protection Agency under 40 Code of Federal Regulations Part 122;

(ii) in interim status under 40 Code of Federal Regulations Parts 122 and 265;

(iii) authorized to manage hazardous waste by a state with a hazardous waste management program approved under 40 Code of Federal Regulations Part 123;

(iv) permitted, licensed, or registered by a state to manage municipal or industrial solid waste; or

(v) a facility which beneficially uses or re-uses, or legitimately recycles or reclaims his waste; or processes the waste prior to beneficial use of re-use, or legitimate recycling or reclamation.

(8) A generator of hazardous waste subject to the reduced requirements of this subsection may mix the hazardous waste with nonhazardous waste and remain subject to these reduced requirements even though the resultant mixture exceeds the quantity limitations identified in this subsection, unless the mixture meets any of the characteristics of hazardous wastes identified in 40 Code of Federal Regulations Part 261, Subpart C.

(9) A small quantity generator who mixes a solid waste with a hazardous waste that exceeds a quantity exclusion level of this subsection is subject to regulation under this subchapter.

(d) Any person who imports hazardous waste into the state from a foreign country shall comply with standards applicable to generators of such waste.

(e) An owner or operator who initiates a shipment of hazardous waste from a processing, storage or disposal facility must comply with the generator standards contained in §335.10 of this title (relating to Shipping and Reporting Procedures Applicable to Generators of Municipal Hazardous Waste of Class I Industrial Solid Waste) and §335.13 of this title (relating to Record-Keeping and Reporting Procedures Applicable to Generators of Municipal Hazardous Waste of Class I Industrial Solid Waste), and this subchapter. The provisions of §335.69 of this title (relating to Accumulation Time) are applicable to on-site accumulation of hazardous wastes by generators. Therefore, the provisions of §335.69 of this title (relating to Accumulation Time) only apply to owners or operators who are shipping hazardous waste which they generate at that facility.

(f) A farmer who generates waste pesticides which are hazardous waste and who complies with §335.76 of this title (relating to Farmers) is not required to comply with this chapter with respect to those pesticides.

§335.62. Hazardous Waste Determination. A person who generates a solid waste must determine if that waste is hazardous using the following method:

(1) He should first determine if the waste is listed as a hazardous waste in 40

Code of Federal Regulations Part 261, Subpart D.

(2) If the waste is not listed as a hazardous waste in 40 Code of Federal Regulations Part 261, Subpart D, he must then determine whether the waste is identified in 40 Code of Federal Regulations Part 261, Subpart C, by either:

(A) testing the waste according to methods set forth in 40 Code of Federal Regulations Part 261, Subpart C, or according to an equivalent method approved by the administrator under 40 Code of Federal Regulations §260.21; or

(B) applying knowledge of the hazardous characteristic of the waste in light of the materials or process used.

§335.63. Environmental Protection Agency Identification Numbers.

(a) A generator must not store, process, dispose of, transport, or offer for transportation, hazardous waste without having received an Environmental Protection Agency (EPA) identification number.

(b) A generator must not offer hazardous waste to transporters or to storage, processing, or disposal facilities that have not received an EPA identification number.

§335.65. Packaging. Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must package the waste in accordance with the applicable Department of Transportation regulations on packaging under 49 Code of Federal Regulations Parts 173, 178, and 179.

§335.66. Labeling. Before transporting or offering hazardous waste for transportation off-site, a generator must label each package in accordance with applicable Department of Transportation regulations on hazardous materials under 49 Code of Federal Regulations Part 172.

§335.67. Marking

(a) Before transporting or offering hazardous waste for transportation off-site, a generator must mark each package of hazardous waste in accordance with the applicable Department of Transportation regulations on hazardous materials under 49 Code of Federal Regulations Part 172.

(b) Before transporting or offering hazardous waste for transportation off-site, a generator must mark each container of 110 gallons or less used in such transportation with the following words and information displayed in accordance with the requirements of 49 Code of Federal Regulations §172.304:

Hazardous Waste—Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency.

Generator's Name and Address _____
Manifest Document Number _____

§335.68. Placarding. Before transporting or offering hazardous waste for transportation off-site, a generator must placard or offer the initial transporter the appropriate placards according to Department of Transportation regulations for hazardous materials under 49 Code of Federal Regulations Part 172, Subpart F.

§335.69. Accumulation Time.

(a) A generator may accumulate hazardous waste on-site without a permit for 90 days or less, provided that:

(1) the waste is placed in containers and the generator complies with §§335.241-335.247 of this title (relating to Use and Management of Containers) or the waste is placed in tanks, and the generator complies with the requirements of §§335.261-335.267 of this title (relating to Tanks), except §335.263 of this title (relating to Waste Analysis and Trial Tests);

(2) the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container; and

(3) while being accumulated on-site, each container and tank is labeled or marked clearly with the words, "hazardous waste"; and

(4) the generator complies with the requirements for owners or operators contained in §335.117 of this title (relating to Personnel Training), §§335.131-335.137 of this title (relating to Preparedness and Prevention), and §§335.151-335.157 of this title (relating to Contingency Plans and Emergency Procedures).

(b) A generator who accumulates hazardous waste for more than 90 days is an operator of a hazardous waste storage facility and is subject to the requirements of this chapter applicable to such owners and operators, unless he has been granted an extension to the 90-day period. Such extension may be granted by the commission if hazardous wastes must remain on-site for longer than 90 days due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the executive director on a case-by-case basis.

(c) Persons exempted under this provision, who generate hazardous waste, are still subject to the requirements in Subchapter A applicable to generators of Class I waste.

§335.70. Record Keeping.

(a) A generator of hazardous waste must keep records of any test results, waste analyses, or other determinations made in accordance with §335.62 of this title (relating to Hazardous Waste Determination) for at least three years from the date that the waste was last sent to an on-site or off-site storage, processing, or disposal facility.

(b) The generator shall keep a copy of each annual report and exception report required by this title for a period of at least

three years from the due date of the report.

(c) The periods of record retention required by subsections (a) and (b) of this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the executive director.

§335.71. Annual Reporting. Any generator who stores, processes, or disposes of hazardous waste on-site shall prepare and submit a single copy of an annual report to the executive director by January 21 of each year. The annual report must cover facility activities during the previous calendar year and must include the following information:

(1) the Environmental Protection Agency identification number, name, and address of the generator;

(2) the calendar year covered by the report;

(3) a description and the quantity of each hazardous waste generated during the year and a description and the quantity of the hazardous waste stored, processed, or disposed of at each facility component during the year;

(4) the method of processing, storage, or disposal for each hazardous waste, as described by codes in Table 2, "Handling Code for Storage, Processing and Disposal Methods," in Appendix I of Subchapter B in §335.48 of this title (relating to Appendices I through IV);

(5) monitoring data under §335.195(a)(2)(B) and (C) and §335.195(b)(2) of this title (relating to Record Keeping and Reporting), where required;

(6) the most recent closure cost estimated under §335.233 of this title (relating to Financial Assurance for Hazardous Waste Storage, Processing, or Disposal Facilities) and for disposal facilities, the most recent postclosure cost estimate under §335.233 of this title (relating to Financial Assurance for Hazardous Waste Storage, Processing, or Disposal Facilities); and

(7) the certification signed by the generator or his authorized representative.

§335.73. Additional Reporting. The executive director may require generators to furnish additional reports concerning the quantities and disposition of wastes identified or listed in 40 Code of Federal Regulations Part 261, Subparts C and D.

§335.74. Notification Requirements for Interstate Shipments. In the case of interstate shipments of hazardous waste for which a manifest has not been returned within 45 days of acceptance of the waste by the initial transporter, the generator shall notify the appropriate regulatory agency of the state in which the designated facility is located and the appropriate regulatory agency of the state in which the shipment may have been delivered. If a state required to be notified under this section has not

received interim or final authorization pursuant to the Resource Conservation and Recovery Act, §3006, 1976, the generator shall notify the administrator that the manifest has not been returned.

§335.75. International Shipments.

(a) Any person who exports hazardous waste to a foreign country or imports hazardous waste from a foreign country into the state must comply with the requirements of this title and with the special requirements of this section.

(b) When shipping hazardous waste outside the United States, the generator must:

(1) require that the foreign consignee confirm the delivery of the waste in the foreign country. A copy of the manifest signed by the foreign consignee may be used for this purpose; and

(2) meet the requirements under §335.10(b) of this title (relating to Shipping and Reporting Procedures Applicable to Generators of Municipal Hazardous Waste or Class I Industrial Solid Waste) for the manifest, except that:

(A) in the place of the name, address, and Environmental Protection Agency identification number of the designated facility, the name and address of the foreign consignee must be used;

(B) the generator must identify the point of departure from the United States through which waste must travel before entering a foreign country. This information must be placed in the item labeled "special handling instructions and additional information" on the manifest.

(c) A generator must submit an exception report to the executive director if:

(1) he has not received a copy of the manifest signed by the transporter stating the date and place of departure from the United States within 45 days from the date it was accepted by the initial transporter; or

(2) within 90 days from the date the waste was accepted by the initial transporter, the generator has not received written confirmation from the foreign consignee that the hazardous waste was received.

(d) When importing hazardous waste into the state from a foreign country, a person must meet the requirements of §335.10 (b) of this title (relating to Shipping and Reporting Procedures Applicable to Generators of Municipal Hazardous Waste or Class I Industrial Solid Waste) for the manifest except that:

(1) in place of the generator's name, address and Environmental Protection Agency identification number, the name and address of the foreign generator and the importer's name, address and Environmental Protection Agency identification number must be used; and

(2) in place of the generator's signature on the certification statement, the U.S. importer or his agent must sign and

date the certification and obtain the signature of the initial transporter. Persons who export hazardous waste to a foreign country under this section must also notify the administrator, pursuant to 40 Code of Federal Regulations §262.50, in writing four weeks before the initial shipment of hazardous waste to each country in each calendar year.

§335.76. Farmers. A farmer disposing of waste pesticides from his own use which are hazardous wastes is not required to comply with this chapter for those wastes provided that he triple rinses each emptied pesticide container in accordance with §335.41(f)(2)(C) of this title (relating to Purpose, Scope, and Applicability) and disposes of the pesticide residues on his own farm in a manner consistent with the disposal instructions on the pesticide label.

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For further information, please call
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Subchapter D. Standards Applicable to Transporters of Hazardous Waste

★ 31 TAC §§335.91-335.94

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.

§335.91. Scope.

(a) This subchapter establishes standards for transporters transporting hazardous waste to off-site storage, processing, or disposal facilities. These standards are in addition to any applicable provisions contained in §§335.1-335.16 of this title (relating to Industrial Solid Waste and Municipal Hazardous Waste Management in General).

(b) This subchapter does not apply to on-site transportation of hazardous waste by generators or by owners or operators of storage, processing, or disposal facilities.

(c) A transporter of hazardous waste must also comply with any standards applicable to generators of hazardous waste if he:

(1) transports hazardous waste into the state from a foreign country; or

(2) mixes hazardous waste of different Department of Transportation shipping descriptions by placing them into a single container. Transporters who store haz-

ardous waste are owners or operators of storage facilities and, as such, are also subject to the permit requirements and storage standards contained in these sections.

§335.92. Environmental Protection Agency Identification Number. A transporter must not transport hazardous wastes without having received an Environmental Protection Agency (EPA) identification number.

§335.93. Hazardous Waste Discharges.

(a) In the event of a discharge of hazardous waste during transportation, the transporter shall notify the commission as soon as possible and not later than 24 hours after the occurrence according to the provisions of the Texas Water Code, §26.039, and the procedures set out in the state oil and hazardous substances spill contingency plan, §.007 (revised April 1978), and also take appropriate immediate action to protect human health and the environment (e.g., notify local authorities, dike the discharge).

(b) If a discharge of hazardous waste occurs during transportation and a commission official acting within the scope of his official responsibilities determines that immediate removal of the waste is necessary to protect human health or the environment, that official may authorize the removal of the waste by transporters who do not have Environmental Protection Agency (EPA) identification numbers and without the preparation of a manifest.

(c) An air, rail, highway, or water transporter who has discharged hazardous waste must also:

(1) give notice, if required by 49 Code of Federal Regulations §171.15, to the National Response Center (800-424-8802 or 202-426-2675); and

(2) report in writing as required by 49 Code of Federal Regulations §171.16 to the director, Office of Hazardous Waste Materials Regulations, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590.

(d) A water (bulk shipment) transporter who has discharged hazardous waste must give the same notice as required by 33 Code of Federal Regulations §153.203 for oil and hazardous substances.

(e) A transporter must clean up any hazardous waste discharge that occurs during transportation or take such action as may be required or approved by the commission so that the hazardous waste discharge no longer presents a hazard to human health or the environment.

§335.94. Transfer Facility Requirements.

(a) Unless the executive director determines that a permit should be required in order to protect human health and the environment, a transporter who stores manifested shipments of hazardous waste in containers meeting the requirements of §335.65 of this title (relating to Packaging) at a transfer facility for a period of 10 days

or less is not subject to the requirement for a permit under §335.2 of this title (relating to Permit Required), with respect to the storage of those waste provided that the transporter complies with the following sections:

(1) §335.115 of this title (relating to Security);

(2) §335.116 of this title (relating to General Inspection Requirements);

(3) §335.117 of this title (relating to Personnel Training);

(4) Subchapter F of this chapter (relating to Preparedness and Prevention);

(5) Subchapter G of this chapter (relating to Contingency Plan and Emergency Procedures);

(6) Subchapter L of this chapter (relating to Use and Management of Containers).

(b) The executive director may require a permit for that portion of a facility otherwise exempted from that requirement under subsection (a) of this section, with respect to the storage of hazardous waste in containers, if the facility's operation also includes other storage and processing of hazardous waste which is not exempt under subsection (a) of this section.

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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 27, 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 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

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§§335.451-335.479

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§§338.191-338.200

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§§338.221-338.241

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§§338.261-338.290

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§§338.311-338.317

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§§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

Proposed Rules

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

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

TITLE 22. EXAMINING BOARDS

Part IX. State Board of Medical Examiners

Chapter 191. District Review Committees

★22 TAC §191.4

The Texas State Board of Medical Examiners proposes an amendment to §191.4, concerning district review committees. Specifically, it relates to the authority of the district review committees to request the appearance of a licensee of the board. The proposed amendment outlines the procedure for such appearance.

Florence Allen, business manager, and Jean Davis, program administrator, have 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.

Ms. Davis also has determined that for each year of the first five years the section is proposed, it is not expected to directly effect the public. It pertains to licensees of the board who are called before a district review committee to give testimony concerning medical practice. 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 Jean Davis, P.O. Box 13562, Austin, Texas 78711. A public hearing will be held on the proposed amendment. Although no definite date has been set, it is expected to occur in early December.

The amendment is proposed under the Medical Practice Act, Article 4495b, which provides the Texas State Board of Medical Examiners with the authority to make rules, regulations, and bylaws not inconsistent with this Act a may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

§191.4. *Activities and Scope of Authority.*

(a) District review committees shall

perform such fact finding functions as directed by the board or the secretary and shall make such timely reports to the board as directed by the board and secretary. District review committees shall make written recommendations as to board policy or board rules as directed or requested by the board or as each such committee, on its own initiative, may deem appropriate. All such reports, meetings, activities, and recommendations from each district review committee shall comply with the following standards:

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

(5) Where directed by the board, the committee may take testimony and secure evidence regarding specific questions or issues relating to the regulation of medical practice and the delivery of health care where assigned to do so by the board. The district review committee may request the appearance of a licensee of the board to give testimony concerning his or her medical practice and delivery of health care. If the district review committee requests the appearance of a licensee, the district review committee shall comply with the following procedures.

(A) The chairman of the district review committee or his or her designee will notify the licensee in writing of the time, date, and place of the district review committee hearing. Such notice shall provide sufficient time for the licensee to adequately prepare and arrange for appearance at the site of the hearing but shall not be less than 10 nor more than 40 days following receipt of the notice. Such letter of notification shall inform the licensee of the subject matter of the hearing, shall inform the licensee that he or she may be represented by counsel but need not be necessarily so represented, that the licensee may offer testimony of such witnesses as the licensee may desire, and that the hearing will be before a district review committee. A copy of the board rules relating to the district review committee hearing shall be enclosed with the notice of the hearing. Notice of the hearing, with enclosures, shall be sent by certified mail, return receipt requested, to the current address of the licensee on file with the Texas State Board of Medical Examiners.

(B) The hearing procedure shall be informal in nature, but the licensee, his or her attorney, the representatives of the district review committee shall have the op-

portunity to question witnesses, make statements as are relevant to the hearing, present affidavits or statements of persons not in attendance, and present such documentary evidence as deemed appropriate by the chairman of the district review committee.

(C) The hearing will be conducted by the chairman of the district review committee who shall explain to the licensee and his or her counsel these rules relating to the conduct of the hearing, shall swear each witness, question each witness, and afford all parties to the hearing the opportunity to make such statements as are material and relevant. The chairman of the district review committee may exclude irrelevant, immaterial, or unduly repetitious evidence.

(D) The chairman of the district review committee shall not require the parties to the hearing to offer proof of admissibility of documents and may receive and consider such statements as he or she deems relevant and material even though such testimony may be hearsay in nature.

(E) The chairman of the district review committee may review the file of the investigation division but may prohibit review of such file by the licensee or his or her attorney if such review would jeopardize confidential information or jeopardize an ongoing investigation.

(F) Minutes of the hearing shall be taken by a qualified court reporter, by an employee of the Texas State Board of Medical Examiners, or, at the direction of the chairman of the district review committee, by a recording of the testimony made in lieu of minutes. The minutes or recording, or transcription thereof, shall be for the exclusive use of the board and shall not be made available to the licensee, his or her attorney, or any other person unless such minutes, recording, or transcription is to be used in a subsequent disciplinary proceeding.

(G) The chairman of the district review committee shall exclude from the hearing room all persons except witnesses during their testimony, the licensee, his or her attorney, board members, district review committee members and board employees.

(H) As soon as practicable following the conclusion of the proceedings, the district review committee shall make a report of the hearing and any recommen-

dition and submit the report and recommendation to the board for evaluation or action.

(6)-(13) (No change.)

(b) (No change.)

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

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

TRD-868627

G. V. Brindley, Jr., M.D.
Executive Director
Texas State Board of
Medical Examiners

Earliest possible date of adoption:

October 25, 1985

For further information, please call
(512) 452-1078.

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TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 61. Chronic Diseases Kidney Health Care Program Benefits

★25 TAC §§61.2-61.4, 61.7, 61.10

The Texas Department of Health proposes amendments to §§61.2-61.4, 61.7, and 61.10, concerning Kidney Health Care Program benefits. The amendments provide for payment for medical services to noncontracted out-of-state facilities when provided under emergency situations, outline the program's drug formulary, exclude Cyclosporin A from the monthly limit for drugs and transportation, provide for the monthly limit for drugs and transportation, and provide for the replacement of the retroactive patient reimbursement liability with a prospective co-payment liability.

Stephen Seale, chief accountant III, has determined that for the first five-year period the sections will be in effect there will be fiscal implications as a result of enforcing or administering the sections. The anticipated effect on state government for the years 1986-1990 is a cost savings of approximately \$140,000 in the first year, with an additional 10% increase each year in 1986-1990. However, this will be balanced by a loss of revenue of the same amount each year. This is a result of changing from a retroactive to a prospective patient reimbursement mechanism. There will be no effect on local government or small businesses.

Mr. Seale also has determined that for each year of the first five years the sections as proposed are in effect the public benefit anticipated as a result of en-

forcing the sections as proposed is that emergency services performed out-of-state will be covered by the program, clarification of which drugs are covered by the program, and implementation of a means test which is easier to comply with and easier to administer. There will be no anticipated economic cost to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Manuel Zapata, Director, Kidney Health Care Program, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 465-2854. Comments will be accepted for 30 days after publication of this proposal in the *Texas Register*.

The amendments are proposed under Texas Civil Statutes, Article 4477-20, §3(13), which provide the Texas Department of Health with the authority to adopt rules to provide adequate kidney care and treatment for the citizens of the State of Texas and to carry out the purposes and intent of the Texas Kidney Health Care Act.

§61.2. Eligibility Requirements.

(a) (No change.)

(b) To maintain eligibility for receipt of program benefits, a recipient must meet the following requirements in addition to those listed in subsection (a) of this section:

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

(3) provide income data as requested by the department for purposes of determining reimbursement obligation/co-pay liability [obligation];

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

(c) (No change.)

§61.3. Payment of Program Benefits.

(a)-(d) (No change.)

(e) All benefits provided in behalf of recipients are limited to charges incurred in Texas except for [that]:

(1) recipients who are receiving treatment from [in] a participating facility located out-of-state. These recipients are eligible for transportation benefits to and from the facility, for medical services received at the facility, and for drugs purchased out-of-state; and

(2) emergency situations where it is a great risk for the recipient to return to an adequate Texas facility for medical services. Under such circumstances, the department would determine whether the program would reimburse a noncontracted out-of-state facility for medical services provided on an emergency basis. The services must be covered by the program under normal circumstances. Routine chronic dialysis treatments are not considered an emergency situation and will not be reimbursed under this provision.

(f) All benefits paid in behalf of recipients will be for claims received by the program within 90 days after the date of service rendered (90-day filing deadline) and/or within the submission timetables

listed in paragraphs (1)-(3) of this subsection. Claims will either be paid, denied, or rejected. The procedure in paragraphs (1) and (2) of this subsection will be adhered to for denied or rejected claims. The procedures in paragraph (3) of this subsection apply to the initial submission of claims for newly eligible recipients.

(1) Denied claims are claims which are returned because they are incomplete or contain inaccurate information.

(A) (No change.)

(B) A claim which meets the initial 90-day filing deadline but is incomplete because it lacks other third-party explanation of benefits (EOBs) will be denied. Payment may be made if the denied claim and completed EOBs are received by the program within 30 days from the date of the third party EOB, within 30 days from the program's notice of denial, or within the initial 90-day filing deadline, whichever is later.

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

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

(g)-(k) (No change.)

(l) Drug and transportation (D&T) benefits are available for all program recipients regardless of their treatment mode.

(1) The department will establish applicable mileage rates and monthly maximums.

(2) The department drug formulary will consist of the following:

(A) over-the-counter (OTC) drugs determined allowable by the department;

(B) prescription drugs determined allowable by the department;

(C) all prescribed drugs in the Texas Department of Human Services *Texas Drug Code Index*.

(m) Cyclosporin A (CYA) drug benefits are available for program eligible transplant recipients who are not eligible for drug benefits from any other source (Medicaid, private insurance, VA, etc.). The CYA must be provided by a program-approved facility and billed directly to the program on a medical services claim. The CYA cost, when billed under the CYA benefit, will not be included in the recipient's monthly D&T limit.

(n)(m) Transplant patients: Medical care benefits for Medicare noneligible recipients will terminate three years after a successful transplant; however, drug and transportation benefits will remain available as long as program eligibility is maintained.

(o)(n) In the event a recipient is dialyzing at a participating facility that loses its program approval, the program will notify the recipient of this situation. The recipient will remain eligible for all program benefits except those benefits covering medical services which are provided under the contract between the department and the participating facility. To remain eligible for the benefits which cover these contracted medical services, the recipient must

transfer to another outpatient dialysis facility that has a KHP approval. Recipient benefits normally provided under contract by an approved outpatient dialysis facility are not eligible for reimbursement while the recipient is dialyzing at a nonapproved facility.

(p)(o) Overpayments made to or in behalf of recipients must be reimbursed to the department. Reimbursement may be made by lump sum payment or, at the department's discretion, out of the current claims due to be paid to or in behalf of the recipient. This will also apply to any person or persons who have a legal obligation to support the recipient and have received the overpayment. An opportunity for an administrative hearing, as provided in §61.7 of this title (relating to Denial of Application; Modification, Suspension, or Termination of Recipient Benefits), will be afforded to the recipient or person(s) responsible for support at their request.

§61.4. Applications.

(a) Persons meeting the eligibility requirements set forth in §61.2(a)(1), (2), and (4) of this title (relating to Eligibility Requirements) must make application for benefits through a KHP-contracted facility, a Medicare-approved hospital licensed in Texas, or a military or Veterans Administration hospital located in Texas which has a JCAH approved renal unit.

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

(3) Applicant financial data. Applicant financial data must be provided to determine applicant co-pay liability. Although basic program eligibility will be determined without the financial data documents, specific benefit eligibility cannot be determined and claims against the benefit cannot be processed. As an example: D&T benefits eligibility cannot be determined without financial data to establish co-pay liability therefore D&T claims would be rejected until the financial data was provided. The financial data documents required are:

(A) a copy of the first page of the applicant's IRS individual income tax return form 1040, 1040A, or 1040EZ for the most recently completed tax year (or the form for those persons legally obligated to support the applicant); or

(B) If no tax return was filed, then a sworn statement (notarized) listing the applicant's total (gross) income for the same period (or the gross income for those persons legally obligated to support the applicant); or

(C) If the applicant's current gross income is significantly reduced from what is reflected on the previously mentioned documents, then a sworn statement listing the applicant's current gross income information may be included for the program's consideration (or the current gross income information for those persons legally obligated to support the applicant).

(4)(3) Incomplete applications.

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

(5)(4) Eligibility date. The KHP eligibility date will be based on the date the department receives a complete KHP application for benefits as specified in this section. The KHP eligibility date will be computed as follows:

(A)-(C) (No change.)

§61.7. Denial of Application; Modification, Suspension, or Termination of Patient Benefits.

(a) Persons applying for or receiving benefits from the program will/may have their application denied or their benefits modified, suspended, or terminated for any of the following reasons.

(1) Benefits will be denied, modified, suspended, or terminated if:

(A)-(C) (No change.)

(D) the person fails or refuses to submit to the department a recipient financial status report for the purpose of determining reimbursement obligation/co-pay liability[obligation];

(E)-(G) (No change.)

(2) (No change.)

(b) Procedures for the denial of applications or modification, suspension, or termination of benefits.

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

(5) Any applicant/recipient aggrieved by the program's decision is entitled to appeal the decision to the Texas Department of Health. The appeal process will be in accordance with the hearing procedures as outlined in subsection (c) of this section. To initiate the appeal process, the applicant/recipient must notify the department, in writing, that he or she requests a hearing on the decision. The request must be [by certified mail and must be] received by the department within 10 working days from the receipt of the program's decision letter. Failure to provide written notice will be deemed a waiver of the opportunity for a hearing and the proposed action will become final.

(c) (No change.)

§61.10. Recipient [Patient] Reimbursement Obligation/Co-Pay Liability [Obligation].

(a) Recipient reimbursement obligation (effective until December 31, 1985).

(1)(a) Although there is no means test for receiving benefits through the program, the Texas Kidney Health Care Act, Texas Civil Statutes, Article 4477-20, §3, authorizes [does authorize] the Texas Board of Health to determine financial standards for the eligibility of recipients to receive program benefits. Under this authority the Texas Board of Health requires that any recipient who has received benefits from the program for services provided through December 31, 1985, must pay back to the program either:

(A)(1) an amount not to exceed 5.0% of the recipient's adjusted gross in-

come (or the adjusted gross income of those who have a legal obligation to support the recipient, [responsible for the recipient's debts] e.g., spouse, parent) plus the proceeds of insurance, group health plan or prepaid medical care plan, if the proceeds are paid to the recipient or [to] those who have a legal obligation to support the recipient [responsible for the recipient's debts] and if the department has paid for services upon which the claims for the proceeds are based; minus the following deductions:

(I)(A) \$1,000 (standard deduction); and

(II)(B) the yearly premiums paid by the recipient or the person or persons who have a legal obligation to support the recipient for insurance, group health insurance plan or prepaid medical care plan which provides benefits to pay the cost or part of the cost of the services required by the recipient because of end-stage renal disease; or

(B)(2) an amount equal to the benefits received from the program, whichever is the smaller amount.

(2)(b) For the purposes of the reimbursement obligation, the program will use the adjusted gross income (AGI) of the recipient and of the person or persons who have a legal obligation to support the recipient as shown on his/her Federal Income Tax Return, Forms 1040, 1040A, or 1040EZ. The person or persons who have a legal obligation to support the recipient will be determined by the applicable law.

(b) Recipient co-pay liability (effective January 1, 1986).

(1) The Texas Kidney Health Care Act, §3, authorizes the Texas Board of Health to determine financial standards for the eligibility of recipients to receive program benefits. Under this authority the Texas Board of Health requires that all program recipients provide financial data to the program to enable the department to determine the recipients co-pay liability. Based on the recipient's Adjusted Gross Income (AGI), or the AGI of the person(s) who have a legal obligation to support the recipient, the department will establish what portion of the claims for reimbursement the recipient is responsible for paying (co-pay liability). The program will then reduce the claims by the co-pay liability percentage and reimburse the difference.

(2) The department will determine which categories of claims will be included under the co-pay liability requirement and may change these categories as necessary to meet budgetary limitations.

(3) For the purposes of the co-pay liability, the department will use the AGI of the recipient or the person or persons who have a legal obligation to support the recipient as shown on his/her Federal Income Tax Return, Forms 1040, 1040A, or 1040EZ. The person or persons who have a legal obligation to support the recipient will be determined by the applicable law.

(4) If no tax return was filed, then a sworn statement (notarized) listing the recipient's total (gross) income for the same period (or the gross income for those persons legally obligated to support the recipient); or

(5) If the recipient's current gross income is significantly reduced from what is reflected on the above documents, then a sworn statement listing the applicant's current gross income information may be included for the program's consideration (or the current gross income information for those persons legally obligated to support the recipient).

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 17, 1985.

TRD-858567

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

Proposed date of adoption:

November 16, 1985

For further information, please call
(512) 465-2854.

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Chapter 91. Cancer Cancer Registry

★ 25 TAC §§91.1-91.5

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

The Texas Department of Health proposes new §§91.1-91.5, concerning a cancer registry. The new sections will cover definitions, reporting requirements, a list of reportable diseases, the fee for the collection of cancer data, and confidentiality and disclosure of cancer data.

Stephen Seale, chief accountant III, 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 \$600,000 the first year, \$800,000 the second year, and \$970,000 for each of the remaining three years. An estimated increase in revenue of \$600,000 the first year, \$900,000 the second year, and \$970,000 for each of the remaining three years is expected. There will be an increased cost for local governmental hospitals to collect and furnish the required cancer data to the Texas Department of Health Cancer Registry

Division; however, this cost should be offset by the provisions for reimbursement. There will be no adverse effect on small businesses for the first five-year period the sections will be in effect.

Mr. Seale also has determined that for each year of the first five years the sections are in effect the public benefits anticipated as a result of enforcing the section as proposed will be that the fees to compensate hospitals, clinical laboratories, and cancer treatment centers will encourage better compliance in reporting cancer data which in turn will make possible epidemiological studies and improved cancer screening and detection programs. There is no anticipated cost to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Susan Griffin, Director, Cancer Registry Division, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7265. Comments will be received for 30 days from the date of publication of the proposed new sections.

The new sections are proposed under the Texas Cancer Control Act, Texas Civil Statutes, Article 4477-40, §5, which authorizes the Texas Board of Health to adopt rules to implement the Act, and §7, as amended by House Bill 4, 69th Legislature, 1985, which covers reporting and fee 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 17, 1985.

TRD-858569

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

Proposed date of adoption:

November 16, 1985

For further information, please call
(512) 458-7265.

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Chapter 325. Solid Waste Management

The Texas Department of Health proposes amendments to §§325.445, 325.462, and 325.462, concerning sludge transporter disposition control, basic requirements for land application, and sludge land disposal permit requirements. In addition, the department proposes new §325.448, concerning sludge transporter fees and §§325.601-325.603, 325.611, 325.613, and 325.621-325.623, concerning annual fees and related reports for facility operators

and a requirement for Type I and Type IV landfill operators to furnish grid markers to facilitate calculation of amounts of waste disposed. The amendments and new sections will implement annual fees for municipal solid waste management surveillance and enforcement activities and registration fees for facilities authorized by registration rather than by permit.

The purpose of the fee system is to provide additional revenue to the state and offset the state's expense for operating its municipal solid waste regulatory program. It is not intended that all solid waste program costs be recovered from fees, but only those costs that result from regulating those entities that are required to pay a fee. Revenues from the fees are required to be deposited in the state's general revenue fund and are not retained by the Texas Department of Health.

The annual fee is intended to approximate the department's cost in providing a surveillance and enforcement program for facilities that process or dispose of municipal solid waste and transporters of municipal wastewater treatment plant sludge, septic tank waste, and grease/grit trap wastes. The cost to inspect and report on each facility will vary depending upon the type and size of facility. To make the fee structure as equitable as possible, the fee amounts are graduated so that larger and more complex or technical facilities will pay larger fees than smaller or less complex facilities, i.e., the operator of a large landfill will pay a larger fee than the operator of a transfer station.

Stephen Seale, chief accountant III, Budget and Planning Division, 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 will be an estimated additional cost of \$110,000 for 1986, and \$100,000 each year from 1987-1990, and an estimated increase in revenue of \$550,000 for 1986 and \$1.17 million each year from 1987-1990. The effect on local government for the first five-year period the sections will be in effect will be an estimated additional cost of \$385,000 for 1986 and \$819,000 each year from 1987-1990. There will be no effect on small businesses. The annual cost of compliance with the sections by a small business that processes or disposes of municipal solid waste or that transports sludge or similar wastes is estimated to be \$760. In comparing the cost of compliance for small businesses with the cost of compliance for the largest businesses affected by the sections, the cost to a small municipal solid waste business will be approximately \$4.00 per employee, while the cost to a large business will be approximately \$2.00 per employee.

Mr. Seale 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 as proposed will be production of revenue needed by the state to operate its surveillance and enforcement program for municipal solid waste management which contributes to proper management of waste and reduces environmental pollution; conserves land, water, and material resources; and reduces public health risks. There is not expected to be any direct cost to private individuals unless they are operators of municipal solid waste management businesses. In this case, they will pay the fees established in the sections.

Comments on the proposal may be submitted to L.D. Thurman, Acting Chief, Bureau of Solid Waste Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199, (512) 458-7271. Comments will be received for 30 days following the date of publication in the *Register*.

Subchapter N. Management of Sludges and Similar Wastes

★ 25 TAC §325.445

These amendments and new sections are proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4, as amended by House Bill 2091, Article 8, §2, and House Bill 1593, §54, 69th Legislature, 1985, which require the Texas Board of Health to adopt rules implementing a fee system for municipal solid waste management activities.

§325.445. *Disposition Control.*

(a) (No change.)

(b) Maintenance of records and reporting. The transporter shall provide the person who generates the waste a copy of the waste control record or other document showing receipt of waste and shall provide the facility operator a copy of all control records of wastes deposited. The transporter shall retain a copy of all records showing the collection and disposition of waste. Such copies shall be retained for 12 months and made available to the department upon request. Persons who transport waste via pipeline, rail, or barge may use an alternate record-keeping system if approved by the department. Transporters shall submit to the bureau an annual summary of their activities up to December 31 of each year showing amounts and types of waste collected, disposition of such wastes, and amounts and types of waste delivered to each facility. **The report shall also include a statement of the total capacity (gallons) of all waste transport vehicles utilized by the transporter as of the end of the reporting year and as applicable to the operation for which he is required to register. Related to the calculation of vehicle capacity, a trans-**

port vehicle shall include, but is not limited to, trucks, portable tanks, trailers, barges, or similar transport vehicles, but shall not include pipelines. The report shall be submitted no later than March 1 of the year following the end of the report period. The first report shall cover the calendar year 1985, and be submitted no later than March 1, 1986. The report shall be prepared on a facsimile of the form in §325.909 of this title (relating to Appendix I—Annual Summary Report Form for Sludges and Related Wastes).

(c) (No change.)

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

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

TRD-858500

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

Proposed date of adoption:

November 16, 1985

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

★ ★ ★

Land Disposal

★ 25 TAC §325.482

This amendment is proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4, as amended by House Bill 2091, Article 8, §2, and House Bill 1593, §54, 69th Legislature, 1985, which require the Texas Board of Health to adopt rules implementing a fee system for municipal solid waste management activities.

§325.482. *Permit Requirements.* Except for Type I, II, or III municipal solid waste sites (landfills) authorized under §§325.51-325.63 [325.62] of this title (relating to Permits) where sludge is codisposed with other waste, operators of municipal solid waste sites used for the disposal of sludges and similar wastes shall have a permit issued by the department. Sites operating without a permit on the effective date of these sections shall submit a permit application within 120 days after the effective date. The following provisions of §§325.51-325.63 [325.62], 325.71-325.75, and 325.91-325.95 of this title (relating to Permit Procedures and Design Criteria) are applicable to such land disposal sites unless otherwise noted.

(1) §§325.51-325.63 [325.62] of this title (relating to Permits).

(2)-(6) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel

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

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

TRD-858504

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

Proposed date of adoption:

November 16, 1985

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

★ ★ ★

Transporters

★ 25 TAC §325.448

This new section is proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4, as amended by House Bill 2091, Article 8, §2, and House Bill 1593, §54, 69th Legislature, 1985, which require the Texas Board of Health to adopt rules implementing a fee system for municipal solid waste management activities.

§325.448. *Transporter Fees.*

(a) Applicability. Transporters of municipal waste who are registered or who are required to register with the department are required to pay a nonrefundable annual fee to the department based upon the capacity of transport vehicles the transporter uses. This fee shall not apply to hazardous wastes which are transported and regulated by an agency other than the department. This fee shall not apply to cities, counties, municipal utility districts, and state and federal agencies which are transporting their own wastes and which are not required to be registered with the department, as described in §325.442 of this title (relating to Registration).

(b) Fee schedule/amount. The amount of the annual fee shall be based upon the total volume (in gallons) of all waste transport vehicles utilized by the transporter. The amount shall be determined by multiplying the total capacity (gallons) by \$0.10 per gallon. For example, if a transporter operates three trucks, each with a capacity of 1,500 gallons, then the total capacity is three multiplied by 1,500 gallons which equals 4,500 gallons. Multiplied by a rate of \$0.10 per gallon, the annual fee is 4,500 gallons multiplied by \$0.10 or \$450.

(c) Fee due date. The payment of a transporter fee shall be due June 1 of each year. The fee amount shall be the amount due as computed according to the applicable fee schedule/amount and the information submitted by the transporter in the annual report.

(d) Method of payment. The transporter's annual fee shall be submitted in the form of a check or money order made payable to the Texas Department of Health

and delivered or mailed to Bureau of Solid Waste Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199.

(e) Penalties. Failure of a transporter to submit correct information on the annual report to the department by the due date or failure to submit the required fee payment by the due date shall be sufficient cause for the department to void the transporter's registration and authorization to transport waste. The department may also take any other action authorized by law to secure compliance.

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 16, 1985.

TRD-858502 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of
Health

Proposed date of adoption:

November 16, 1985

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

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Land Application for Beneficial Use

★25 TAC §325.462

This amendment is proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4, as amended by House Bill 2091, Article 8, §2, and House Bill 1593, §54, 69th Legislature, 1985, which require the Texas Board of Health to adopt rules implementing a fee system for municipal solid waste management activities.

§325.462. *Basic Requirements for Land Application.*

(a) (No change.)

b) Registration of land application for beneficial use sites. Operators of sites which qualify for exemption from a permit as set forth in §325.52 of this title (relating to Permit Exemptions) and for which a permit has not been issued shall register such sites with the department by utilizing the form contained in Section II of §325.901 of this title (relating to Appendix A—Application for a Permit/Registration to Operate a Municipal Solid Waste Site—Part A (General Data)). The application for registration of a Type VII facility for the land application for beneficial use of sludge shall be accompanied by a nonrefundable fee paid to the department. The amount of the fee shall be as required for submission of Part A of an application for a Type VII facility as described in §325.63(a)(1)(A) of this title (relating to Permit Application

Fees). No additional registration fee is required if Part B or a site development plan is not required. In addition, the amendment of registration information for a "beneficial use" facility does not require payment of a fee. Registration of a site at which wastes are applied to the land for beneficial use is effective on the date that the department, by letter, acknowledges receipt of a properly completed application and provides the owner/operator a registration number. Site registration information on file with the department shall be confirmed or updated, in writing, whenever:

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

(2), requested by the department.

(c) Permits for land application for beneficial use sites. Although a permit is not required for the operation of a site used for land application of certain wastes for beneficial use, the operator of such a site may request the department to issue a permit. When a permit is requested, the application shall be prepared and processed in accordance with §§325.51-325.63 [325.62], 325.71-325.75, and 325.91-325.95 of this title (relating to Permit Procedures and Design Criteria), as applicable. The design and operational requirements contained in §§325.461-325.465 of this title (relating to Land Application for Beneficial Use) shall be applicable to such permitted sites. Applications for a permit submitted or required to be submitted in accord with department guidelines in §§325.51-325.63, 325.71-325.75, and 325.91-325.95, of this title (relating to Permit Procedures and Design Criteria) shall be accompanied by a nonrefundable fee paid to the department. The amount of the fee shall be as required for submission of Part A and Part B/site development plan of an application for a Type VII facility as in §325.63 of this title (relating to Permit Application Fees).

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

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TRD-858503 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of
Health

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

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Subchapter P. Annual Fees and Related Reports

★25 TAC §§325.601-325.603

These new sections are proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4, as amended by House Bill 2091, Article 8, §2, and House Bill 1593, §54, 69th Legislature, 1985, which require the Texas Board of Health to adopt rules implementing a fee system for municipal solid waste management activities.

§325.601. *Purpose and Applicability.*

(a) Purpose. The purpose of the annual facility fee is to recover costs incurred by the state in operating its municipal solid waste regulatory program related to surveillance and enforcement and technical assistance for facilities that are authorized to treat, process, or dispose of municipal solid waste.

(b) Applicability. Each operator of a storage, processing, or disposal facility for municipal solid waste that is authorized to operate by permit, has a permit application pending, or was operating prior to implementation of the department's permitting program and is required to apply for a permit from the department is required to pay a nonrefundable annual fee to the department. Except for a gas recovery operation, the amount of the fee is based upon the type and size of the facility and the amount of waste handled or the amount of population served. Gas recovery operations are charged a fixed rate.

§325.602. *Annual Reports.*

(a) Report form and information. Annually, each facility operator shall report to the department the amount of solid waste processed or disposed of at the facility for which the report is prepared. An operator shall file a separate report for each facility which has a unique permit/permit application number. The report shall be on a form furnished by the department or reproduced from a form furnished by the department. In addition to a statement of the amount of waste processed or disposed, the report shall contain the information requested on the form, including the facility owner's name, address, and phone number; the facility operator's name, address, and phone number; the facility permit/permit application number; the facility type; the amount of population served by the facility; and any assigned billing code number and other information the department may request.

(b) Waste reporting units. The amount of waste processed or disposed during a year shall be reported in short tons (2,000 pounds). Any other units of measure, such as cubic yards, shall be converted to tons for reporting purposes. The weight and volume conversion factors in paragraphs (1)-(4) of this subsection shall be used where weighing facilities are not available.

- (1) General weight/volume:
 - (A) one ton = 2,000 pounds;
 - (B) one gallon = 7.5 pounds (grease trap waste);
 - (C) one gallon = 8.5 pounds (dry weight—wastewater treatment plant sludge);
 - (D) one gallon = nine pounds (grit trap waste);
 - (E) one drum = 55 gallons.
- (2) Waste transport vehicles:
 - (A) one cubic yard = 150 pounds (no compaction);
 - (B) one cubic yard = 600 pounds (medium compaction);
 - (C) one cubic yard = 700 pounds (heavy compaction).
- (3) Waste in landfills:
 - (A) one cubic yard = 1,000 pounds (baled with fill);
 - (B) one cubic yard = 800 pounds (shredded with fill);
 - (C) one cubic yard = 650 (compacted with crawler tractor);
 - (D) one cubic yard = 700 (with heavy compactor vehicle).
- (4) Until June 1, 1987, or until accurate reports of waste processed or dispos-

ed by a facility are in the department's files, billing statements will be calculated by multiplying the amount of population served by a facility—based on current information in the department's files—by five pounds of waste per person per day based on a 365-day year.

(c) Grid marker system. To facilitate the calculation of waste deposited in a landfill over a period of time, each permittee or operator of an existing Type I or IV solid waste disposal site shall, by March 1, 1986, install a grid marker system encompassing at least the area expected to be filled within a three-year period and expanded progressively as needed. The grid marker system, similar to a typical city map grid, shall consist of lettered markers along opposite sides of the site and numbered markers along the two other opposite sides. Markers along the boundaries shall be spaced no further than 100 feet apart and shall be at such height as to be visible at all times from markers on the opposite boundary. Adjacent grid marker lines shall be perpendicular to each other. Permit applicants for Type I and Type IV sites shall incorporate this type of grid system in their site plans.

(d) Reporting period. The reporting

period shall be for a calendar year beginning January 1 and ending December 31 of each year.

(e) Due date. The properly completed, accurate, and signed report shall be submitted to the department no later than March 1st of the year following the year being reported. The first report shall be due no later than March 1, 1987, for the calendar year 1986.

(f) Penalty. Late reports or reports that contain incomplete or inaccurate information or that are unsigned shall provide sufficient reason for the department to take remedial action as appropriate for the offense. Repeated violations or failure to submit a proper report, after proper notification, shall be sufficient reason to revoke the permit of the affected facility, or other action as appropriate by law.

§325.603. Annual Fees.

(a) Fee schedule. The annual facility fee shall be computed utilizing the following fee schedule. First, select the type of facility (i.e., Type I, IV, IX, etc.) on the fee schedule, then select the column which corresponds to the amount of waste in short tons (2,000 pounds) handled or processed

Annual Fees for Facilities

(1) Type of Facility	(2) Pop/Pop Equiv to be Served (thousand)	Annual Fee Based on Volume of Waste Handled Annually in Thousands of Short Tons (2000 pounds)						
		0-10	10-20	20-30	30-50	50-100	100-200	200-500
I	5-15	\$1,300	\$1,400	\$1,500				
	15-25		\$1,500	\$1,600				
	25-50		\$1,600	\$1,700	\$1,800	\$2,000		
	50-100				\$2,000	\$2,300	\$2,600	
	100+					\$2,600	\$3,000	\$3,500
II	1.5-5	\$ 800						
III	0-0.5	\$ 200						
IV	N.A.	\$1,000	\$1,500	\$1,700	\$2,000	\$2,200	\$2,500	
V	N.A.	\$ 800	\$1,300	\$1,500	\$1,800	\$2,000	\$2,300	\$2,500
VI	N.A.	Apply another appropriate category. If none, apply Type V						
VII	N.A.	\$1,300	\$1,400	\$1,500	\$1,800	\$2,000	\$2,600	
VIII	N.A.							
IX	N.A.				\$1,000			

by the facility during the previous calendar year. Where the facility type line and the annual waste volume column intersect, the annual fee will be indicated. As stated in §325.602(b) of this title (relating to Annual Reports), until June 1, 1987, the department will estimate the waste managed by utilizing the information in the department's current files related to the amount of population served by the facility multiplied by five, then multiplied by 365.

(b) Fee due date. The payment of an annual facility fee shall be due as indicated on a billing statement from the department to the facility operator. For facilities that have been issued a permit, the due date shall be the anniversary date of permit issuance. For facilities that have not yet been issued a permit, the due date will be assigned by the department. The fee amount for each facility shall be computed by the depart-

ment and reported to the facility operator at least 30 days prior to the fee due date and shall be based upon the information submitted by the facility operator in the annual report and in the current files of the department.

(c) Method of payment. A facility's annual fee shall be submitted in the form of a check or money order made payable to the Texas Department of Health and delivered or mailed to Bureau of Solid Waste Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199.

(d) Penalties. Failure of the facility operator to submit the required fee payment by the due date shall be sufficient cause for the department to revoke the permit and authorization to process or dispose of waste. The department may also take any

other action authorized by law to secure compliance.

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 16, 1985.

TRD-858505

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

Proposed date of adoption:

November 16, 1985

For further information, please call
(512) 458-7238.

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Registered Facilities

★ 25 TAC §§325.611-§325.613

These new sections are proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4, as amended by House Bill 2091, Article 8, §2, and House Bill 1593, §54, 69th Legislature, 1985, which require the Texas Board of Health to adopt rules implementing a fee system for municipal solid waste management activities.

§325.611. Purpose and Applicability.

(a) Purpose. The purpose of the annual facility fee is to recover costs incurred by the state in operating its nonhazardous municipal solid waste regulatory program related to surveillance and enforcement and technical assistance for facilities that are authorized to treat, process, or dispose of nonhazardous municipal solid waste.

(b) Applicability. Some facilities or sites are presently authorized to operate by registration after receiving a permit exemption as authorized in §325.52 of this title (relating to Permit Exemptions). Examples of this type of facility are sites for beneficial use of wastewater treatment plant sludge as provided for in §§325.461-325.465 of this title (relating to Land Application for Beneficial Use) and sites for controlled burning of wood wastes by means of an air-curtain destructor (trench burner). All registered facilities are required to pay an annual fee to the department.

§325.612. Annual Reports.

(a) Land application for beneficial use. Operators of registered sites or facilities for the beneficial use of wastewater treatment plant sludge are required to submit an annual report to the department. The report requirements, including form, content, reporting units, due date, and reporting period, shall be the same as the reporting requirements applicable to permitted sludge facilities as provided in §325.602 of this title (relating to Annual Reports).

(b) Air-curtain destructors. Operators of registered air-curtain destructor (trench burner) units are not required to submit an annual report.

§325.613. Annual Fees.

(a) Fee schedule. The annual fee for registered facilities or sites engaged in the land application of sludge for beneficial use shall be computed utilizing the fee schedule in this subsection. The annual fee will vary depending upon the amount of sludge (in dry weight tons) processed or disposed at the facility during the previous calendar year. The amount of waste received will fall into one of three categories in the sludge amount column. The annual fee is located on the same line in the opposite annual fee column. For example, if the facility received less than 500 tons of sludge during the previous calendar year, the annual fee will be \$250. Until June 1, 1987, or until the receipt of the first annual report from the facility

operator, the department will utilize the information in the department's registration file for each facility to determine the amount of waste handled annually by a facility.

Annual Fees for Registered Facilities Dedicated to Beneficial Use of Sludge

Sludge Amount (Dry-weight tons-per-year)	Annual Fee
0-500 TPY	\$250
500-2,000 TPY	\$500
over 2,000 TPY	\$1,000

(b) Fee due date. The payment of the annual fee shall be due June 1 of each year. The amount due will be computed by the department utilizing the appropriate fee schedule, the information submitted in the facility's prior year report, and the information in the department's registration file for each facility.

(c) Method of payment. A facility's annual fee shall be submitted in the form of a check or money order made payable to the Texas Department of Health and delivered or mailed to Bureau of Solid Waste Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199.

(d) Penalties. Failure of the facility operator to submit the required fee payment by the due date shall be sufficient cause for the department to revoke the registration and authorization to process or dispose of waste. The department may also take any other action authorized by law to secure compliance.

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 16, 1985.

TRD-858506

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

Proposed date of adoption:
November 16, 1985

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

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Transporters of Sludges and Similar Wastes

★ 25 TAC §§325.621-325.623

These new sections are proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4, as amended by House Bill 2091, Article 8, §2, and House Bill 1593, §54, 69th Legislature, 1985, which require the Texas Board of Health to adopt rules implementing a fee system for municipal solid waste management activities.

§325.621. Purpose and Applicability.

(a) Purpose. The purpose of the annual fee for transporters is to recover costs incurred by the state in operating its regulatory and technical assistance programs

related to transporters of sludge, septic tank wastes, grease/grit trap wastes, and other similar types of waste.

(b) Applicability. This undesignated head applies only to transporters of sludge and similar wastes who are required to register with the department. This section does not apply to transporters of other types of waste who are not required to register or to certain public agencies who transport sludge and similar wastes but who are exempt from registration as outlined in §325.412 of this title (relating to Applicability).

§325.622. Annual Reports. Annual reports are required in accordance with applicable provisions in §325.445(b) of this title (relating to Disposition Control).

§325.623. Annual Fees. Annual fees are required in accordance with applicable provisions in §325.448 of this title (relating to Transporter Fees).

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 16, 1985.

TRD-858507

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

Proposed date of adoption:
November 16, 1985

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

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

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

★ 34 TAC §3.544

The Comptroller of Public Accounts proposes an amendment to §3.544, concerning definitions. The amendments are intended to eliminate the possibility of organizations treating as charitable distributions purchases of services or materials relating to the conduct of bingo and to clarify the types of organizational

and administrative activities which may be treated as charitable purposes.

Billy Hamilton, director of revenue estimating for the comptroller, has determined that since this change affects only charitable distributions and not gross receipts, on which the bingo tax is imposed, there will be no fiscal implications for units of state or local government or for small businesses.

Mr. Hamilton also has determined that the amendments will result in no costs to the public. The public benefit will be further clarification of activities which may be treated as charitable in nature. There is no anticipated economic cost to individuals.

Comments on the proposal may be submitted to Ches Stubblefield, Manager, Miscellaneous Services, P.O. Box 13528, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes Articles 179d, which provide that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the Bingo Enabling Act.

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

Charitable purpose—One or more of the following activities:

(A) (No change.)

(B) those that initiate, perform, or foster worthy public works or enable or further the erection or maintenance of public structures in Texas; [or]

(C) those that maintain, improve, add to, repair, or retire the debt on existing buildings and real property used for purposes enumerated in sub paragraphs (A) and (B); or

(D) those organizational and administrative activities that assist the licensed authorized organization in furthering the purposes listed in sub paragraphs (A)-(C) of this paragraph.

(i) The activity must relate to a purpose which is consistent with the stated purposes of the organization.

(ii) No expenditure related to the activity may directly benefit individual members of the organization.

(iii) Expenditures for services rendered and materials purchased for the conduct of bingo by the organization are not considered distributions for charitable purposes. See §3.549 of this title (relating to Allowable Expenditures of Receipts from Bingo) for guidelines on the treatment of expenditures of this type.

(E)(D)] Some examples of charitable purposes include the following:

(i)-(iv) (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 18, 1985.

TRD-858578

Bob Bullock
Comptroller of Public
Accounts

Earliest possible date of adoption:
October 25, 1985
For further information, please call
(512) 463-4806.

★ ★ ★

Chapter 5. Funds Management (Fiscal Affairs)

Claims Processing—Travel Vouchers

★34 TAC §5.22

The Comptroller of Public Accounts proposes an amendment to §5.22, concerning the *State Employees Travel Allowance Guide*. The comptroller has updated his guide, and the amendment conforms the section to the effective date of the revised guide.

Billy Hamilton, director of revenue estimating for the comptroller, 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. Hamilton 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 will be current information on procedures in state government. 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 Martin Cherry, Rules Coordinator, P.O. Box 13528, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 4344, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the payment of accounts of the state.

§5.22. Incorporation by Reference: State Employees Travel Allowance Guide. The *State Employee's Travel Allowance Guide* issued by the comptroller of public accounts on September 1, 1985 [1983], and filed with the secretary of state is incorporated by reference as a section. The guide is published by the Comptroller of Public Accounts in Austin, Texas, and copies may be obtained by requesting them from the comptroller.

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 18, 1985.

TRD-858579

Bob Bullock
Comptroller of Public
Accounts

Earliest possible date of adoption:
October 25, 1985
For further information, please call
(512) 463-4806.

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 85. General Licensing Procedures

Subchapter U. Day-Care Licensing Procedures

★40 TAC §§85.2006, 85.2008, 85.2011, 85.2012, 85.2014, 85.2016, 85.2017, 85.2026, 85.2032-85.2035

The Texas Department of Human Services proposes amendments to §§85.2006, 85.2008, 85.2011, 85.2012, 85.2014, 85.2016, 85.2017, 85.2026, 85.2032-85.2035, 85.3044, 85.3047, 85.3049, and 85.3050-85.3052 and new §§85.2040-85.2044 and 85.2074-85.2075, concerning general licensing procedures. The department proposes the amendments and new rules to implement legislation passed by the 69th Legislature, 1985. House Bill 1593 requires the department to charge certain child care facilities and child-placing agencies fees for applications, provisional and annual licenses, and registrations.

Cris Ros-Dukler, assistant commissioner for licensing, has determined that for the first five-year period the sections will be in effect there will be fiscal implications as a result of enforcing or administering the rules. The cost to the state is estimated to be \$31,762 in fiscal year 1986, \$32,213 in 1987, \$33,669 in 1988, \$35,529 in fiscal year 1989, and \$37,132 in fiscal year 1990. There will also be an estimated increase of revenue to the state based on providers' fees of \$1,860,536 in fiscal year 1986, \$2,036,876 in fiscal year 1987, \$2,236,446 in fiscal year 1988, \$2,464,124 in fiscal year 1989, and \$2,720,813 in fiscal year 1990. The estimated loss of revenue to local government because of this policy change is \$23,700 in fiscal year 1986, \$24,885 in fiscal year 1987, \$26,129 in fiscal year 1988, \$27,435 in fiscal year 1989, and \$28,807 in fiscal year 1990. The costs to facilities (which are small businesses) will be \$1,860,536 in fiscal year 1986, \$2,036,876 in fiscal year 1987, \$2,236,446 in fiscal year 1988, \$2,464,124 in fiscal

year 1989, and \$2,720,813 in fiscal year 1990.

Ms. Ros-Dukler also has determined that for the first five years the sections are in effect the public benefit expected will be improved quality of care to children in child care facilities because the facilities will share in funding the licensing program through the fee payments. There are no economic costs to individuals required to comply with the sections as proposed.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division—469, Texas Department of Human Services 153-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in this *Register*.

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

§85.2006. Submission and Acceptance of Application.

(a) Each governing body planning to operate a facility subject to licensing or certification must complete and send an application to licensing staff.

(b) Facilities subject to licensing must attach a nonrefundable \$35 application fee plus a \$35 provisional license fee to the department's licensing fee schedule and send these to the department. The provisional license fee may be refunded if the department does not issue the provisional license.

(c) An applicant who pays the initial fees and later withdraws the application, but reapplies within 30 days, does not pay new fees.

(d) Fee requirements do not apply to facilities requiring certification.

§85.2008. Application Received after Revocation or Denial of License. If the department denies an application for a license or revokes a license because of non-compliance with standards or violation of the child care licensing law, time limits for an appeal must have ended and the facility must have closed and remained closed before a new application for a license is accepted. If a facility ceases operation before the end of the time to request an appeal, and if that facility waives in writing the right to request an appeal, licensing staff accept a completed application. If the facility begins operation before the provisional license is issued, licensing staff deny the application. An application fee and provisional license fee must be sent to the department when a completed application is sent to licensing staff. The cost of reimbursing the department for publishing the notice of revocation, as required by the Human Resources Code, Chapter 42, §42.077, must be added to the application fee.

§85.2011. Separate Licenses.

(a) If an applicant/licensee wants separate licenses for a day care center, kindergarten and nursery school, and/or a school at the same location, the applicant/licensee must submit to the department separate applications, \$35 application fees, and \$35 provisional license fees for each license [to the department].

(b) (No change.)

§85.2012. Issuance of Provisional License.

(a) (No change.)

(b) A provisional license is issued if:

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

(3) the \$35 application fee and \$35 provisional license fee are paid.

(c) A provisional license is issued to a facility after a licensing investigation, if the facility is in compliance with the law and minimum standards. The provisional license fee may be refunded if the department does not issue the license.

(d) If a facility does not provide care for children not related to the caregiver, or if it begins operation so late in the provisional licensing period that there is not time to determine continuing compliance with standards, the department allows the provisional license to expire. Licensing staff may accept a new application without the facility having to close. A new application fee will not be required. The facility must pay a \$35 provisional license fee before a new provisional license is issued.

§85.2014. Issuance of Biennial License. A facility is eligible for a biennial license if it has:

(1) [a facility has] satisfied provisional licensing requirements by maintaining compliance with the minimum standards on a continuing basis; or

(2) [a facility has] met the requirements for the renewal of a biennial license by maintaining compliance with minimum standards on a continuing basis; and

(3) paid the annual license fee of \$35 plus \$1.00 for each child the facility is licensed to serve. The annual fee may be refunded if the facility pays the fee but the department does not issue the license.

§85.2016. Notice of Expiration Letter.

(a) At least two months before the expiration of a biennial license, the governing body of the facility must send an application for a new license. The governing body must identify changes from the original operation and must submit a current floor/yard plan if there are changes since the last license was issued.

(b) The governing body must pay the annual license fee of \$35 plus \$1.00 for each child the facility is licensed to serve before a new license can be issued. An application fee is not required for an application for the subsequent biennial license.

§85.2017. Changing the Restrictions/Terms on a License—Requested by Licensee. The department may amend the restrictions of a license based on the extent of the change and its impact on the facility. If a license is amended to increase the facility's capacity, the governing body must pay \$1.00 for each child over the previous licensed capacity. If the capacity is lowered, there is no refund. The next annual fee payment will reflect the lowered capacity.

§85.2026. Change of Facility Ownership.

(a) If a change in ownership occurs, the licensee must notify licensing staff of the change. A change in legal organizational structure is a change in ownership under the law even though there may not be a personnel change.

(b) The facility is not required to pay a new application fee when changing only the legal organizational structure with no personnel change.

§85.2032. Failure to Register.

(a) When a person who is providing care for children is subject to registration and staff have set a time limit for the return of a registration request and payment of the \$35 registration fee, the caregiver must send both the registration request and fee and be in compliance with all standards within the time frame or the caregiver must cease operations until the requirements are met.

(b) The registration fee is refunded if the caregiver pays the fee but the department does not issue the registration or if the caregiver withdraws the registration request before the registration is issued.

§85.2033. Initial Registration.

(a) [When] The department issues a notice of registration when a registration request, determined in compliance with registration requirements, is processed and when the \$35 registration fee is paid. The registration [it] continues to be valid until a stated expiration date unless revoked by the department for just cause.

(b) A caregiver who pays the registration fee, withdraws the registration request, and then reapplies within 30 days does not pay a new registration fee.

§85.2034. Reregistration.

(a) To maintain its registration status, the caregiver must pay the annual registration fee and complete and return the reregistration certificate form [registration card] by the stated date.

(b) If the caregiver indicates "not operating" on the form [card], the registration expires and no further notification to the caregiver is required.

(c) When a caregiver has not returned a form and paid the registration fee [card] within 30 days after the mail date, licensing staff [the department] mails a second form [card] to the registered family home. If the second form with registration fee [card] is not received from the caregiver within 30 days after the mail date, the reg-

istration expires with no further notice to the former caregiver.

§85.2035. Denial or Revocation of a Registration.

(a) Reasons for revocation or denial are:

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

(4) assumed cessation of operation based on failure to receive a returned re-registration form and fee [notification card] from the caregiver;

(5) (No change.)

(6) violation of suspension.

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

(d) If the caregiver ceases operation, he is entitled to be notified that registration is revoked and that if he plans to provide care for children in the future, he must first register with the department and pay a \$35 registration fee.

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 16, 1985.

TRD-858542

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption:

October 25, 1985

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

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★ 40 TAC §§85.2040-85.2044

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

§85.2040. Licensing Fees. All licensing fees must be made payable to the Texas Department of Human Services and must be made only by cashier's check, money order, or certified check. Licensing fees include:

- (1) application license fee;
- (2) provisional license fee;
- (3) annual license fee;
- (4) amendment license fee; and
- (5) all registration fees.

§85.2041. Annual License Fee. Before the annual anniversary date of the biennial issuance, the governing body of the facility must pay the annual license fee of \$35 plus \$1.00 for each child the facility is licensed to serve. At least 60 days before the

anniversary date of issuance, licensing staff sends the governing body a notice that the payment is due.

§85.2042. Nonpayment of Annual License Fee.

(a) If the governing body fails to pay the annual license fee within one month after the due date, the license is suspended until the fee is paid. Children must not be in care at the facility while the license is suspended.

(b) The department may revoke a facility's license after it has been suspended for not paying its licensing fees if the facility continues caring for children. The revocation letter must state that the right to appeal the decision of revocation is limited only to the issues of paying the required fee and providing care while the license is suspended for failure to pay the licensing fee.

(c) To appeal the decision, the licensee must send a written request for an appeal within 30 days after receiving the revocation letter. The licensee must send the director of day care licensing a letter stating the reasons against the revocation. If the licensee appeals a decision and continues to care for children, he and his staff must permit licensing staff to investigate the facility during the appeal process.

§85.2043. Annual Registration Fee. Before the annual anniversary date of the registration issuance, the registered family home caregiver must pay a \$35 registration fee. At least 60 days before the anniversary date of issuance, licensing staff sends the caregiver a notice that payment is due.

§85.2044. Nonpayment of Annual Registration Fee.

(a) If the registered family home caregiver fails to pay the annual registration fee within one month after the due date, the registration is suspended until the fee is paid. Children must not be in care while the registration is suspended.

(b) The department may revoke a registration following suspension for not paying registration fees if the caregiver continues to care for children. The revocation letter must state that the right to appeal the decision of revocation is limited only to the issues of paying the required fee and providing child care while under suspension for not paying registration fees.

(c) To appeal the decision, the caregiver must submit a written request for an appeal within 30 days after receiving the revocation letter. The caregiver must send the director of day care licensing a letter stating the reasons against revocation. If the caregiver appeals a decision and continues to care for children, the caregiver and his staff must permit licensing staff to investigate the home during the appeal process.

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 16, 1985.

TRD-858539

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption:

October 25, 1985

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

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Subchapter EE. Agency and Institutional Licensing Procedures

★ 40 TAC §§85.3044, 85.3047, 85.3049, 85.3052

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

§85.3044. Application.

(a) Each governing body planning to operate a facility subject to licensing or certification must complete an application and send it to licensing staff. Facilities subject to licensing must attach a \$35 non-refundable application fee plus \$35 provisional license fee to the department's licensing fee schedule and send these to the department. The provisional license fee may be refunded if the department does not issue the provisional license.

(b) The requirements do not apply to:

(1) facilities that require certification;

(2) non-profit 24-hour care facilities that:

(A) charge no fees for their services, or

(B) provide care for children in the department's managing conservatorship;

(3) licensed foster family homes and foster group homes.

(c) The applicant is entitled to a written notice from the licensing representative if the application is incomplete or compliance is not substantiated.

(d) An applicant who pays the initial fees and later withdraws the application, but reapplies within 30 days, does not have to pay new fees.

§85.3047. Issuance of Provisional License.

(a) (No change.)

(b) A provisional license is issued when a facility meets all the appropriate minimum standards (except those where waivers or variances have been granted) and has paid the \$35 application fee and \$35 provisional license fee.

§85.3049. Facilities Not Providing Services in Provisional Licensing Period. Provisional licensees who do not become operational during the provisional licensing period are not eligible for a biennial license since the department cannot determine compliance with all minimum standards. The facility is entitled to be notified in writing of the right to appeal. The only issue on an appeal is whether there was continuing compliance with all minimum standards based on information available to the department. The licensee may apply for another provisional license by completing another application form and submitting a new \$35 application fee and \$35 provisional license fee.

§85.3050. First Biennial License. A facility is eligible for a first biennial license providing:

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

(4) the annual license fee of \$35 plus \$1.00 for each child the facility is licensed to serve has been paid. An annual fee for a biennial license may be refunded if the licensee pays the fee but the department does not issue the license.

§85.3051. Subsequent Biennial License. The facility must complete and return all application materials to the licensing representative no later than two months before the biennial license expires. The governing body must pay the annual license fee before a new license is issued. An application fee is not required for application for subsequent biennial licenses.

§85.3052. Denial of Subsequent Biennial Application. The department denies the subsequent biennial license if standards are not met or have not been met on a continuing basis, or if other requirements of the licensing law are being violated. The annual

license fee is refunded if the licensee pays the fee but the department does not issue the license.

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 16, 1985.

TRD-858540

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption:

October 25, 1985

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

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★ 40 TAC §§85.3074-85.3076

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

§85.3074. Licensing Fees. All licensing fees must be made payable to the Texas Department of Human Services and must be made only by cashier's check, money order, or certified check.

§85.3075. Annual License Fee. Before the annual anniversary date of the biennial issuance, the governing body of the facility must pay the annual license fee of \$35 plus \$1.00 for each child the facility is licensed to serve. At least two months before the anniversary date of issuance, licensing staff sends the governing body a notice that the payment is due.

§85.3076. Nonpayment of Annual License Fee.

(a) If the governing body fails to pay the annual license fee within one month after the due date, the license is suspended until the fee is paid. Children must not be in care at the facility while the license is suspended.

(b) The department may revoke a facility's license after it has been suspended for not paying the licensing fees if the facility continues caring for children. The revocation letter must state that the right to appeal the decision of revocation is limited only to the issues of paying the required fee and providing care while the license is suspended for failure to pay the licensing fee.

(c) To appeal the decision, the licensee must send a written request for an appeal within 30 days after receiving the revocation letter. The licensee must send the director of agency and institutional licensing a letter stating the reasons against the revocation. If the licensee appeals a decision and continues to care for children, he and his staff must permit licensing staff to investigate the facility during the appeal process.

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 24, 1985.

TRD-858541

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption:

October 25, 1985

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

Adopted Rules

An agency may take final action on a rule 30 days after a proposal has been published in the *Register*. The rule becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

If an agency adopts the rule without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the rule with changes to the proposed text, the proposal will be republished with the changes.

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 7. Gas Utilities Division Substantive Rules

★ 16 TAC §§7.61-7.68

The Railroad Commission of Texas adopts new §7.61, §7.62, and §§7.64-7.68, with changes to the proposed text published in the March 19, 1985, issue of the *Texas Register* (10 TexReg 904). New §7.63 is adopted without changes and will not be republished.

These sections are necessary for the adoption and enforcement of the provisions contained in 49 Code of Federal Regulations, Part 1985.

These sections cover regulation of the pipeline transportation of hazardous liquids, and the facilities related thereto, for the purpose of monitoring and enhancing safety and reducing the possibility of pollution from hazardous liquids.

Comments received by the commission included suggestions to add definitions for the terms "production facility" and "trunkline reception point," and change the definitions for the terms "gathering line," "rural area," "nonrural area," "transportation of hazardous liquids," and "intrastate pipeline facilities" in §7.61; include in §7.62 the Department of Transportation's Appendix A and any future appendices to clarify exemptions, restate in §7.64 the list of pipelines not covered by the rules, add language to §7.64 to clarify the inapplicability of the new rules concerning the design, fabrication, or installation of existing lines; clarify the inapplicability of civil liability to operators in §7.65 (subsequently deleted), allow exceptions for nonsteel pipe, and simplify installation instructions in §7.67 (subsequently changed to §7.66), §7.68 (subsequently changed to §7.67); and change wording of §7.69 (subsequently changed to §7.68) to enhance clarity and establish a more reasonable time frame and manner of enforcement, reduce or eliminate reporting requirements; increase to 30 days the time period for reporting accidents; reduce and clarify the annual report requirements; streamline the new construction report; not require the

operations and maintenance procedure manual to be filed with the commission; and reduce required records to conform with the 49 Code of Federal Regulations Part 1985.

Although all comments were generally supportive of the proposed rules, the following organizations proposed changes: Amoco Pipeline Company; Champlin Petroleum Company; Exxon Pipeline Company; O'Malley & Clay, Inc.; the Permian Corporation; Seagull Energy Corporation; Sun Pipe Line Company; Texaco, Inc.; Texas Mid-Continent Oil and Gas Assoc.; and Western Oil Transportation Company.

The commission disagreed with the comments for the following reasons. Definitions for the terms "gathering line," "rural area," and "nonrural area" in §7.61 are appropriate, and the recommended changes are unnecessary; the railroad commission requires definitions for these terms, since it is unknown when or whether the Department of Transportation will act, or what action might be taken; the addition of the Department of Transportation's Appendix A to §7.62 would detract from the clarity of the section; adoption of the provisions (with exceptions) of the 49 Code of Federal Regulations Part 195, made restatement in §7.63 of the list of pipelines unnecessary. The proposed language in §7.64 unambiguous regarding the inapplicability of the rules concerning the design, fabrication, or installation of existing lines. Cathodic protection standards and procedures are necessary to prevent or retard corrosion to afford an acceptable degree of protection to persons and property, consequently, the suggestion to delete §7.68 (subsequently changed to §7.67) was rejected; the recommended changes to §7.69 (subsequently changed to §7.68) added nothing to clarify or efficiency, so they were rejected.

No changes were made in response to comments on §7.66 (subsequently changed to §7.65). If operations and maintenance procedure manuals are not filed with the commission, these manuals will be available for evaluation only during on-sight inspections. In many cases, the necessary review would take more time than allotted for the inspection. For this reason, the recommendation to eliminate this filing requirement

was rejected. The records requirements against which complaints were lodged constitute the commission's clarification and/or interpretation of similar requirements set out in the 49 Code of Regulations Part 195. Since clarification and interpretation was deemed necessary, the original proposal was retained.

The new sections are adopted under the Texas Natural Resources Code, §§117.001-117.101, which provides the Railroad Commission of Texas with the authority to regulate the pipeline transportation of hazardous liquids and facilities related thereto, and to seek civil and criminal penalties for violations of statutory or rule provision.

§7.61. Definitions. The following words and terms, when used in §§7.61-7.68 of this title (relating to Substantive Rules), shall have the following meanings, unless the context clearly indicates otherwise:

Commission—The Railroad Commission of Texas.

Gathering line—An intrastate pipeline facility that transports hazardous liquids from a production facility or storage area to a trunkline reception point or storage facility (tank farm) for further transportation by trunkline.

Hazardous liquid—Petroleum or any petroleum product, and any substance or material which is in liquid state, excluding liquefied natural gas, when transported by pipeline facilities and which has been determined by the United States secretary of transportation to pose an unreasonable risk to life or property when transported by pipeline facilities.

Intrastate pipeline facilities—Pipeline facilities located within the State of Texas which are not used for the transportation of hazardous liquids in interstate or foreign commerce.

Nonrural location—An area extending 220 yards on either side of the centerline of any continuous one-mile length of pipeline which contains:

(A) 10 or more buildings used for human occupancy, or

(B) any building or outside area used for commercial or industrial purposes or for schools, churches, or other public assembly and which is occupied by 20 or more people during normal use. The nonrural location extends 220 yards on

either side of the building(s) or outside areas(s).

Operator—A person who owns or operates on his own behalf, or is an agent designated by the owner to operate, intrastate pipeline facilities.

Person—Any individual, firm, joint venture, partnership, corporation, association, state, municipality, cooperative association, or joint stock association, including any trustee, receiver, assignee, or personal representative thereof.

Pipeline facilities—New and existing pipe, right-of-way, and any equipment, facility, or building used or intended for use in the transportation of hazardous liquids.

Pipeline Safety Section—The Pipeline Safety Section of the Gas Utilities Division, Railroad Commission of Texas.

Production facilities—Any equipment or facilities used in the production, extraction, recovery, lifting, stabilization, separation, treating, storage, or measurement of a hazardous liquid subject to these rules, after the completion of the well. A well is considered complete when the well has been properly equipped so that the well can flow by opening a valve and swabbing in, if necessary, or by the starting of an artificial lift system. Such equipment and facilities may include, but are not limited to, pumping equipment, saltwater disposal equipment, flow lines, separators, storage tanks, and treating equipment.

Rural location—Any area which is not included within the definition of "nonrural location."

Transportation of hazardous liquids—The movement of hazardous liquids by pipeline, or their storage incidental to movement, except that it does not include any such movement through gathering lines in rural locations or production, refining, or manufacturing facilities or storage or in-plant piping systems associated with any of those facilities.

Trunkline reception point—The point or location where hazardous liquids subject to these rules are delivered to a cross-country trunkline for transportation to a more distant location. The hazardous liquids may originate from a gathering line or lines, or from a production facility.

§7.62. Safety Regulation Adopted. The commission adopts by specific reference the provisions (except as modified herein or hereafter) established by the United States secretary of transportation under the Hazardous Liquid Pipeline Safety Act of 1979 (Public Law 96-129), and set forth in the 49 Code of Federal Regulations Part 195, with amendments effective through September 16, 1985. Nothing in this rule shall prevent the commission, after notice and hearing, from prescribing more stringent standards in individual situations. Any document or parts of documents incorporated by reference into these rules shall be part of these rules as if set out in full.

§7.64. Retroactivity. Nothing in §§7.61-7.68 of this title (relating to Substantive Rules) shall be applied retroactively to existing interstate pipeline facilities concerning design, fabrication, or installation, but all intrastate pipeline facilities shall be subject to the other safety requirements of these rules.

§7.65. Required Records and Reporting.

(a) **Accident reporting.** In the event of any failure or accident involving an intrastate pipeline facility from which any hazardous liquid is released, if the failure or accident is required to be reported by the 49 Code of Federal Regulations Part 195, or if the failure or accident results in the release of hazardous liquid into any river, lake or stream in Texas, and is required to be reported pursuant to §3.20(a) and (b) of this title (relating to Notification of Fire, Breaks, Leaks, or Blow-Outs) or §3.66(19) of this title (relating to Pipeline Tariffs), the operator shall report to the commission as follows:

(1) incidents involving crude oil. In the event of an incident involving crude oil, the operator shall:

(A) notify, by telephone, the Oil and Gas Division of the commission at the earliest practicable moment following discovery of the incident; and

(B) within 30 days of discovery of the incident, submit a completed Form H-8 (available from the commission) to the Oil and Gas Division of the commission. In situations specified in the 49 Code of Federal Regulations Part 195, the operator also must file duplicate copies of the required Department of Transportation form with the Pipeline Safety Section;

(2) hazardous liquids other than crude oil. For incidents involving hazardous liquids other than crude oil, the operator shall:

(A) notify the Pipeline Safety Section of such incident by telephone at the earliest practicable moment following discovery; and

(B) within 30 days of discovery of the incident, file in duplicate with the Pipeline Safety Section a written report using the appropriate Department of Transportation form (as required by the 49 Code of Federal Regulations Part 195) or a facsimile.

(b) **Annual report.** Each operator shall file with the commission an annual report listing line sizes and lengths, hazardous liquids being transported, and accident/failure data. The report must be filed with the commission on or before February 15 following the calendar year reported. An operator need only file additions or changes made to a pipeline system(s) following the first year filing. Reporting forms may be obtained from the Pipeline Safety Section.

(c) **New construction report.** Each operator shall file with the commission, at least 30 days prior to commencement of construction, the proposed location, path,

size and type of pipe to be used, intended use, design pressure, and length of the proposed line.

(d) **Operations and maintenance procedure manual.** Each operator shall prepare a manual outlining normal operating, maintenance, and emergency procedures for the facility as required by the 49 Code of Federal Regulations Part 195, or §7.65(a) of this title (relating to Substantive Rules), and shall file a copy of said manual with the director of the Pipeline Safety Section for review. Copies of changes or additions to the manual shall be filed for review at least 20 days prior to the date on which they are scheduled to become effective.

(e) **Records.** Each operator shall maintain and have available for inspection the same documents and records required of intrastate operators by the 49 Code of Federal Regulations Part 195, and such additional records as the commission from time to time may require. These documents and records shall be retained for the period established for interstate operators by the 49 Code of Federal Regulations Part 195, or for a period of not less than five years if no such federal requirement has been established. These records shall include, but not be limited to, the following:

(1) records of all design and installation of new and used pipe, including design-pressure calculations, pipeline specifications, specified minimum yield strength and wall-thickness calculations, each valve, fitting, fabricated branch connection, closure, flange connection, station piping, fabricated assembly, and aboveground break-out tank.

(2) records of all pipeline construction, procedures, training, and inspection pertaining to welding, nondestructive testing, and cathodic protection;

(3) records of all hydrostatic testing performed on all pipeline segments, components, and tie-ins;

(4) records involved in the performance of the procedures outlined in the *Operations and Maintenance Procedure Manual*.

§7.66. Intrastate Pipeline Facility Construction. Pipelines must be constructed of steel pipe and placed in accordance with the requirements of 49 Code of Federal Regulations Part 195, except that pipeline other than steel may be granted special exceptions by following the filing procedures in 49 Code of Federal Regulations Part 195, and submitting them to the commission for approval.

§7.67. Corrosion Control Requirements. The following requirements are applicable to the installation and construction of new pipeline metallic systems, the relocation or replacement of existing facilities, and the operation and maintenance of steel pipe-

lines. These requirements shall become mandatory one year following the effective date of these hazardous liquids pipeline safety rules.

(1) Atmospheric corrosion control. Each aboveground pipeline or portion of pipeline exposed to the atmosphere must be cleaned and coated or jacketed with material suitable for the prevention of atmospheric corrosion. For onshore pipelines, the intervals between inspections shall not exceed five years; for offshore pipelines, re-evaluations are required at least once each calendar year, with intervals not to exceed 15 months.

(2) Coatings. All coated pipe used for the transport of hazardous liquids shall be electrically inspected prior to placement, using coating deficiency (holiday) detectors to check for any faults not observable by visual examination. The holiday detector shall be operated in accordance with manufacturer's instructions and at a voltage level appropriate for the electrical characteristics of the pipeline system being tested.

(3) Installation. Joints, fittings, and tie-ins shall be coated with material(s) compatible with the coating(s) on the pipe.

(4) Cathodic protection test stations. Each cathodically protected pipeline must have test stations or other electrical measurement contact points sufficient to determine the adequacy of cathodic protection. These locations shall include, but are not limited to, pipe casing installations and/or foreign metallic structure crossings. Test stations (electrode locations) used when taking pipe-to-soil readings for determining cathodic protection shall be selected to give representative pipe-to-soil readings. Readings taken at test stations (electrode locations) over or near one or more anodes shall not, by themselves, be considered representative.

(A) All test lead wire attachments and bared test lead wires shall be coated with an electrically insulating material. Where the pipe is coated, the insulation of the test lead wire material should be compatible with the pipe coating and wire insulation.

(B) Cathodic protection systems must meet or exceed the minimum criteria set forth in *Criteria For Cathodic Protection* of the most current edition of the National Association of Corrosion Engineers (NACE) Standard RP-01-69.

(5) Monitoring and inspection.

(A) Each cathodic protection rectifier or impressed current power source must be inspected at least six times each calendar year, with intervals not to exceed 2½ months, to ensure that it is operating properly.

(B) Each reverse-current switch, diode, and interference bond whose failure would jeopardize structure protection must be checked electrically for proper performance six times each calendar year, with intervals not to exceed 2½ months. Each re-

maining interference bond must be checked at least once each calendar year, with intervals not to exceed 15 months.

(C) Each operator shall utilize right-of-way inspections to determine areas where interfering currents are suspected. In the course of these inspections, personnel should be alert for electrical or physical conditions which could indicate interference from a neighboring source. Whenever suspected areas are identified, the operator must conduct appropriate electrical tests within six months to determine the extent of interference and take appropriate action.

(6) Remedial action. Each operator shall take prompt remedial action to correct any deficiencies observed during monitoring.

§7.68. Enforcement. Following reasonable notice, the Pipeline Safety Section may inspect the books and records of each operator at any reasonable time to ensure compliance with the provisions of these hazardous liquids pipeline safety rules.

(1) Each operator or its officers, employees, or representatives shall make readily available to the authorized representative of the Pipeline Safety Section all files, records, and other documents required to be maintained by these hazardous liquids pipeline safety rules and/or the 49 Code of Federal Regulations Part 195, in addition to other documents which reasonable may be required to determine compliance with the provisions of these hazardous liquids pipeline safety rules or aid in the investigation of any accident or incident involving hazardous liquids.

(2) The plant, property, and facilities of each operator shall be made readily accessible to the authorized representative of the Pipeline Safety Section in the administration and enforcement of these hazardous liquids pipeline rules as well as the investigation of violations, alleged violations, accidents, or incidents involving intrastate pipeline facilities.

(3) Each operator shall provide such additional reports, data and/or information as the commission may from time to time reasonably require in the administration and enforcement of the provisions of these hazardous liquids pipeline safety rules.

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-858650

Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Effective date: October 8, 1985

Proposal publication date: March 19, 1985

For further information, please call
(512) 463-7149.

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Part IV. Texas Department of Labor and Standards

Chapter 65. Boiler Division Administration

★ 16 TAC §65.22

The Texas Department of Labor and Standards adopts an amendment to §65.22, without changes to the proposed text published in the April 5, 1985, issue of the *Texas Register* (10 TexReg 117).

The amendments provide for the safer operation of safety and relief valves which are repaired in Texas. The amendments provide for more comprehensive and detailed methods of repairing safety refill valves and regulate these companies able to perform the safe repair of safety relief valves

The cost of compliance with the section for small business will be for a special inspection at \$250 a day or \$175 for a half-day plus travel and per diem as established by the legislature. The cost of the Texas valve repair (TVR) certificate of authorization and special inspection service will relate to the volume of work produced regardless of company size.

The amendments are adopted under Texas Civil Statutes, Article 5521c, which provide the commissioner of the department with the authority to promulgate and enforce a code of rules and regulations in keeping with the standard usage for the construction, inspection, installation, use, maintenance, repair, alteration, and operation of boilers.

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 17, 1985.

TRD-858672

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

Effective date: October 8, 1985

Proposal publication date: April 5, 1985

For further information, please call
(512) 476-0165.

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TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 1. Texas Board of Health

Formal Hearing Procedures

★ 25 TAC §1.29

The Texas Department of Health adopts an amendment to §1.29, without changes

to the proposed text published in the July 26, 1985, issue of the *Texas Register* (10 TexReg 2398).

The amendment reduces the cost of state government by requiring appellants and not the taxpayers of the state to bear the cost of the agency preparing records of hearings when agency hearing decisions are appealed to the district court.

The major change which the amendment produces will be to allow the department to assess the cost of preparing a hearing record to the appealing party in the event of an appeal of a hearing decision to the district court.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4414b, §1.05, which authorize the Texas Board of Health to adopt rules covering its duties and procedures; Article 6252-13a, §4, which authorize a state agency to adopt rules of practice setting forth the nature and requirements of all formal and informal procedures available, Article 6252-13a, §13, which authorize a state agency to pay the cost of a transcript which has been requested by a party or to assess the cost to one or more parties, and Article 6252-13a, §19, which authorize a state agency to assess the cost of a hearing record or part of it to the appealing party in the event of an appeal to a district court.

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-858546

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

Effective date: October 7, 1985

Proposal publication date: July 26, 1985

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

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TITLE 28. INSURANCE Part I. State Board of Insurance

Chapter 3. Life, Accident, and Health Insurance, and Annuities

Subchapter P. Annuity Mortality Tables

★ 28 TAC §§3.1501-3.1505

The State Board of Insurance adopts new §§3.1501-3.1505 (Rules 059.03.28.301-.305), without changes to the proposed text published in the June 11, 1985, issue of the *Texas Register* (10 TexReg 1886).

Sections 3.1501-3.1505 adopt new annuity mortality tables for use in determining reserve liabilities for group and individual annuities and pure endowment contracts. The tables adopted are the 1983 Table "a," which was developed by the Society of Actuaries Committee to recommend a new mortality basis for individual annuity valuation, and adopted as a recognized mortality table for annuities in June 1982 by the National Association of Insurance Commissioners (NAIC), and the 1983 group annuity mortality (GAM) table developed by the Society of Actuaries Committee on annuities and adopted as a recognized mortality table for annuities in December 1983 by the NAIC. The new tables will reflect lower mortality assumptions, which have developed as a result of mortality experience over the last several years. Improved mortality predictions naturally require assumptions for longer payouts for certain annuities (for example, annuities payable for the life of the annuitant). Prudent practice therefore requires that updated tables be adopted in order that reserves held to pay claims on these annuities will be adequate. An additional sheet has been added to the 1983 table "a" which is adopted by reference in order to more completely define it.

One comment was received on the proposal from Metropolitan Life Insurance Company, in a letter dated July 18, 1985. This letter took the position that the two new mortality tables should become mandatory prior to January 1, 1987, as a minimum standard of valuation. The board considered this proposal, but decided to retain the January 1, 1987 mandatory date, since this is only about 16 months in the future. The board felt that an earlier mandatory date would be unduly burdensome for some life insurance companies which are selling annuities.

The new sections are adopted under the Insurance Code, Article 3.28, §4, pursuant to which the State Board of Insurance may adopt any individual or group mortality table for annuities and pure endowments which is adopted after 1980 by the NAIC.

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 17, 1985.

TRD-858556

James W. Norman
Chief Clerk
State Board of
Insurance

Effective date: October 8, 1985

Proposal publication date: June 11, 1985

For further information, please call
(512) 475-2950.

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Chapter 15. Surplus Lines Insurance

★ 28 TAC §15.12

The State Board of Insurance adopts an amendment to §15.12 (Rule 095.01.14.021), with changes to the proposed text in the June 7, 1985, issue of the *Texas Register* (10 TexReg 1854).

Section 15.12 adopts by reference Form F-SBI-SL-5, the surplus lines agent's semiannual tax report. The form is amended to delete the words "See Instruction Nos. 1 & 3" and "See Instruction Nos. 1 & 2." These references were inadvertently left in the form when the section adopting it by reference was amended. The references are to instructions which were formerly contained in the forms, but are no longer there. There is one minor change from the amendment as proposed where the word "required" is added before "under" in the first sentence of the subsection (a) of the section.

No comments were received on the proposal.

This amendment is adopted under the Insurance Code, Article 1.14-2, §12, which requires surplus lines agents to file semiannual tax reports with the board; Article 1.10(9), which requires the board to furnish blank forms for statements required to be filed with the board; and the Insurance Code, Article 1.04, and Texas Civil Statutes, Article 6252-13a, §4, pursuant to which the board may adopt rules which are necessary for it to carry out its statutory function.

§15.12. Uniformity of Reporting Forms.

(a) Information and memorandums required under Article 1.14-2, and required by these sections relating to surplus lines insurance, shall be submitted on the forms listed in paragraphs (1)-(5) of this subsection. These forms and Form F-SBI-SL-1 are adopted herein by reference and are made a part of these sections in order to establish uniformity of records and to facilitate the orderly processing of required information.

(1)-(3) (No change.)
(4) surplus lines agent's semian-
nual tax report-Form F-SBI-SL-5 (revise
1985);

(5) (No change.)

(b) (No change.)

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

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

TRD-858624

James W. Norman
Chief Clerk
State Board of
Insurance



Effective date: October 7, 1985
Proposal publication date: June 7, 1985
For further information, please call
(512) 476-2950.

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, October 7, 1985. The Texas Department of Agriculture will conduct public hearings in Room 618, Stephen F. Austin Building, 1700 North Congress, Austin. Times and agendas follow.

8:30 a.m. Proposed changes concerning fees charged for examination given to commercial and noncommercial pesticide license applicants and annual license fees for commercial and noncommercial pesticide applicators.

10:30 a.m. Proposed changes concerning fees to test for aflatoxin in agricultural products and fees for issuance of a phytosanitation certificate.

2 p.m. Proposed changes concerning assessment and collection of fees for registering weighing and measuring devices.

Contact: Dolores Alvarado Hibbs, P.O. Box 1247, Austin, Texas 78711, (512) 463-7583.

Filed: September 18, 1985, 8:57 a.m.
TRD-858481-858483

Tuesday, October 8, 1985, 8:30 a.m. The Texas Department of Agriculture will meet in Room 618, Stephen F. Austin Building, 1700 North Congress, Austin. According to the agenda, the department will conduct a public hearing to receive comments regarding proposed changes concerning certification and nursery/floral inspection fees.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: September 18, 1985, 8:57 a.m.
TRD-858584

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State Bar of Texas

Thursday, September 26, 1985, 11 a.m. The Executive-Budget Committee of the State Bar of Texas will meet in the Texas Law Center, 1414 Colorado Street, Austin. Items on the agenda summary include a report of the president concerning general items, the

MCLE report, interest on the lawyers trust account, and executive director compensation; report of president-elect; budgetary matters; reports of executive director, Supreme Court liaison, and general counsel; presentation of a proposal for conference by Crime Victims and Witnesses Committee; request for state bar endorsement of constitutional amendments for the Texas water plan by section on environmental and natural resources law; and reports of Board Committee on Goals and Implementation and Board Committee on Scope and Correlation.

Contact: Evelyn Avent, 1414 Colorado Street, Austin, Texas 78701, (512) 475-4746.

Filed: September 18, 1985, 2:06 p.m.
TRD-858596

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Battleship Texas Advisory Board

Saturday, September 21, 1985, 1 p.m. The Battleship Texas Advisory Board met in emergency session at the Battleship Texas, 3527 Battleground Road, La Porte. Items on the agenda included approval of minutes, discussion of expenses, approval of expenses, report on fundraising, discussion of policy adoption, and discussion of plans for the Texas veterans reunion. The board also met in executive session. The emergency status was necessary to discuss fundraising.

Contact: W. Douglas Williams, P.O. Box 1986, Bellaire, Texas 77401, (713) 783-8109.

Filed: September 17, 1985, 8:45 a.m.
TRD-858595

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Texas Commission for the Blind

Friday, September 27, 1985, 12:15 p.m. The Board Committee on Policy Study of the Texas Commission for the Blind will meet in Suite 512, 314 West 11th Street, Austin. According to the agenda, the subcommittee will review and discuss all existing

policies of the agency and board procedures for conducting meetings.

Contact: Jean Wakefield, 314 West 11th, Suite 400, Austin, Texas 78711, (512) 475-6810.

Filed: September 17, 1985, 1:55 p.m.
TRD-858555

Friday, September 27, 1985, 1 p.m. The Board of the Texas Commission for the Blind will meet via conference call originating in Room 400, Travis County Administration Building, 314 West 11th Street, Austin. According to the agenda, the board will discuss and act on capital purchases for the remainder of the federal fiscal year 1985.

Contact: Jean Wakefield, P.O. Box 12866 Austin, Texas 78711, (512) 475-6810.

Filed: September 18, 1985, 2:37 p.m.
TRD-858598

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Texas Economic Development Commission

Tuesday, September 24, 1985, 10 a.m. The Texas Small Business Industrial Development Corporation of the Texas Economic Development Commission will meet in emergency session in Room 201, 8008 Cedar Springs, Dallas. Items on the agenda include the approval of minutes; consideration and action on projects requesting an inducement resolution for Robert B. Odum and Jo Anne Tortorice-Odom as individuals, \$465,000; HMW, a Texas general partnership, \$650,000; Bassett Storage Park Ltd., \$700,000; Abox Paperboard Company, \$385,000; Cecil L. and Dorothy J. Armstrong, \$300,000; Bank of Austin, \$750,000; Lambert J. and Jeanett Bodecues, \$750,000; Data Distributors, \$400,000; R & M Sanden Joint Venture, \$680,000; and consider an update on the TSBIDC/CAPITAL Program. The emergency status is necessary because timely approval of projects for inducement will in-

sure projects of closing dates within the required period.

Contact: John H. Kirkley, P.O. Box 12728, Austin, Texas 78711, (512) 472-5059.

Filed: September 18, 1985, 10:08 a.m.
TRD-858585

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Texas Employment Commission

Monday, September 23, 1985, 8:30 a.m. The Texas Employment Commission (TEC) submitted an emergency revised agenda for a rescheduled meeting held in Room 644, TEC Building, 101 East 15th Street, Austin. Items on the agenda included prior meeting notes; internal procedures of commission appeals, consideration and action on tax liability cases and higher level appeals in unemployment compensation cases listed on commission Docket 39; and set date of next meeting. The meeting was scheduled to be held on September 24, 1985. The emergency status was necessary because of the need to dispose of the cases in accordance with federal guidelines and conflicting nature of the commission's calendar.

Contact: Courtenay Browning, 101 East 15th Street, Austin, Texas 78778, (512) 463-2226.

Filed: September 18, 1985, 1:53 p.m.
TRD-858594

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Commission on Fire Protection Personnel Standards and Education

Thursday, September 26, 1985, 10 a.m. The Fire Prevention Committee will meet in Suite 406, 510 South Congress, Austin. Items on the agenda include consideration of proposed new standards for fire fighter/fire inspector, and a report on the recommendations to the full commission.

Contact: Ray L. Goad, 510 South Congress, Suite 406, Austin, Texas 78704, (512) 474-8066.

Filed: September 17, 1985, 4:25 p.m.
TRD-858573

Thursday, September 26, 1985, 11 a.m. The Arson Investigation Committee of the Commission on Fire Protection Personnel Standards and Education will meet in Suite 406, 510 South Congress, Austin. According to the agenda, the committee will consider developing standards for fire fighter/arson investigator certification, and will report their recommendations to the full commission.

Contact: Ray L. Goad, 510 South Congress, Suite 406, Austin, Texas 78704, (512) 474-8066.

Filed: September 17, 1985, 4:25 p.m.
TRD-858574

Thursday, September 26, 1985, 1:30 p.m. Items on the agenda summary include minutes of July 10, 1985, meeting; Fire Prevention and Arson Investigation Committee reports; new rules relating to individuals possessing certification in more than one discipline; new proposed rules for certification fees and annual renewal fees; comments from interested parties; and selection of an individual for Admin Tech IV position.

Contact: Ray L. Goad, 510 South Congress, Suite 406, Austin, Texas 78704, (512) 474-8066.

Filed: September 17, 1985, 4:25 p.m.
TRD-858575

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Texas Department of Health

Friday, October 11, 1985, 2 p.m. The Hospital Licensing Advisory Council of the Texas Department of Health will meet in Conference Room T-604, 1100 West 49th Street, Austin. Items on the agenda summary include approval of the May 4, 1985, minutes; Hospital Transfer Act rules; hospital licensing standards in Chapter 1; election of officers; and discussion of the subject matter for the next council meeting.

Contact: Gerald Guthrie, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7531.

Filed: September 18, 1985, 3:38 p.m.
TRD-858622

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State Department of Highways and Public Transportation

Thursday and Friday, September 26 and 27, 1985, 9 a.m. daily. The State Highways and Public Transportation Commission of the State Department of Highways and Public Transportation will meet in the auditorium, Room 101, first floor, Dewitt C. Greer Building, 11th and Brazos Street, Austin. Items on the agenda summary include presentations by the public for various highway, bridge, and FM road requests for Tarrant County, Travis County, Galveston County, Kaufman County, and Williamson County; execution of contract awards and routine minute orders; decisions on presentations from the public hearing dockets; and staff reports relative to planning and construction programs and projects. The agenda is available in the second floor office of

the minute clerk in the Dewitt C. Greer Building.

Contact: Lois Jean Turner, 11th and Brazos Streets, Austin, Texas 78701, (512) 475-3525.

Filed: September 18, 1985, 2:57 p.m.
TRD-858599

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University of Houston System

Tuesday, September 24, 1985, 2 p.m. The Board of Regents of the University of Houston System will meet in Room 510, 4600 Gulf Freeway, Houston. Items on the agenda summary include awarding various contracts; a request to change the name of the Student Life Building; relocation of an easement; personnel recommendations; the policy for faculty illness leave; guidelines for rules and regulations concerning administration of scholarships; a Doctor of Philosophy in pharmaceuticals; 1985-1986 catalogs; dual employment compliance record and finding request; change in title; peace officers to be commissioned; the voice/data telecommunications system; establishment of an endowment fund; various reports; audits; amendment of the bylaws; contract guidelines; board action establishing the Intercollegiate Athletic Council; and Special Events Council guidelines and membership.

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

Filed: September 18, 1985, 10:52 a.m.
TRD-858587

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State Board of Insurance

Wednesday, September 25, 1985, 9 a.m. The State Board of Insurance will meet in Room 414, 1110 San Jacinto, Austin. Items on the agenda include petition of St. Paul Fire and Marine Insurance Company and St. Paul Insurance Company to classify errors and omissions coverage for insurance agents as professional liability insurance within contemplation of the Insurance Code, Article 5.13; petition of Utica Mutual Insurance Company to classify licensed insurance brokers and agents as professionals and to exempt their liability insurance from regulation pursuant to the Insurance Code, Article 5.13, Subchapter B; petition of American Home Assurance Company to classify professional liability insurance for life insurance agents as exempt from regulation; petition of American Home Assurance Company to classify professional liability insurance for property/casualty agents as exempt from regulation; and petition of American Home Assurance Company to

classify professional liability insurance for psychologists as exempt from regulation.

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

Filed: September 17, 1985, 3:32 p.m.
TRD-858564

Wednesday, September 25, 1985, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the section will conduct a public hearing in Docket 9083—application of Andrew Anderson Williams, Plano, for a legal reserve life insurance agent's license.

Contact: Staci Copelin, 1110 San Jacinto Street, Austin, Texas 78786, (512) 463-6498.

Filed: September 17, 1985, 10:04 a.m.
TRD-858552

Thursday, September 26, 1985. The State Board of Insurance will meet in Room 414, 1110 San Jacinto, Austin. Times and agendas follow.

9 a.m. The board will hold a public hearing to consider a petition by Nova Health Systems for eligibility to obtain insurance coverage from the Texas Medical Liability Insurance Underwriting Association.

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

Filed: September 17, 1985, 3:32 p.m.
TRD-858565

1:30 p.m. The board will consider a proposal for decision in the appeal of Joe Celli from action of the Texas Catastrophe Property Insurance Association; board orders on several different matters as itemized on the complete agenda; the fire marshal's report concerning personnel matters; the commissioner's report concerning personnel matters; an employee complaint procedure; pending litigation; personnel manual revisions; a report on safety inspection of State Board of Insurance buildings; and an annual job safety seminar.

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

Filed: September 17, 1985, 3:33 p.m.
TRD-858566

Additions to the previous agenda:

The commissioner's report concerning an appointment of an advisory committee to evaluate all agents licensing statutes and to bring proposed statutory changes to the board.

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

Filed: September 18, 1985, 10:16 a.m.
TRD-858586

The commissioner's report on a draft of a proposed bulletin to be sent to all accident

and health insurers and health maintenance organizations authorized to do business in Texas concerning provisions of Senate Bill 544, 69th Legislature, 1985.

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

Filed: September 18, 1985, 3:26 p.m.
TRD-858619

Monday, September 30, 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 conduct a public hearing in Docket 9051—proposed plan of merger of AC Merger Life Insurance Company, Houston, into American Capitol Insurance Company, Houston.

Contact: Staci Copelin, 1110 San Jacinto Street, Austin, Texas 78786, (512) 463-6498.

Filed: September 18, 1985, 4:41 p.m.
TRD-858632

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Texas Department of Labor and Standards

Tuesday, October 1, 1985, 9 a.m. The Manufactured Housing Division of the Texas Department of Labor and Standards will meet at 3014 Sandage, Fort Worth. According to the agenda, the division will conduct informal hearings of various consumer complaints regarding manufactured homes which do not comply with Texas Civil Statutes, Article 5221f.

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

Filed: September 18, 1985, 2:57 p.m.
TRD-858600

Tuesday, October 2, 1985, 9 a.m. The Manufactured Housing Division of the Texas Department of Labor and Standards will meet in Suite 3117, 800 Broadway, Lubbock. According to the agenda, the division will conduct informal hearings of various consumer complaints regarding manufactured homes which do not comply with Texas Civil Statutes, Article 5221f.

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

Filed: September 18, 1985, 2:58 p.m.
TRD-858601

Wednesday, October 2, 1985, 9 a.m. The Manufactured Housing Division of the Texas Department of Labor and Standards will meet in Room 4005, G. J. Sutton Building, 321 Center Street, San Antonio. According to the agenda, the division will conduct informal hearings of various consumer complaints regarding manufactured homes which do not comply with Texas Civil Statutes, Article 5221f.

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

Filed: September 18, 1985, 2:58 p.m.
TRD-858602

Wednesday, October 2, 1985, 9 a.m. The Manufactured Housing Division of the Texas Department of Labor and Standards will meet in Room 105, E. O. Thompson Building, 920 Colorado, Austin. According to the agenda, the division will consider license and registrations, suspensions, and alleged violations of various rules and regulations of the department.

Contact: Craig Sandling, P.O. Box 12157, Austin, Texas 78711, (512) 475-0155.

Filed: September 18, 1985, 2:58 p.m.
TRD-858603

Thursday, October 3, 1985, 9 a.m. The Manufactured Housing Division of the Texas Department of Labor and Standards will meet at in Suite 209, 4615 North Freeway, Houston. According to the agenda, the division will conduct informal hearings of various consumer complaints regarding manufactured homes which do not comply with Texas Civil Statutes, Article 5221f.

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

Filed: September 18, 1985, 2:58 p.m.
TRD-858604

Thursday, October 3, 1985, 9 a.m. The Manufactured Housing Division of the Texas Department of Labor and Standards will meet in Room 105, E. O. Thompson Building, 920 Colorado, Austin. According to the agenda, the division will consider license and registration, suspensions, and alleged violations of various rules and regulations of the department.

Contact: Craig Sandling, P.O. Box 12157, Austin, Texas 78711, (512) 475-0155.

Filed: September 18, 1985, 2:59 p.m.
TRD-858605

Monday, October 7, 1985, 9 a.m. The Manufactured Housing Division of the Texas Department of Labor and Standards will meet in Suite 209, 4615 North Freeway, Houston. According to the agenda, the division will consider license and registration, suspensions, and alleged violations of various rules and regulations of the department.

Contact: Craig Sandling, P.O. Box 12157, Austin, Texas 78711, (512) 475-0155.

Filed: September 18, 1985, 2:59 p.m.
TRD-858606

Tuesday, October 8, 1985, 9 a.m. The Manufactured Housing Division of the Texas Department of Labor and Standards will meet in Suite 209, 4615 North Freeway, Houston. According to the agenda, the division will consider license and registration, suspensions, and alleged violations of var-

ious rules and regulations of the department.

Contact: Craig Sandling, P.O. Box 12157, Austin, Texas 78711, (512) 475-0155.

Filed: September 18, 1985, 2:59 p.m.
TRD-858607

Tuesday, October 8, 1985, 9 a.m. The Manufactured Housing Division of the Texas Department of Labor and Standards will meet in Suite 109, 810 North Dixie Boulevard, Odessa. According to the agenda, the division will conduct informal hearings of various consumer complaints regarding manufactured homes which do not comply with Texas Civil Statutes, Article §221f.

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

Filed: September 18, 1985, 2:58 p.m.
TRD-858608

Tuesday, October 8, 1985, 9 a.m. The Manufactured Housing Division of the Texas Department of Labor and Standards will meet in Suite 3322-B, Commerce Square, Southwest Loop 323 South, Tyler. According to the agenda, the division will conduct informal hearings of various consumer complaints regarding manufactured homes which do not comply with Texas Civil Statutes, Article §221f.

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

Filed: September 18, 1985, 2:59 p.m.
TRD-858609

Friday, October 11, 1985, 9 a.m. The Manufactured Housing Division of the Texas Department of Labor and Standards will meet in Suite 3322-B, Commerce Square, Southwest Loop 323 South, Tyler. According to the agenda, the division will consider license and registration, suspensions, and alleged violations of various rules and regulations of the department.

Contact: Craig Sandling, P.O. Box 12157, Austin, Texas 78711, (512) 475-0155.

Filed: September 18, 1985, 3 p.m.
TRD-858610

Tuesday, October 15, 1985, 9 a.m. The Manufactured Housing Division of the Texas Department of Labor and Standards will meet in Room 105, E. O. Thompson Building, 920 Colorado, Austin. According to the agenda, the division will consider license and registration, suspensions, and alleged violations of various rules and regulations of the department.

Contact: Craig Sandling, P.O. Box 12157, Austin, Texas 78711, (512) 475-0155.

Filed: September 18, 1985, 3 p.m.
TRD-858611

Wednesday, October 16, 1985, 9 a.m. The Manufactured Housing Division of the

Texas Department of Labor and Standards will meet in Room 105, E. O. Thompson Building, 920 Colorado, Austin. According to the agenda, the division will consider license and registration, suspensions, and alleged violations of various rules and regulations of the department.

Contact: Craig Sandling, P.O. Box 12157, Austin, Texas 78711, (512) 475-0155.

Filed: September 18, 1985, 3 p.m.
TRD-858612

Thursday, October 17, 1985, 9 a.m. The Manufactured Housing Division of the Texas Department of Labor and Standards will meet in Suite 313, 5353 Maple Avenue, Dallas. According to the agenda the division will consider license and registration, suspensions, and alleged violations of various rules and regulations of the department.

Contact: Craig Sandling, P.O. Box 12157, Austin, Texas 78711, (512) 475-0155.

Filed: September 18, 1985, 3 p.m.
TRD-858613

Monday, October 21, 1985, 9 a.m. The Manufactured Housing Division of the Texas Department of Labor and Standards will meet in Suite 209, 4614 North Freeway, Houston. According to the agenda, the division will consider license and registration, suspensions, and alleged violations of various rules and regulations of the department.

Contact: Craig Sandling, P.O. Box 12157, Austin, Texas 78711, (512) 475-0155.

Filed: September 18, 1985, 3:01 p.m.
TRD-858614

Tuesday, October 22, 1985, 9 a.m. The Manufactured Housing Division of the Texas Department of Labor and Standards will meet in Suite 209, 4615 North Freeway, Houston. According to the agenda, the division will consider license and registration, suspensions, and alleged violations of various rules and regulations of the department.

Contact: Craig Sandling, P.O. Box 12157, Austin, Texas 78711, (512) 475-0155.

Filed: September 18, 1985, 3:01 p.m.
TRD-858615

Wednesday, October 23, 1985, 9 a.m. The Manufactured Housing Division of the Texas Department of Labor and Standards will meet in Room 105, E. O. Thompson Building, 920 Colorado, Austin. According to the agenda, the division will consider license and registration, suspensions, and alleged violations of various rules and regulations of the department.

Contact: Craig Sandling, P.O. Box 12157, Austin, Texas 78711, (512) 475-0155.

Filed: September 18, 1985, 3:01 p.m.
TRD-858616

Friday, October 25, 1985, 9 a.m. The Manufactured Housing Division of the Texas Department of Labor and Standards will meet at 3014 Sandage, Fort Worth. According to the agenda, the division will consider license and registration, suspensions, and alleged violations of various rules and regulations of the department.

Contact: Craig Sandling, P.O. Box 12157, Austin, Texas 78711, (512) 475-0155.

Filed: September 18, 1985, 3:01 p.m.
TRD-858617

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Texas State Board of Public Accountancy

Thursday, September 26, 1985, 9:30 a.m. The Enforcement Committee of the Texas State Board of Public Accountancy will meet in Suite 340, 1033 La Posada, Austin. According to the agenda summary, the committee will conduct a review of the workload and complaints.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752.

Filed: September 17, 1985, 3:45 p.m.
TRD-858571

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Public Utility Commission of Texas

Friday, September 20, 1985, 10 a.m. The Hearings Division of the Public Utility Commission of Texas met in emergency session in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the division discussed pending litigation matters. The emergency status was necessary because immediate action in pending litigation was needed.

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

Filed: September 18, 1985, 3:21 p.m.
TRD-858623

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

Thursday, September 26, 1985, 9 a.m. Dockets 6149, 6220, 6301, 6027, 6425, 6396, 6320, 6308, 6290, 5000, 5073, 5185, 6002, 5307, 6258, 6245, 6322, 5602, 5689, 5797, 5845, 5866, 5887, 5943, 6042, 6044, 6085, 6119, 6243, 6296, 6345, 6400, and 6418. The division also will meet in executive session to consider pending litigation and personnel matters.

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

Filed: September 18, 1985, 3:21 p.m.
TRD-858624

Thursday, September 26, 1985, 1:30 p.m. A prehearing conference has been scheduled in Docket 6375—application of Central Power and Light Company for authority to change rates.

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

Filed: September 18, 1985, 3:21
TRD-858625

Friday, September 27, 1985, 10 a.m. A second prehearing conference in Docket 6465—petition of Southwestern Public Service Company for authority to change rates.

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

Filed: September 18, 1985, 3:21 p.m.
TRD-858626

Friday, September 27, 1985, noon. A prehearing conference in Docket 6350—application of El Paso Electric Company for authority to change rates.

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

Filed: September 17, 1985, 2:57 p.m.
TRD-858562

Monday, September 30, 1985, 2 p.m. A prehearing conference in Docket 6476—application of Glenwood Acres water system for a rate increase within Upshur County.

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

Filed: September 18, 1985, 3:22 p.m.
TRD-858627

Monday, October 7, 1985, 1:30 p.m. A prehearing conference in Docket 6477—inquiry of the Public Utility Commission of Texas concerning the fixed fuel factor of Gulf States Utilities Company.

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

Filed: September 18, 1985, 3:22 p.m.
TRD-858628

Monday, December 16, 1985, 9 a.m. A hearing on the merits in Docket 6465—petition of Southwestern Public Service Company for authority to change rates.

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

Filed: September 18, 1985, 3:21 p.m.
TRD-858629

Thursday, January 30, 1986, 10 a.m. A hearing on the merits in Dockets 6225, 6313, and 6344—petition of the City of San Marcos for a cease and desist order against Crystal Clear Water Supply Corporation;

the application of Crystal Clear Water Supply Corporation to amend its certificate of convenience and necessity within Hays County; and applications of the City of San Marcos to amend its certificate of convenience and necessity within Hays and Caldwell Counties.

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

Filed: September 17, 1985, 2:57 p.m.
TRD-858563

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State Purchasing and General Services Commission

Thursday, September 26, 1985, 10 a.m. The State Purchasing and General Services Commission will meet in room 916, LBJ Building, 111 East 17th Street, Austin. According to the agenda, the commission will consider a report on financial disclosures by state employees required by General Appropriations Act, Article V (general provisions), §86; a maintenance and operations report on the William B. Travis Building and John H. Winters Complex; status of parking problems with parking Garage D; publication of proposed rule changes to effect a repeal of existing commission rules in 1 TAC §§111.41-111.43 and adoption of new §111.41, concerning parking and traffic violations, §111.42, concerning forfeiture of parking permit, and §111.43, concerning removal and impounding of vehicles; a report from the state auditor's office on an audit of the Purchasing Division; a report on a memorandum of understanding with Texas Department of Corrections concerning new construction; and a report on the status of a bond sale by the Texas Public Building Authority.

Contact: John Neel, P.O. Box 13047, Austin, Texas 78711, (512) 475-2211.

Filed: September 17, 1985, 3:42 p.m.
TRD-858570

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Texas Rehabilitation Commission

Monday, September 30, 1985, 1:30 p.m. The Governor's Committee for Disabled Persons will meet in Room 101B, 158 East Riverside Drive, Austin. Items on the agenda include approval of minutes; governor's office liaison report; executive director and chairperson's report; report on administrative support; LULAC task force on disabled hispanic persons; Dallas computer programmer training report; consideration of Houston for computer programmer train-

ing; subcommittee meetings; subcommittee reports; employment conference and awards luncheon to be held October 1, 1985, at the Wyndham Hotel, Austin.

Contact: Virginia Roberts, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8272.

Filed: September 19, 1985, 8:58 a.m.
TRD-858637

Texas A&M University System

Sunday, September 22, 1985. Committees of the Board of Regents of the Texas A&M University System (TAMUS) met at the MSC Annex, Texas A&M University, College Station. Times, committees, and agendas follow.

9:30 a.m. The Committee for Service Units conducted an inspection tour of plant growth facilities and the proposed site for the Aquaculture Center and considered appropriation of funds for rehabilitation of the Hoblitzelle Farm, Texas Agriculture Experiment Station; granting of titles of emeritus, Texas Agricultural Extension Service; approval to release a portion of leased experimental forest in Newton County to Temple-EasTex, Inc., lessor, Texas Forest Service.

1:45 p.m. The Committee for Academic Campuses considered granting of emeritus titles for Texas A&M University (TAMU); adoption of a resolution honoring Dr. John Mack Prescott for TAMU; and appropriation of funds for TAMU and Texas Southern University (TSU).

1:50 p.m. The Name Selection Committee considered naming of facilities at TAMUS.

2 p.m. The Executive Committee considered the sale of an oil, gas, and sulphur lease for TAMUS; an appointment outside TAMUS; budget and fiscal changes and personnel actions for TAMUS; recommendations for academic tenure, appointments and promotions, terminations of employment, acceptance of gifts, loans, grants, and bequests for TAMUS; employment beyond age 70 for TAMU; appointment of a vice president for Prairie View A&M University (PVAMU); appointment of a dean for PVAMU and TSU; authorization for a car allowance for the president of TSU; appropriation of funds for TSU; authorization to execute the Houston Pipeline Company right-of-way easement for TAMU at Galveston (TAMUG); approval to rehire a retired employee at a rate greater than preretirement for the Texas Engineering Experiment Station (TEES); consideration of land matters for TAMUS; naming of facilities and road for TAMUS; consideration of litigation for TAMUS; consideration of personnel matters for TAMUS; and implementation of the five-year plan (1986-1990) for the parts of the TAMUS.

2:30 p.m. The Planning and Building Committee cancellation of unexpended balances of appropriations for TAMUS; a report on contract actions by the chancellor for TAMUS; report of contract actions by the deputy chancellor or presidents for TAMUS; initiation of major construction projects for TAMUS; action on bids for TAMU, TAES, and TEES; appropriations for preliminary and detailed designs for TAMU; and appropriation for electrical power distribution and lights for PVAMU. PVAMU.

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

Filed: September 18, 1985, 10:50 a.m.
TRD-858588-858592

Monday, September 23, 1985, 2 p.m. The Board of Regents of the Texas A&M University System met at the MSC Annex, Texas A&M University, College Station. Items on the agenda include construction for TAMUS; appropriation of funds for TAES, TAMU, and TSU; granting of emeritus titles for TAEX and TAMU; consideration of land matters for TFS and TAMUS; adoption of a resolution for TAMU; naming of facilities and roads for TAMUS; the sale of an oil, gas, and sulphur lease for TAMUS; an appointment outside TAMUS; recommendations for academic tenure, appointments and promotions, terminations of employment, acceptance of gifts, loans, grants, and bequests for TAMUS; employment beyond age 70 for TAMU; appointment of a vicepresident for Prairie View A&M University (PVAMU); appointment of a dean for PVAMU and TSU; authorization for a car allowance for the president of TSU; appropriation of funds for TSU; authorization to execute the right-of-way easement for TAMUG; approval to rehire a retired employee at a rate greater than preretirement for TEES; consideration of litigation for TAMUS; consideration of personnel matters, TAMUS; and implementation of the five-year plan (1986-1990) for the parts of the TAMUS.

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

Filed: September 18, 1985, 10:50 a.m.
TRD-858593

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Texas Board of Veterinary Medical Examiners

Sunday and Monday, September 29 and 30, 1985, 1 p.m. daily. The Texas Board of Veterinary Medical Examiners will meet in the Sheraton-Crest Hotel, 101 East First Street, Austin. According to the agenda, the board will discuss practice complaints and general board business and conduct formal licensure hearings.

Contact: Roger D. Shipman, 3810 Medical Parkway, Suite 119, Austin, Texas 78756, (512) 458-1183.

Filed: September 18, 1985, 8:58 a.m.
TRD-858580

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Texas Water Commission

Wednesday, October 2, 1985, 2 p.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin. According to the agenda, the commission will consider the application by David L. Faldyn, doing business as Shady Oak Farm, for proposed Permit 02780, Fayette County, Colorado River Basin; and a request by Mr. and Mrs. Ralph Franzette and Doug Radcliffe for revocation of Permit 13046-01 of J. P. Tate, Hays County.

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

Filed: September 18, 1985, 2:06 p.m.
TRD-858597

Wednesday, October 23, 1985, 10 a.m. The Texas Water Commission will meet in the municipal courtroom, Policy and Municipal Court Building, 410 North Camp, Seguin. According to the agenda, the commission will consider an application by Structural Metals, Inc., P.O. Box 911, Seguin, Texas 78155, to the Texas Department of Water Resources for an amendment to Permit 1712, which authorizes a discharge of treated process wastewater effluent from a steel products manufacturing plant at a volume not to exceed 120,000 gallons per day. The applicant has requested the following amendments to the permit: delete the mandatory requirement to irrigate an 18.9-acre tract from Outfall 101 and retain the option to irrigate this tract when required; delete the chlorides and sulfates saturation limitations for soil extract samples from the 18.9-acre tract; delete Outfall 003 which monitors stormwater runoff from grass-covered field; raise the maximum pH limitation for stormwater runoff at Outfalls 002 and 004 to 11 standard units. Only the first and third requests have been adopted in this permit and Outfall 004 has subsequently been renumbered 003. Monitoring frequency for saturated soil samples has been reduced from two per year to one per year.

Contact: Christine McKeeman, P.O. Box 13087, Austin, Texas 78711.

Filed: September 17, 1985, 2:12 p.m.
TRD-858557

Tuesday, October 29, 1985, 9 a.m. The Texas Water Commission will meet in the Emergency Medical Services Training Building, 7411 Park Place, Houston. According

to the agenda summary, the commission will consider the application of Howard H. Chen, trustee, 7575 San Felipe, Suite 275, Houston, Texas 77063, to the commission for proposed Permit 13104-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 250,000 gallons per day from the proposed Scarsdale Plaza Wastewater Treatment Plant which is to serve a multi-family residential development.

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

Filed: September 17, 1985, 2:13 p.m.
TRD-858558

Addition to the previous agenda:

The commission will consider the application of Realsec Communities Corporation, 50 Briar Hollow West, Suite 120, Houston, Texas 77027, to the commission for proposed Permit 13113-01, to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 125,000 gallons per day from the proposed Park Green Wastewater Treatment Plant which is to serve the proposed Park Green Subdivision.

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

Filed: September 17, 1985, 2:13 p.m.
TRD-858559

Wednesday, October 30, 1985, 9 a.m. The Texas Water Commission will meet in the commissioners courtroom, Tarrant County Administration Building, 100 East Weatherford, Fort Worth. According to the agenda summary, the commission will consider the application of Baylor-Parkside Lodge of Dallas-Fort Worth, RR 1, Box 223 AB, Argyle, Texas 76226, to the commission for proposed Permit 13102-01, to authorize the disposal of treated domestic sewage effluent by irrigation at a volume not to exceed an average flow of 5,000 gallons per day. The applicant proposes to construct a domestic wastewater treatment facility which is to serve an existing drug rehabilitation center. The facility is to consist of an extended aeration activated sludge system with a chlorination unit; a 250,000 gallon capacity storage pond; and 2.49 acres of agricultural land available for irrigation. Application rates for the irrigated land are not to exceed 2.4 acre-feet per acre per year. No discharge of pollutants into the waters of the state is authorized by this permit.

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

Filed: September 17, 1985, 2:13 p.m.
TRD-858560

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Texas Water Development Board

Thursday, September 19, 1985, 1:30 p.m. The Texas Water Development Board met in emergency session in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Items on the revised agenda included consideration of fiscal year 1986 contract with Texas Department of Health for laboratory services with the proposed contract amount of \$102,100; consideration of a request from Franklin County water district for the board to join in an application to amend Permit 2231 to convert 6,138 acre-feet of industrial water to municipal water; consideration of the extension of the \$924,000 commitment to the City of Corinth from Corinth from October 18, 1985, until December 20, 1985. The emergency status was necessary because the board's programs required the timely utilization of water quality information that contract provided. This matter was heard by the Texas Water Development Board because it was the last meeting of the board before the deadline for submission of a complete application to the Texas Water Commission. This matter was heard by the Texas Water Development Board otherwise the commitment would expire before the board met again.

Contact: Charles E. Nemir, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: September 18, 1985, 4:17 p.m.
TRD-858630

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Regional Agencies

Meetings Filed September 17

The Region VIII Education Service Center, Board of Directors, will meet at the Region VIII Education Service Center, Mount Pleasant, on September 26, 1985, at 7 p.m. Information may be obtained from Scott Ferguson, 100 North Riddle Street, Mount Pleasant, Texas 75455, (214) 572-8552.

The Lubbock Regional Mental Health and Mental Retardation Center, Board of Trustees, met at 3800 Avenue H, Lubbock, on September 23, 1985, at 4:30 p.m. Information may be obtained from Gene Menefee, 1210 Texas Avenue, Lubbock, Texas 79401.
TRD-858553

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Meetings Filed September 18

The Alamo Area Council of Government, Executive Committee, will meet in Room 420, Atlee B. Ayres Building, San Antonio, on September 25, 1985, at 12:30 p.m. Information may be obtained from Al J. Notzon III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (512) 255-5201.

The Clear Creek Watershed Authority, Board, will meet at the Wilson Land Company Building, 101 IH 35, Sanger, on September 24, 1985, at 7 p.m. Information may be obtained from Prentice Preston, Route 1, Box 305, Sanger, Texas 76266, (817) 458-7483.

The Dallas Area Rapid Transit, Service Plan/Work Program, met in emergency session at 601 Pacific Avenue, Dallas, on September 20, 1985, at 2 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75201, (214) 658-6237.

The Central Appraisal District of Johnson County, Board of Directors, will meet at 109 North Main, Cleburne, on September 25, 1985, at 7:30 p.m. Information may be obtained from Don Gilmore, 109 North Main, Cleburne, Texas 76031, (817) 645-3986.

The Lower Rio Grande Valley Development Council, Board of Directors, will meet at the Harlingen Chamber of Commerce, 311 East Tyler, Harlingen, on September 24, 1985, at 1:30 p.m. Information may be obtained from Ken Jones, Texas Commerce Bank Building, Suite 707, 1701 West Highway 83, McAllen, Texas 78501, (501) 682-3481.

The Mills County Appraisal District will meet at Mills County Courthouse, Goldthwaite, on September 26, 1985, at 7:30 p.m. Information may be obtained from Doran E. Lemke, P.O. Box 3565, Goldthwaite, Texas 76844, (915) 648-2253.

The Texas Association of Regional Councils Employee Benefit Plan Agency, Board of Trustees, will meet at the Holiday Inn Convention Center, Beaumont, on September 26, 1985, at 8 a.m. Information may be obtained from Pam K. Weatherby, 508 West 12th Street, Austin, Texas 78701, (915) 563-1061..

The Texas Association of Regional Councils, Board of Directors, will meet at Beaumont Plaza Holiday Inn, Beaumont, on September 27, 1985, at 3 p.m. Information may be obtained from Pam Weatherby, 508 West 12th Street, Austin, Texas 78701, (915) 563-1061.

The Sabine Valley Regional Mental Health and Mental Retardation Center, Board of Trustees, will meet at 810 East Magrill Street, Longview, on September 26, 1985, at 7 p.m. Information may be obtained from Ronald R. Cookston, P.O. Box 6800, Longview, Texas 75608, (214) 297-2191.
TRD-858577

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Meetings Filed September 19

The Edwards County Appraisal District, Appraisal Review Board, will meet at the New County Office Building, Rocksprings, on October 2, 1985, at 1 p.m. Information may be obtained from Jack Weldon, P.O. Box 378, Rocksprings, Texas 78880, (512) 683-2337.

The Rio Grande Valley Municipal Water Authority, Board, will meet in the boardroom, Valley Chamber of Commerce, Brownsville, on September 25, 1985, at 2 p.m. Information may be obtained from E. G. Lantz, 308 Scott Street, Brownsville, Texas 78521, (512) 542-8764.
TRD-858636

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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.

Office of Attorney General Solid Waste Enforcement Notice

Notice is hereby given by the State of Texas of the following proposed resolution of an environmental lawsuit under the Texas Solid Waste Disposal Act, and the Texas Water Quality Act. The following is a summary of the nature of the lawsuit and the proposed agreed judgment. The case title and court are State of Texas v. Quality Service Railcar Corporation and General Electric Railcar Services Corporation, Cause Number 32011, in the District Court of Eastland County, Texas, 91st Judicial District.

The Complaint. Quality Service Railcar is a subsidiary of General Electric Railcar Services Corporation. Quality Service Railcar operates a railcar cleaning and renovation facility in Ranger, Eastland County. Tank cars which have been used to transport hazardous chemicals and other commodities are cleaned out at the facility. The wastewater from the cleaning operations is disposed of in a series of six surface impoundments. The state alleges that Quality Service Railcar failed to obtain a hazardous industrial solid waste permit from the Texas Department of Water Resources. The state also alleges that Quality Service Railcar failed to implement a groundwater monitoring program, properly assess groundwater quality, maintain a plan for closing the facility, and maintain financial assurance for the costs of closing the facility.

The Judgment. Injunctive relief: The proposed agreed final judgment requires the defendants to close all six of its surface impoundments, conduct extensive groundwater monitoring, and take corrective action if any contaminated groundwater is found. The defendants shall pay a civil penalty in the amount of \$195,000. In addition, the defendants shall pay \$5,000 to reimburse the state for investigative costs.

Comments and requests for copies or inspection of the pleadings or judgment may be directed to Nancy Olinger, Texas Attorney General's Office, Environmental Protection Division, P.O. Box 12548, Austin, Texas 78711, (512) 475-1011.

Issued in Austin, Texas, on August 28, 1985.

TRD-858561 Jim Mattox
Attorney General

Filed: September 17, 1985
For further information, please call (512) 475-5445.

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Texas Economic Development Commission Private Activity Bond Allocation Report

Private activity bonds (PABs) which were induced on or after June 19, 1984, are subject to a cap, as stipulated in the Federal Deficit Reduction Act of 1984. This cap is equal to \$150 per capita or approximately \$2.3 billion for the State of Texas for calendar year 1985.

House Bill 690 states that the procedure for allocating this cap will be on a first-come, first-served basis, with the Texas Economic Development Commission (TEDC) being the tracking agency for the program. The information that follows is a summary report of the allocation activity for the week of September 9 - September 13, 1985.

Total unallocated principal amount of
private activity bonds authorized to be allocated
as per the Federal Deficit Reduction Act of 1984
through September 13, 1985:

\$1,610,984,332.12

Comprehensive listing of bond issues which have received
a reservation date as per House Bill 690
during the week of September 9-13, 1985:

<u>Issuer</u>	<u>User</u>	<u>Amount</u>
West Texas Higher Education Authority, Inc.	West Texas Higher Education Authority, Inc.	\$45 million
Greater East Texas Higher Education Authority, Inc.	Greater East Texas Higher Education Authority, Inc.	\$60 million
Trinity River Industrial Development Authority	Ramsey Laboratories, Inc.	\$2.2 million

Total principal amount of private activity bonds
issued through September 13, 1985;

\$621,785,310.63

Comprehensive listing of bonds issued as per House Bill 690 during the week of September 9-13, 1985:

<u>Issuer</u>	<u>User</u>	<u>Amount</u>
Tomball Industrial Development Corporation	S.O.G., Inc.	\$1.4 million
Texas Small Business Industrial Development Corporation	All-State Packing Company	\$750,000

Issued in Austin, Texas, on September 17, 1985.
TRD-858554 Rebecca J. Hefflin
Associate Director
Texas Economic Development Commission

Filed: September 17, 1985
For further information, please call (512) 472-8088.

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Texas Department of Human Services Consultant Contract Awards

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Human Services (DHS) furnishes this notice of consultant contract awards. The request for proposals was published in the April 30, 1985, issue of the *Texas Register* (10 TexReg 1375).

Description of Services. Contractors will provide one of the following services: psychological testing and therapeutic counseling for abused and neglected children and their families who are clients of the Texas Department of Human Services' Protective Services for Children Program.

Name of Contractors and Value of Contracts. Contractors selected are David Poole, Ph.D., 4404 Burnet Road, Austin, 78756—\$20,020; Betty Miles, CSW-ACP, 3724 Jefferson, Suite 221, Austin, 78731—\$22,000.

Effective Date of Contracts. The contracts began September 1, 1985, and will end on August 31, 1987.

Due Date of Reports. Reports will be provided on an individual basis as needed in accordance with requirements of the contract.

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

TRD-858535 Marlin W. Johnston
Commissioner
Texas Department of Human Services

Filed: September 16, 1985
For further information, please call (512) 450-3768.

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In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Human Services (DHS) furnishes this notice of consultant contract awards. The request for proposals was published in the April 30, 1985, issue of the *Texas Register* (10 TexReg 1375).

Description of Services. The contractors will provide one or more of the following services: psychological testing, evaluation, and counseling; and parent education/training to abused and neglected children and their families.

Name of Contractors and Value of Contracts. The contractors will provide services to one or more of the following counties: Dallas, Collin, Fannin, Cooke, Wise, Navarro, Ellis, Rockwall, Denton, Kaufman, Johnson, Hunt, and Tarrant Counties. The contractors selected to provide services are: Dr. Joan W. Garner, 2828 Forest Lane, Dallas, 75234—\$30,000; Dallas Child Guidance, 2101 Welborn, Dallas, 75219—\$292,500; Dr. John A. Zervopoulos, Carillon Towers West, Suite 304 W, 13601 Preston Road, Dallas, 75240—\$20,000; Dr. Mark R. Otis, 2828 Forest Lane, Suite 1147, Dallas, 75234—\$20,000; Dr. William R. Hester, 10990 Switzer, Suite 204, Dallas, 75238—\$20,000; Dr. Alvin Smith, Carillon Towers West, Suite 217, Dallas, 75240—\$20,000; Dr. Allyn Kale Hale, 8330 Meadow Road, Suite 118, Dallas, 75231—\$25,000; Dr. Joann Ondrovik, 579 De Shong Drive, Paris—\$23,805; Dr. Thomas A. Van Hoose, 1509 Main Street, Suite 625, Dallas, 75201—\$15,000; Family Guidance Center, Inc., 2200 Main Street, Dallas, 75201—\$58,500; Counseling Associates, InterFirst Bank Bldg., One North Main, Cleburne, 76031—\$27,280; Family Services, Inc., 716 West Magnolia, Fort Worth, 76104—\$62,720; Wesley Street Clinic, 3812 Wesley Street, Greenville, 75401—\$30,000; Parenting Guidance Center, 2928 West Fifth Street, Fort Worth, 76107-2242—\$215,890; and Child Study Center, 1300 West Lancaster, Fort Worth, 76102—\$70,731.

Effective Date of Contracts. The contracts began September 1, 1985, and will end August 31, 1986.

Due Date of Reports. Documents will be filed within established time frames as described in the plan of operation. All reports deal with individual clients, and are confidential.

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

TRD-858538 Marlin W. Johnston
Commissioner
Texas Department of Human Services

Filed: September 16, 1985
For further information, please call (512) 450-3768.

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In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Human Services (DHS) furnishes this notice of consultant contract awards. The request for proposals was published in the August 6, 1985, issue of the *Texas Register* (10 TexReg 2572).

Description of Services. The contract is for the purpose of expanding and updating an existing data base, training others to use it via remote computer terminals across the state, conducting related research, and providing placement assistance. The subject of this research project is the system of licensed residential programs for children in Texas.

Name of Contractors and Value of Contracts. The contractors are: Sue S. Wilson, 4501 South Third, Austin, 78745—\$25,516; Debra S. Geartz, 5230 Thundercreek Road #248, Austin, 78759—\$20,928.

Description of Services. The purpose of the contract is to conduct computer analysis of data using multivariate statistics, research, and modeling procedures and to develop related computer software.

Name of Contractor and Value of Contract. The contractor is A. James Schwab, 4604 Fieldstone Drive, Austin, Texas, 78735—\$19,556.

Effective Date of Contract. The contracts began on September 15, 1985, and will end on August 31, 1986.

Due Date of Reports. Reports are to be delivered to the program specialist for the continuum of care system, protective services for families and children branch, Texas Department of Human Services, no later than August 31, 1986.

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

TRD-858537 Marlin W. Johnston
Commissioner
Texas Department of Human Services

Filed: September 16, 1985
For further information, please call (512) 460-3788.

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In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Human Services (DHS) furnishes this notice of consultant contract award. The request for proposals was published in the July 16, 1985, issue of the *Texas Register* (10 TexReg 2291).

Description of Services. The consultant will provide the following services: analyze, design, program, test, and implement modifications to an existing Compucorp microcomputer system; and provide ongoing maintenance to the social work certification system.

Name of Contractor and Value of Contract. The contractor selected is David Malitz, Data Processing and Statistical Consulting, P.O. Box 4358, Austin, Texas 78765—\$45,000.

Effective Date of Contract. The contract began on September 1, 1985, and will end on August 31, 1987.

Due Date of Reports. Reports are due within time frames as stated in the contract.

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

TRD-858538 Marlin W. Johnston
Commissioner
Texas Department of Human Services

Filed: September 16, 1985
For further information, please call (512) 460-3788.

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State Department of Highways and Public Transportation

Consultant Proposal Request

As required by Texas Civil Statutes, Article 6252-11c, the following notice for request for proposals is filed.

Notice of Invitation. The State Department of Highways and Public Transportation (SDHPT), Traffic Safety Section, announces a consultant proposal request for the production and translation of traffic safety materials in Spanish. A total of \$43,500 is available from Federal 403 funds. The contractor will be expected to develop and produce: two television public service announcements (30-second and 10-second, total of four, reproduce 30 copies); two radio 30-second public service announcements (reproduce 100 copies); one traffic safety brochure (print 250,000 copies); one traffic safety billboard (reproduce 50 copies); one traffic safety bumper stick (reproduce 10,000 copies); and a per-page rate to translate traffic safety materials from English to Spanish (approximately 200 pages consisting of activity packages for school children, traffic safety brochures and materials).

Agency Contact. Additional information regarding this request for proposal may be obtained by contacting Henry Palma, Sr., Program Manager, SDHPT, 11th and Brazos Streets, Austin, Texas 78701, (512) 465-6373.

Response Date. Deadline for receipt of proposals in the office of the State Department of Highways and Public Transportation is on or before November 1, 1985, at 5 p.m. Proposals received after deadline cannot be considered for selection. Proposals are to be addressed to Henry Palma, Sr., Program Manager, SDHPT, D-18TS, 11th and Brazos, Austin, Texas 78701.

Selection Criteria. This contract will awarded to a firm that is experienced in the production of video and audio public service announcements as well as print media materials. Consultant(s) shall be chosen with the assistance of a panel of individuals chosen from other state agencies involved with traffic safety education and/or education materials. Proposals, firms, and materials will be judged upon the basis of cost, quality, and appropriateness to the goals of the traffic safety program.

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

TRD-858528 Diane L. Northam
Administrative Technician
State Department of Highways and Public Transportation

Filed: September 16, 1985
For further information, please call (512) 475-2141.

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