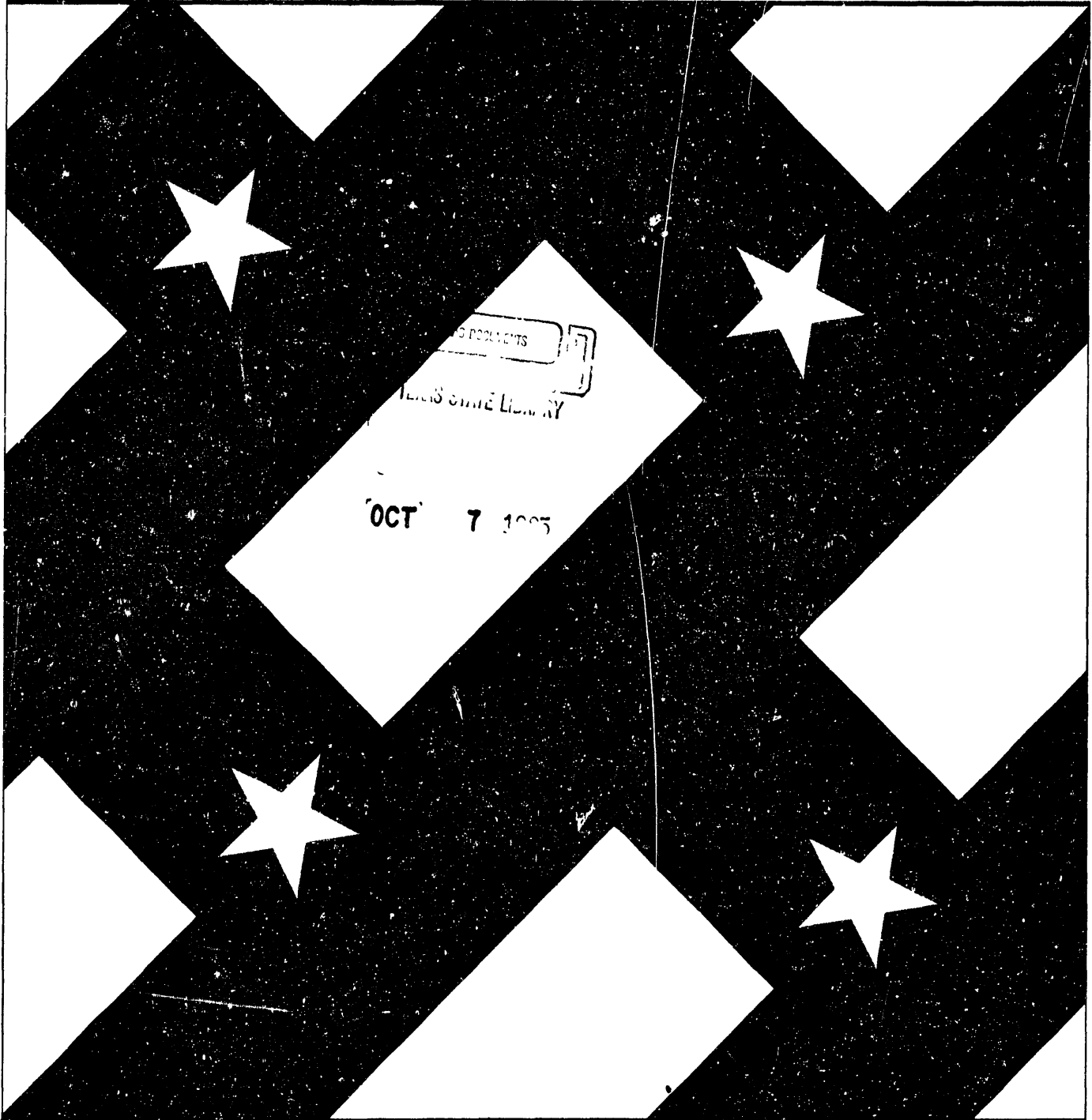


Texas Register

Volume 10, Number 74, October 4, 1985

Pages 3821 - 3864



Highlights

The **Automated Information and Telecommunications Council** adopts emergency new sections concerning acquisition of systems. Effective date - September 25..... **page 3825**

The **Texas Cancer Council** adopts emergency

new sections concerning policies and procedures for the Texas cancer plan. Effective date - September 26..... **page 3826**

The **Texas Department of Agriculture** proposes amendments concerning seed certification standards. Earliest possible date of adoption - November 4..... **page 3832**

**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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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) 463-1814.

Appointments Made September 23

Texas Citizens Earthquake Response Team

To serve as co-chairmen for terms to continue at the pleasure of this governor:

Henry G. Cisneros
Mayor
City of San Antonio
P.O. Box 9066
San Antonio, Texas 78285

Bob Krueger
P.O. Box 911
New Braunfels, Texas 78130

For terms to continue at the pleasure of this governor:

Jim Adams
President
Southwestern Bell Telephone
Texas Division
1 Bell Center
Dallas, Texas 75222

Merle Borchelt
President and CEO
Central Power and Light
P.O. Box 2121
Corpus Christi, Texas 78403

Rudy Bowles
County Judge
County Courthouse
Eagle Pass, Texas 78852

Gary Jacobs
President
Laredo National Bank
P.O. Drawer 59
Laredo, Texas 78040

Clair Jordan
Executive Director
Texas Nurses Association
314 Highland Mall Boulevard
Suite 504
Austin, Texas 78752

J. Livingston Kosberg
President and Chairman
L. K. Industries
5701 Woodway
Suite 332
Austin, Texas 77057

Jerry R. Leedy
Plant Manager
Abbott Laboratories
3900 Howard Lane
Austin, Texas 78728

Frank Lorenzo
President, Texas Air Corporation
Chairman, Continental Airlines
333 Clay Street
Houston, Texas 77002

Ben T. Reyes
City Councilman
City of Houston
P.O. Box 1562
Houston, Texas 77251

Jonathan Rogers
Mayor
City of El Paso
2 Civic Center Plaza
10th Floor
El Paso, Texas 79999

Phil D. Stickland
Director
Texas Baptist Christian Life Commission
511 Akard
Dallas, Texas 75201

William Gray Bryant
Regional Director—Government
Relations
AT&T
919 Congress Avenue, Suite 1500
Austin, Texas 78701

Joe E. Chapa, Jr.
Attorney-at-Law
821 Nolana
McAllen, Texas 78504

Harian Rogers Crow
Partner
Trammell Crow Company
717 North Harwood, Suite 2200
Dallas, Texas 75201

H. Craig Darby
Regional Pharmacy Operations
Coordinator
Revco D. S., Inc.
125 Plymouth Park Shopping Center
Irving, Texas 75061

Bishop Ernest Dixon, Jr.
President
Texas Conference of Churches
P.O. Box 28509
San Antonio, Texas 78228

Most Reverend Patrick F. Flores, D.D.
Archbishop of San Antonio
Chancery Office
P.O. Box 28410
San Antonio, Texas 78228

David L. Garza, Jr.
Chairman of the Board

Monterey House, Inc.
3310 South Richey
Houston, Texas 77017

Beverly Griffith
Vice-President
InterFirst Bank—Austin
P.O. Box 908
Austin, Texas 78701

Harry Hubbard
President
AFL-CIO
P.O. Box 12727
Austin, Texas 78711

Frank Thompson
Manager
Corporate Safety and Health
Brown and Root
P.O. Box 3
Houston, Texas 77001

Moises V. Vela
County Judge
Cameron County
County Courthouse
Brownsville, Texas 78520

Tom Vickers
County Judge
Bexar County
County Courthouse
San Antonio, Texas 78285

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

TRD-858842

Mark White
Governor of Texas

★ ★ ★



Appointments Made September 24

Select Committee on Higher Education

For terms to continue at the pleasure of this governor:

Dr. Earl M. Lewis
Trinity University
715 Stadium Drive
San Antonio, Texas 78284

Deborah Kastrin
P.O. Box 695
El Paso, Texas 79944

Bobby Ray Inman
MCC
9430 Research Boulevard
Echelon Building 1
Suite 200
Austin, Texas 78759

Arthur Temple
P.O. Box 2206
Lufkin, Texas 75901

Reynaldo Garza
P.O. Box 1129
Brownsville, Texas 78502

Dr. Lewis, Ms. Kastrin, Mr. Inman, Mr. Temple, and Mr. Garza are being appointed pursuant to House Concurrent Resolution 105, 69th Legislature, 1985.

To serve as chairman for a term at the pleasure of this governor:

Larry E. Temple
2606 Escodido Cove
Austin, Texas 78703

Texas Science and Technology Council

To serve as chairman for a term to continue at the pleasure of this governor:

N. S. (Mike) Waterman, Jr.
6800 Turtle Creek Boulevard
Dallas, Texas 75205

Issued in Austin, Texas, on September 24, 1985.

TRD-858842 Mark White
Governor of Texas

★ ★ ★

Appointments Made September 25

Texas Board of Health

To the Dental Advisory Committee for a term to expire February 1, 1990:

Michael R. Pearson, D.D.S.
808 Olive Street
Texarkana, Texas 75501

Dr. Pearson is replacing Dr. Tom H. Hall of Longview, whose term expired.

Veterans Affairs Commission

For a term to expire December 31, 1989:

Arturo T. Benavides
Box 1
Bruni, Texas 78344

Mr. Benavides is being reappointed.

Issued in Austin, Texas, on September 25, 1985.

TRD-858970 Mark White
Governor of Texas

★ ★ ★

Appointments Made September 26

Joint Special Committee on Cogeneration

For terms to continue at the pleasure of this governor:

Alan R. Erwin
President
Erwin and Associates
Public Relations/Public Affairs
Consulting
6907 Capital of Texas Highway North
Suite 350
Austin, Texas 78731

William D. Turner, Ph.D.
Interim Department Head
Mechanical Engineering Department
Texas A&M University
College Station, Texas 77843

John Wing
Consultant
Houston Natural Gas
P.O. Box 1188
Houston, Texas 77001

W. R. (Peck) Young
Partner
Emory, Young and Associates
Public Affairs Consulting and Research
505 West 12th Street
Suite 204
Austin, Texas 78701

Dan S. Petty
Executive Vice-President
Woodbine Development Corporation
3200 Interfirst One
Dallas, Texas 75202

Mr. Erwin, Mr. Turner, Mr. Wing, Mr. Young, and Mr. Petty are being appointed pursuant to House Concurrent Resolution 1, 69th Legislature, 1985.

Governor's Committee for Disabled Persons

To serve as chairman for a term to continue at the pleasure of this governor:

Margaret A. Nosek, Ph.D.
8450 Cambridge, #1167
Houston, Texas 77054

For two-year terms at the pleasure of this governor:

Margaret A. Nosek, Ph.D.
8450 Cambridge, #1167
Houston, Texas 77054

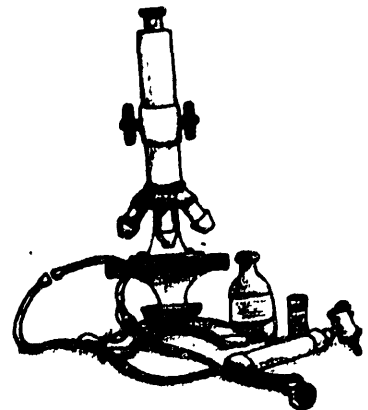
Dr. Nosek is replacing Bobby C. Simpson of Austin, who resigned.

Sonya Gonzalez Masinter
3206 Bluefield
San Antonio, Texas 78230

Ms. Masinter is replacing Amy K. Rosenberg of Austin, whose term expired.

Issued in Austin, Texas, on September 26, 1985.

TRD-858970 Mark White
Governor of Texas



Attorney General

Description of attorney general submissions. Under provisions set out in the Texas Constitution, Texas Civil Statutes (Article 4399), and numerous statutes, the attorney general is authorized to write advisory opinions for state and local officials. These advisory opinions are requested by agencies or officials when they are confronted with unique or unusually difficult legal questions. The attorney general also determines, under authority of the Texas Open Records Act, whether information requested for release from governmental agencies may be held from public disclosure. Requests for opinions, opinions, and open record decisions are summarized for publication in the *Register*.

Requests for Opinions

RQ-601. Request from Robert D. McPherson, Gray County attorney, Pampa, concerning whether the compensation of counsel appointed to represent indigent under the Code of Criminal Procedure, Article 26.05, may be paid on an hourly basis.
TRD-858903

RQ-602. Request from James L. Anderson, Jr., Aransas County attorney, Rockport, concerning the authority of a navigation district to complete a contract without rebidding under certain circumstances.
TRD-858904

RQ-603. Request from Ralph Lowenfield, chairman, Board of Regents, TSTI System, Waco, concerning whether Texas State Technical Institute may acquire land from the City of Harlingen under certain circumstances.
TRD-858905

RQ-604. Request from Daniel W. Shindler, district attorney, 23rd Judicial District, Bay City, concerning whether an elected mayor may receive a salary increase at any time during his term.
TRD-858906

RQ-605. Request from Jim Lusk, executive director, Texas Amusement Machine Commission, Austin, concerning whether the license and registration fees for completion of coin-operated machines under Texas Civil Statutes, Article 8817, may be prorated.
TRD-858907

RQ-606. Request from W. N. Kirby, interim commissioner of education, Texas Education Agency, Austin, concerning whether a teacher may be promoted to registrar in a school district where her husband serves on the board of trustees, and related questions.
TRD-858908

RQ-607. Request from Gale Warren, Erath County attorney, Stephenville, concerning the authority of campus peace officers of Tarleton State University to patrol streets within the City of Stephenville.
TRD-858909

RQ-608. Request from Lowell C. Holt, criminal district attorney, Gilmer, concerning whether a vehicle with a valid dealer's

temporary cardboard tags must have properly operating tail and brake lights.
TRD-858910

RQ-609. Request from Rene A. Guerra, criminal district attorney, Edinburg, concerning whether a county may pay employees injured on the job the difference between their regular salary and their workers compensation benefits.
TRD-858911

RQ-610. Request from James S. McGrath, criminal district attorney, Beaumont, concerning whether a public agency may offer physical therapy services without employing a licensed therapist, so long as such services are offered through a licensed physician.
TRD-858912

RQ-611. Request from Allen Parker, Sr., commissioner, Texas Department of Labor and Standards, Austin, concerning the validity of Texas Civil Statutes, Article 5196, the "blacklisting" law.
TRD-858913

RQ-612. Request from J. T. Kimbrough, county attorney, Beeville, concerning whether a county commissioner may expend public funds to send a letter of congratulations to graduating high school seniors.
TRD-858914

RQ-613. Request from Tim Rudolph, county attorney, Glen Rose, concerning whether a commissioners court may close a road.
TRD-858915

RQ-614. Request from Dana Ehrlich, Lipscomb County attorney, Follett, concerning whether a justice of the peace may simultaneously serve as a member of a city council.
TRD-858916

RQ-615. Request from Robert Bernstein, M.D., commissioner, Texas Department of Health, Austin, concerning whether a foreign corporation may receive a permit to prescribe and administer synthetic narcotic drugs to drug-dependent persons.
TRD-858917

RQ-616. Request from Timothy D. Yeats, county attorney, Big Spring, concerning the duty of a county clerk to record a deed conveying real property under Texas Civil Statutes, Article 974a and Article 6626aa.
TRD-858918

RQ-617. Request from Jim Boyle, public counsel, Office of Public Utility Counsel, Austin, concerning whether the Public Utility Commission of Texas may order a public utility to pay the cost of expert witnesses for the Office of Public Utility Counsel.
TRD-858919

RQ-618. Request from Ralph R. Wallace, III, chairman, Committee on Cultural and Historical Resources, Texas House of Representatives, Austin, concerning whether a promotional program of the Texas Sesqui-centennial Commission is in conflict with state and federal anti-trust law.
TRD-858920

RQ-619. Request from Senator John Traeger, chairman, Senate Committee on Intergovernmental Relations, Austin, concerning whether a water supply corporation is entitled to the tax exempt status under the Property Code, §11.18(c)(1)(G).
TRD-858921

RQ-620. Request from George Pierce, chairman, Committee on Urban Affairs, Austin, concerning whether an ordinance of the City of San Antonio, which requires apprentices and/or trainees in city projects to be enrolled in a program registered with the U.S. Department of Labor, is violative of state right-to-work laws.
TRD-858922

RQ-621. Request from Lloyd Criss, chairman, Committee on Labor and Employment Relations, House of Representatives, Austin, concerning whether the City of Galveston may remove persons appointed to a city board and related questions.
TRD-858848

RQ-622. Request from Bob Bullock, Comptroller of Public Accounts, Austin, concerning the applicability of the General Appropriations Act, Article 5, §86, which requires the filing of financial statements by state employees who negotiate contracts.
TRD-858847

RQ-623. Request from W. O. Shultz, counsel, University of Texas System, Austin, concerning whether the letters of Henri de Toulouse Lautrec are subject to disclosure under the Open Records Act, Texas Civil Statutes, Article 6252-17.
TRD-858846

RQ-624. Request from Ray Farabee, chairman, Senate State Affairs Committee,

Austin, concerning whether Texas Civil Statutes, Article 4590-4, was repealed by Senate Bill 32, 69th Legislature, 1985, which related to the removal of corneal tissue from the eyes of a decedent.

TRD-858845

RQ-625. Request from William S. Nail, executive director, Texas State Board of Dental Examiners, Austin, concerning whether the Texas State Board of Dental Examiners may allow the delegation to dental hygienists of smoothing roughened root surfaces.

TRD-858844

RQ-626. Request from Marvin J. Titzman, executive director, Texas Surplus Property Agency, San Antonio, concerning whether the Texas Surplus Property Agency is subject to Title 110B, §35.405, which requires reimbursement to the general revenue fund for state retirement contributions.

TRD-858853

RQ-627. Request from Marvin J. Titzman, executive director, Texas Surplus Property Agency, San Antonio, concerning whether the Texas Surplus Property Board may make purchases under the trust fund created by Texas Civil Statutes, Article 6252-6b, without approval by the State Purchasing and General Services Commission.

TRD-858852

RQ-628. Request from Morris Samford, Jr., Carthage, concerning whether a commissioners court may negotiate a contract to begin prior to the budget year in which the contract will be completed.

TRD-858851

RQ-629. Request from Gary E. Miller, M.D., commissioner, Texas Department of Mental Health and Mental Retardation, Austin, concerning whether House Bill 72, 68th Legislature, 1st Called Session, 1984, is and applicable to faculty members employed by the Texas Department of Mental Health and Mental Retardation.

TRD-858850

RQ-630. Request from W. N. Kirby, commissioner of education, Texas Education Agency, Austin, concerning whether regulations adopted by the State Board of Education implementing teaching competency examinations comply with the requirements of the Education Code, §13.047(g).

TRD-858849

RQ-631. Request from Deborah Jo Meadors, Robertson County auditor, Franklin, concerning whether a county may have more than one county depository.

TRD-858874

RQ-632. Request from Deborah Jo Meadors, Robertson County auditor, Franklin, concerning whether a county is liable for withholding taxes which a former county attorney failed to pay.

TRD-858875

RQ-633. Request from Vernon M. Arrell, commissioner, Texas Rehabilitation Commission, Austin, concerning whether a state agency may allow or require its employee to take compensatory time in lieu of overtime pay.

TRD-858876

RQ-634. Request from Fred S. Brinkley, Jr., executive director, Texas State Board of Pharmacy, Austin, concerning whether the Texas State Board of Pharmacy may license a foreign pharmacy graduate under certain circumstances.

TRD-858877

RQ-635. Request from Gerald A. Fohn, district attorney, San Angelo, concerning the constitutionality of the Texas Penal Code, §28.03(c), which creates a presumption about the guilt of a person in whose name utilities are billed.

TRD-858878

RQ-636. Request from Benjamin Euresti, Jr., Cameron County attorney, Brownsville, concerning whether a "casino nite" sponsored by a school district would violate the penal prohibitions against gambling.

TRD-858879

RQ-637. Request from Dan V. Dent, district attorney, Hillsboro, concerning whether a municipal police officer may serve warrants for a fee.

TRD-858880

RQ-638. Request from Mike Driscoll, Harris County attorney, Houston, concerning records which must be maintained pursuant to House Bill 385, 69th Legislature, 1985, which regulates going out of business sales.

TRD-858881

RQ-639. Request from Mike Driscoll, Harris County attorney, Houston, concern-

ing the constitutionality of House Bill 602, 69th Legislature, 1985, which imposes penalties on nonresident bidders.

TRD-858882

RQ-640. Request from Clayton T. Garrison, executive director, Employees Retirement System of Texas, Austin, concerning whether the per diem limitations of the General Appropriations Act, Article V, §4, apply to members of the board of trustees of the Employees Retirement System.

TRD-858883

RQ-641. Request from Wilhelmina Delco, House of Representatives, Austin, concerning the validity of a rider to the General Appropriations Act which denies sick leave to faculty members at institutions of higher education who have appointments of less than 12 months.

TRD-858884

RQ-642. Request from Ron Patterson, executive director, State Property Tax Board, Austin, concerning whether members of the State Property Tax Board are entitled to compensatory per diem.

TRD-858885

RQ-643. Request from O. L. McCotter, director, Texas Department of Corrections, Huntsville, concerning the interpretation of the Texas Prison Management Act, Texas Civil Statutes, Article 6184o, §2(b), and related questions.

TRD-858886

RQ-644. Request from W. S. McBeath, Texas Alcoholic Beverage Commission, Austin, concerning whether a justice of the peace or municipal court has jurisdiction to try a misdemeanor offense under the Texas Alcoholic Beverage Code, Chapter 106, filed against a 15- or 16-year old defendant who has no prior record.

TRD-858887

RQ-645. Request from Chet Brooks, chairman, Senate Committee on Health and Human Resources, Austin, concerning whether the Texas Department of Human Resources may make advance payments only to those contract providers which do not operate for a profit.

TRD-858888

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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 1.

ADMINISTRATION

Part X. Automated Information and Telecommunications Council

Chapter 205. Acquisition of Telecommunications Systems

★ 1 TAC §205.1

The Automated Information and Telecommunications Council (AITC) adopts on an emergency basis new §205.1, concerning guidelines for justification of telecommunications procurements.

The AITC has been given responsibility to review and prepare a report on telecommunications procurement and conversion actions contemplated by state governmental bodies. The review is to be performed according to guidelines established by the council. This section sets a telecommunications guideline in place so that a procedure is available to process telecommunications-related procurement and conversion requests. The telecommunications provisions of the Act do not apply to a single agency point-to-point radio system, a system of criminal justice information telecommunication, or any part of those systems.

As of September 3, 1985, no procurement can be accomplished on behalf of a governmental body, as defined in the statute, for telecommunications devices, systems, or services pending an authorizing review and comment process, except in situations constituting an emergency.

This new section is adopted under House Bill 2375, 69th Legislature, 1985, which gives the council authority to adopt guidelines to aid state governmental bodies in making economical and efficient use of telecommunications devices, systems, or services.

§205.1. Guidelines for Justification of Telecommunications Procurements.

(a) Definitions.

(1) Governmental body—A board, commission, department, institution, office, or other agency (including an institution of higher education as defined by the Education Code, §61.003), that is in the executive branch of state government; or the supreme court, the court of criminal ap-

peals, a court of appeals, or the State Bar of Texas, or another judicial agency.

(2) Telecommunications—The transmission of audible, written or printed, or video information by means of an electromagnetic or optic system.

(3) Telecommunications devices—Hardware, including terminal equipment.

(4) Telecommunications systems—Network of telecommunications services serving all or any part of Texas state government; collection of devices to provide switched voice and/or data services.

(5) Telecommunications services—Intercity communications facilities or services, provided that any dedicated circuits included as part of the consolidated system are considered to begin and end at the main connecting frame. Included also are contracts for consultant, maintenance, and other service support.

(6) Conversion—Replacement of device(s), system, or service.

(b) In accordance with House Bill 2375, 69th Legislature, 1985, Article 2, §2.01(a), and §2.02(a), interim guidelines for the written justification to accompany governmental body requests for acquisition of telecommunications devices, systems, or services, or materially change a telecommunications system area as follows:

(1) General requirements.

(A) The relationship of costs and expected benefits should be studied carefully before spending public money. The documentation required is the normal result of such a study and should require little or no additional effort.

(B) The extent of the study and the detail required will vary with the amount of money to be spent and the telecommunications devices, systems, or services to be acquired. Documentation should clearly explain that the device, system, or service is needed, suitable for the intended use, and cost effective.

(C) Depending upon the nature of the contemplated acquisition, elements of the suggested outline may not apply, and should be noted.

(D) Documentation should assure that items are presented in a reasonable and coherent manner. When a specified format is announced by the council, it must be used.

(2) Identification. Identify, as precisely as possible, devices, system, or service, detailing estimated costs and funding source.

(3) Planned uses.

(A) Requirements. State whether the need is for a new installation, replacement, or upgrade of existing device, system, and/or service. Explain rationale as to why action is needed.

(B) Design.

(i) Describe change(s) from existing operations.

(ii) Describe how the change will correct deficiency in the existing operation.

(C) Expected life. Estimate use of acquisition and whether installed in permanent or leased facilities.

(4) Expected benefits. Describe benefits that will result from use of the proposed telecommunications devices, systems, or services. Savings or other economic gains expected over the life of the acquisition, or improvements in service effectiveness not assigned a direct dollar value, should be presented.

(5) Costs. Summarize the cost of present capability and the cost of the proposed acquisition, using the following factors:

(A) purchase of lease/rental cost;

(B) installation cost (including site preparation);

(C) training;

(D) personnel;

(E) contract services (including maintenance);

(F) other operating expense (including supplies);

(G) conversion implications, i.e., termination liability, premature loss of investment, and removal/discontinuance of support.

(6) Alternatives considered. Describe other alternatives to meet the need, if applicable. Governmental bodies are expected to consider and comment on opportunities for sharing telecommunications devices, systems, or services already in existence within state government.

(7) Future schedule. Show the schedule for implementation.

(8) Review of proposed action.

(A) By the time a governmental body files a request for a single or collective action to acquire telecommunications devices, systems, or services, with the State Purchasing and General Services Commission (SPGSC), or internal to that governmental body for actions so delegated, a supporting proposal containing paragraphs (1)-(7) of this subsection should have been filed

with the council. Please note that the council is entitled to 60 days for proposal comment, and that the State Purchasing and General Services Commission is prohibited from processing the requisition until SPGSC receives the council comment letter, or for 60 days, whichever occurs first.

(B) If the proposal meets any one of the following criteria, it must be filed with the council:

(i) a single purchase at a cost of more than \$100,000, of telecommunications devices, systems, or services;

(ii) a lease at a cost of more than \$5,000 per month of telecommunications devices, systems, or services;

(iii) a purchase at a cost of more than \$75,000 of telecommunications software components of systems;

(iv) a lease at a cost of more than \$1,000 per month of telecommunications software components of systems;

(v) a purchase or contract at a cost of more than \$25,000 for any one calendar year for telecommunications consultant services;

(vi) a purchase or contract for annual telecommunications maintenance or an extended warranty agreement at a cost exceeding 10% of original system cost, or \$100,000, whichever is less;

(vii) a conversion of telecommunications devices or systems which result in a conversion cost exceeding \$100,000;

(viii) any combination of clauses (i)-(viii) of this subparagraph in a single proposal where annual cost will exceed \$125,000.

(C) Waiver of criteria.

(i) Telecommunications provisions of this Act do not apply to a single agency point-to-point radio system, a system of criminal justice information telecommunications, or any part of these systems.

(ii) The state telecommunications system and decentralized Capitol complex telephone system, as described in Texas Civil Statutes, Article 601b, §10, are exempt from Automated Information and Telecommunications Council (AITC) review.

(iii) Telecommunications purchases which are classified as bonafide emergencies under the rules established by the State Purchasing and General Services Commission, are exempt from AITC review.

(D) The covering letter transmitting two copies of the justification proposal and associated documentation must be signed by the head of the governmental body and mailed by interagency or first class mail to Executive Director, Automated Information and Telecommunications Council, P.O. Box 13564, Austin, Texas 78711-3564. In the case of a proposal pertaining to devices, systems, and/or services valued greater than \$300,000, a total of 12 copies of the proposal and associated documentation must be forwarded.

(10) Action by Automated Information and Telecommunications Council. The council shall review each action proposed by a state governmental body and within 60 days after receipt of the proposal and any supporting information file with the governor, lieutenant governor, speaker of the House of Representatives, State Purchasing and General Services Commission (if applicable), state auditor, and originator of the document, a report about whether the guidelines would be fulfilled if the governmental body's action were taken. Failure of the council to timely file a report may not be grounds for prohibiting a state governmental body from taking the action after expiration of the 60-day period. The council with the governmental body involved may agree to an extension of the time limit for filing a report.

Issued in Austin, Texas, on September 25, 1985.

TRD-858812 John C. Musgrove
Acting Executive
Director
Automated Information
and
Telecommunications
Council

Effective date: September 25, 1985
Expiration date: January 23, 1986
For further information, please call
(512) 475-2362.

★ ★ ★

TITLE 25. HEALTH SERVICES

Part XI. Texas Cancer Council

Chapter 701. Policies and Procedures

★ 25 TAC §§701.1-701.9

The Texas Cancer Council adopts on an emergency basis new §§701.1-701.9, concerning council policies and procedures. The new sections cover the policies and procedures by which the council will implement the Texas Cancer Plan developed by the Legislative Task Force on Cancer in Texas. Specifically, the sections cover a preamble; membership; organization; committees; executive director; grants, contracts, and agreements; relationship with the Texas Department of Health; meetings; and actions requiring council approval. The basis for the emergency adoption is Senate Bill 53, 69th Legislature, 1985, Texas Civil Statutes, Article 4477-41, which requires the council to begin to develop and implement the Texas Cancer Plan effective September 1, 1985. Therefore, to comply with the statutory mandate, the council is adopting these policies and procedures relating to the Texas Cancer Plan on an emergency basis.

The new sections are adopted on an emergency basis under Texas Civil Statutes, Article 4477-41, §2 and §5, which give the council the power and duty to develop and implement the Texas Cancer Plan; Article 6252-13a, §4, which authorizes the council to adopt rules covering council practices and procedures; and Article 6252-13a, §5(d), which authorizes the council to adopt rules on an emergency basis.

§701.1. *Preamble.* The Texas Cancer Council was established by Texas Civil Statutes, Article 4477-41, and administratively attached to the Texas Department of Health, in order to work with the Legislative Task Force on Cancer in Texas during its existence, to implement, monitor and update the Texas cancer plan; to promote the coordination of effective and efficient statewide public and private policies, programs, and services for persons with cancer; to encourage cooperative planning among the public, private, and volunteer sectors in cancer research, prevention, and treatment; and to coordinate administrative responsibilities with the Texas Department of Health. The council has formulated these administrative procedures and operating policies for the orderly and efficient functioning of the council in carrying out its responsibilities under the law.

§701.2. *Texas Cancer Plan.* The council adopts by reference the *Texas Cancer Plan, Immediate Needs and Priorities, 1985-1986*, developed by the Legislative Task Force on Cancer in Texas. Copies of the document are indexed and filed in the Bureau of State Health Planning and Resource Development, Texas Department of Health, 1100 West 49th Street, Austin, Texas, and are available for public inspection during regular working hours.

§701.3. *Membership.* The Texas Cancer Council is composed of 16 members and consists of:

(1) one member of the house of representatives, appointed by the speaker of the house;

(2) one member of the senate, appointed by the lieutenant governor;

(3) the chairman of the Texas Board of Human Services or a representative appointed by the chairman;

(4) the chairman of the Texas Board of Health or a representative appointed by the chairman;

(5) two physicians active in the treatment of cancer, appointed by the speaker of the house of representatives;

(6) two physicians active in the treatment of cancer, appointed by the lieutenant governor;

(7) a representative of a voluntary health organization interested in cancer, appointed by the speaker of the house;

(8) a representative of a voluntary health organization interested in cancer, appointed by the lieutenant governor;

(9) a representative of a public or private hospital that treats a significant number of cancer patients, appointed by the speaker of the house;

(10) a representative of a public or private hospital that treats a significant number of cancer patients, appointed by the lieutenant governor;

(11) two members of the general public, appointed by the speaker of the house; and

(12) two members of the general public, appointed by the lieutenant governor.

§701.4. Organization.

(a) Generally. The speaker of the house shall appoint one member as chairman. The lieutenant governor shall appoint one member as vice-chairman. The council will elect one member as secretary for a one-year term expiring in January of each year except that the term of office for the secretary elected at the organizational meeting of the council shall extend until January 1987.

(b) Chairman. The chairman shall preside at all meetings and perform all duties prescribed by law or by rules of the council.

(c) Vice-chairman. The vice-chairman shall perform the duties of the chairman in case of absence or disability of the chairman. In case the office becomes vacant, the vice-chairman shall serve until a successor is named.

(d) Secretary. The secretary shall perform all duties as required by the chairman and such other duties as the council may require.

§701.5. Committees.

(a) Executive committee. The council will have an executive committee consisting of the chairman, vice-chairman, and secretary. The executive committee has the power to act for the council although actions taken are subject to review and approval by the full council at its next meeting.

(b) Standing and ad hoc committees. The chairman may appoint standing and special ad hoc committees of the council to expedite the work of the council.

§701.6. Executive Director.

(a) The executive committee may recruit, select, and appoint the executive director.

(b) The executive director shall perform those duties assigned and assume responsibility for functions delegated by the council.

(c) The executive director will supervise staff, recommend administrative procedures, implement actions of the council, coordinate preparation of reports, and maintain liaison with the Texas Department of Health, the Legislative Task Force on Cancer in Texas through its existence, and other organizations or agencies as directed by the council.

§701.7. Council Policies.

(a) Policy goals. The council recognizes two population categories of those persons with the disease and those persons without cancer, particularly those persons at high risk for developing a malignancy, and establishes four goals to lessen the burden of cancer in Texas which are:

(1) to improve the accessibility, availability, and quality of cancer resources, services, and programs in Texas;

(2) to detect, diagnose, and treat cancer earlier when cure is more likely;

(3) to lower risks for developing cancer; and

(4) to advance control of cancer through development and application of new prevention, detection, diagnostic, and therapeutic methods and techniques.

(b) General policies.

(1) The council will provide, support to and cooperate with the Legislative Task Force on Cancer in Texas during its existence.

(2) The council will implement the Texas cancer plan, subject to the availability of funding.

(3) The council will establish priorities within the Texas cancer plan. The council recognizes the immediate need for:

(A) collection and dissemination of information on the incidence of cancer throughout Texas;

(B) comprehensive and consolidated cancer related data on resources, services, and programs on a regional basis throughout Texas;

(C) programs to promote prevention, detection, and early diagnosis of cancer;

(D) programs to improve knowledge of cancer among the public and health professionals;

(E) programs with special impact upon high-risk groups and target areas with a lack of cancer-related resources, services or programs; and

(F) special studies of the impact of cancer on various ethnic groups and the state's economy.

(c) Council business. The council will conduct all business. Standing and special committees are working extensions of the council. Policies are recorded in the official minutes. When making statements concerning matters under the jurisdiction of the council, members shall not imply that their individual opinion necessarily reflects the opinion or policy of the council.

(d) Adoption and amendment of policies. Adoption or amendment of policies shall be by majority vote of council members present and voting and shall be effective immediately unless otherwise specified.

(e) Grants, contracts and agreements.

(1) As authorized by Texas Civil Statutes, Article 4477-1, the council may establish a grant program to provide funds to public or private persons to implement

the Texas cancer plan, if funds are available. Pursuant to this legislative authority, the council has adopted rules covering a series of grant programs. (See §§703.1-703.4 of this title (relating to Submission, Approval, and Cancellation of Grants).

(2) A person, other than the Texas Department of Health, who is awarded a grant must execute an interagency agreement or a contract with the Texas Department of Health.

(3) The contract must require the person receiving the grant to perform the services as stated in the approved grant request.

(4) The contract shall contain appropriate provisions for program and fiscal monitoring.

(5) The contract must require the person receiving the grant to comply with the Uniform Grant and Contract Management Standards, where applicable, in 1 TAC §§5.141-5.167 (relating to Uniform Grant and Contract Management Standards for State Agencies).

(6) The Texas Department of Health may not take an action that affects or relates to the validity, status, or terms of an interagency agreement or a contract without the council's approval.

(7) If the Texas Department of Health is awarded a grant, the council will enter into a memorandum of understanding (MOU) with the department. The MOU must require the department to perform the services as stated in the approved grant request and shall contain appropriate provisions for program and fiscal monitoring.

(f) Relationship with the Texas Department of Health.

(1) In order to coordinate administrative responsibilities with the department and to avoid unnecessary duplication of facilities and services, the council may enter into a MOU with the Texas Department of Health. This MOU may cover the relationship between the council and the department in at least the following areas:

(A) fiscal matters, including acceptance, transfer and expenditure of any council funds, either directly or through any grant program (fiscal agent), and related accounting and audit functions;

(B) the coordination of administrative functions covering the submission, execution, and cancellation of contracts between the department and private and public persons who have been awarded grants;

(C) other administrative support functions, including personnel services, legal assistance, and other areas as deemed appropriate.

(2) In order to support specific cancer-related initiatives of the Texas Department of Health, the council may enter into one or more MOU with the department for each specific program initiative.

§701.8. Council Meetings.

(a) Regular meetings. The council shall meet routinely at times and locations determined by the chairman.

(b) Special meetings. Special meetings may be called by the chairman at a time and location designated in a notice of meeting. Such notice shall be given to members at least 72 hours in advance of the meeting.

(c) Open meetings. All council meetings are subject to the requirements of the Texas Open Meetings Act, Texas Civil Statutes, Article 6252-17. Regular, special and committee meetings of the council shall be open to the public.

(d) Executive sessions. Executive sessions of the council may be held to consider items provided by law. Actions of the council taken during executive session will be announced in open session.

(e) Notice of meetings. The executive director shall furnish written notice of the time and place of the meeting to the secretary of state for posting at the capitol building at least seven days prior to each meeting.

(f) Agendas. The chairman will approve the agenda and submit a preliminary copy to members of the council prior to each meeting. Official agendas will be distributed the day of the meeting.

(g) Quorum. Nine members shall constitute a quorum.

(h) Representatives of council members. The chairperson of the Texas Board of Human Services and the chairperson of the Texas Board of Health, as members of the council, may designate a representative to serve on the council on his or her behalf. Each chairperson shall give written notice of such designation to the council chairperson. The designated representative may vote as a regular member of the council.

(i) Rules of order. The council shall use *Roberts Rules of Order, Revised*, except that the chairperson may vote on any action as any other member of the council, and any other exception as provided in council policies or by statute.

(j) Minutes. Official minutes approved by the council shall be kept in the office of the executive director.

(k) Public participation. The public may participate in the council's deliberations by submitting written comments at least 30 days in advance of a regular meeting or by personal appearance through arrangements with the chairman.

§701.9. Actions Requiring Council Approval. Council approval is required for the following actions:

- (1) administrative procedures to implement the Texas cancer plan or when requested by the executive director;
- (2) annual operating budget of the council and any changes in approved budget;
- (3) appointment of advisory committees;

(4) approval of and/or cancellation of any grants, contracts and agreements which may result in any expenditure of funds from the Cancer Resource Fund;

(5) legislative appropriation request; and

(6) when required by law, requested by the executive director, or desired by the council.

Issued in Austin, Texas, on September 26, 1985.

TRD-858892

James Dannebaum
Chairperson
Texas Cancer Council

Effective date: September 26, 1985
Expiration date: January 24, 1986
For further information, please call
(713) 792-2203.

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**Chapter 703. Grants
Submission, Approval, and
Cancellation of Grants**

★ 25 TAC §§703.1-703.4

The Texas Cancer Council adopts new §§703.1-703.4, concerning the submission, approval, and cancellation of grants relating to the Texas Cancer Plan adopted by the Legislative Task Force on Cancer in Texas. Specifically, the sections cover the procedures and requirements concerning the submission of grant applications; the form and content of application proposals; the review and approval process; and the procedures concerning the cancellation of contracts, agreements, and memoranda of understanding. The emergency status is necessary because Senate Bill 53, 69th Legislature, 1985, Texas Civil Statutes, Article 4477-41, requires the council to begin to develop and implement the Texas Cancer Plan effective September 1, 1985. Therefore, to comply with the statutory mandate, the council is adopting these sections on an emergency basis.

The new sections are adopted on an emergency basis under Texas Civil Statutes, Article 4477-41, §6, which authorize the council to adopt rules covering the submission, approval, and cancellation of grants to implement the Texas Cancer Plan; Article 6252-13a, §5(d), which authorizes the council to adopt rules on an emergency basis.

§703.1. Preamble. The council adopts in these sections a series of grant programs, consistent with the Texas cancer plan program priority areas established under §701.1-701.9 of this title (relating to Policies and Procedures). These sections shall govern the submission, approval, and cancellation of any grants, except in the case of implementation of the Texas cancer plan in the program area of cancer clinical re-

search. The Texas Cancer Council shall develop a separate policy and rules governing the submission, approval, and award of funds for cancer clinical research which follows scientific peer review and approval procedures similar to the National Cancer Institute of the National Institutes of Health, or other review procedures which are designed to distribute these funds on the basis of scientific merit.

§703.2. Submission of Grant Request.

(a) Sources.

(1) Grants to State of Texas agencies. This paragraph covers grants from the Texas Cancer Council to any State of Texas agency. The council may solicit various state agencies to submit proposals for specific Texas cancer plan program priority areas, consistent with the various state agencies' program responsibility and areas of expertise. In addition, the council may receive unsolicited proposals for the Texas cancer plan program priority areas from these same sources.

(2) Grants to other nonstate public or private organizations. This paragraph covers grants to other nonstate public or private organizations. The council may identify specific targeted program areas within the larger program priority areas of the Texas cancer plan for implementation by nonstate agency sources. In this event, the council will clearly identify the general nature of the program to be implemented, the type or class of contractor applicant appropriate to implement the targeted program(s), the format and content of any proposal, the anticipated duration of any contract, the deadline for submission of any proposal, and the selection criteria and weights (if any) to be used in the review and selection process. These items shall be incorporated into a general notice of interest and published in the *Texas Register*, consistent with requirements of the State Purchasing and General Services Commission and the rules of the Texas Board of Health.

(b) Format and content.

(1) Technical proposal. Each proposal will contain two parts, a technical proposal and a business proposal. The technical proposal will specify the overall program priority area, the specific problem(s) to be addressed, the scope of work to be undertaken, including major tasks and activities, a timetable with major milestones and delivery schedule, an organizational plan with manpower estimates by major task, identification of key personnel, and an evaluation plan where appropriate.

(2) The business proposal. The business proposal will specify the estimated cost to the Texas Cancer Council if the grant proposal is funded and other terms and conditions related to the proposal. The estimated cost must be on a line item budget basis to fully identify the type of expense anticipated and, where appropriate, to estimate these costs for each major task identified in the technical proposal. Other terms

and conditions must include the time period during which the proposal is valid, and who is authorized to negotiate any matters related to the proposal on behalf of the submitting agency or organization.

§703.3. Approval of Grant Request.

(a) Review. Each proposal shall be reviewed by one or more of the following groups: a special committee of the council, the entire council, or by an advisory group at the request of the council. The chairman will designate the appropriate review group for each grant program. The review group will review each grant proposal in its entirety and shall make its recommendation to the full council, taking into account the reasonableness of the proposal, its likelihood of success, and its cost effectiveness.

(b) Approval. The approval of any grant shall be by majority vote of council members present and voting, and shall be effective immediately unless otherwise specified. A person who is awarded a grant shall comply with §701.7(e) of this title (relating to Council Policies).

§703.4. Cancellation of any Interagency Agreement, Contract, or Memorandum of Understanding.

(a) Unforeseen circumstances. If unforeseen circumstances prevent the contractor of an interagency agreement, contract, or memorandum of understanding (MOU) from complying with the terms and conditions of the contract, whether in provision of the agreed to services or fiscal-related matters, the contract may be canceled.

(b) Texas Department of Health

(1) The Texas Department of Health, acting as the agent of the council, may propose to cancel a contract when the contractor violates any of the provisions of the contract.

(2) The department shall make a written recommendation to the council for proposed contract cancellation and notify the contractor accordingly. The council will accept or reject the recommendation by giving a written response to the department. If the council approves the proposed department cancellation, the department will give the contractor written notice that the department intends to cancel the contract, subject to the contractor having an opportunity for a hearing in accordance with department formal hearing rules, §§1.21-1.32 of this title (relating to Formal Hearing Procedures).

(c) Mutual consent. Any interagency agreement, contract or MOU may also be canceled by mutual consent of the contractor and the Texas Cancer Council.

Issued in Austin, Texas, on September 26, 1985.

TRD-858894 James Dannenbaum
Chairperson
Texas Cancer Council

Effective date: September 26, 1985
Expiration date: January 24, 1986
For further information, please call
(713) 792-2203.

TITLE 31. NATURAL RESOURCES AND CONSERVATION
Part I. General Land Office
Chapter 3. Energy Resources
Reporting Oil and Condensate Production[; Form MA-1]

★ 31 TAC §3.61

The General Land Office adopts on an emergency basis an amendment to §3.61, concerning the reporting of oil and condensate production.

The amendment is adopted on an emergency basis to achieve uniformity between the administrative rules and the automated reporting system to be implemented on October 1, 1985. All current lessees and operators of state leases subject to this section have been notified of the changes to the reporting requirements, and have been sent detailed instructions for reporting under the new system.

The amendment is adopted on an emergency basis under the Natural Resources Code, §31.051, which authorizes the commissioner of the General Land Office to make and enforce sections consistent with the law.

§3.61. Reporting Oil and Condensate Production [Documentation to Accompany the MA-1 Report].

(a) (No change.)

[(b) Required documentation.

[(1) Purchase statements. A settlement statement furnished by the purchaser shall be filed which delineates all of the following:

- [(A) number of barrels run;
- [(B) dates of each run;
- [(C) gravity of each run;
- [(D) price per barrel;
- [(E) gross value.

[(2) Railroad Commission Form H-8 shall be stapled to MA-1 report if any oil or condensate is lost.

[(3) Railroad Commission Form ES-A (tank cleaning permit) shall be stapled to the MA-1 report showing net oil recovered from tank cleaning.

[(4) Affidavit of ownership (frac oil, etc.) shall accompany Form MA-1.

[(5) Other documents requested by the General Land Office to verify production, disposition, and market value shall be filed.

[(6) Run tickets or daily gauges should not be filed unless specifically requested by the General Land Office.

[(c) Internal statements. In no event shall an internal statement prepared by the operator be acceptable unless the operator is also the purchaser of the oil or condensate. If the purchaser does not furnish a settlement statement, a copy of the invoice or purchaser's check stub will be sufficient

provided all criteria shown above are satisfied.]

(b)[(d)] Penalties. Failure to comply with the statutes and reporting requirements subjects a lease to forfeiture (cancellation), delinquency penalties, or both.

Issued in Austin, Texas, on September 25, 1985.

TRD-858832 Garry Mauro
Commissioner
General Land Office

Effective date: September 25, 1985
Expiration date: January 23, 1986
For further information, please call
(512) 475-8740.

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★ 31 TAC §3.62, §3.63

(Editor's note: The text of the following sections repealed on an emergency basis will not be published. The sections may be examined in the offices of the General Land Office, Stephen F. Austin Building, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The General Land Office adopts on an emergency basis the repeal of §3.62 and §3.63, concerning preparation of Form MA-1, oil and condensate report, and explanation of detail of Form MA-1.

The repeal is adopted on an emergency basis to achieve uniformity between the administrative rules and the automated reporting system which will be implemented on October 1, 1985. All current lessees and operators of state leases subject to these rules have been notified of the changes to the reporting requirements, and have been sent detailed instructions for reporting under the new system.

The repeal is adopted on an emergency basis under the Natural Resources Code, §31.051, which authorizes the commissioner of the General Land Office to make and enforce rules consistent with the law.

§3.62. Preparation of Form MA-1, Oil and Condensate Report.

§3.63. Explanation of MA-1 Detail.

Issued in Austin, Texas, on September 25, 1985.

TRD-858833 Garry Mauro
Commissioner
General Land Office

Effective date: September 25, 1985
Expiration date: January 23, 1986
For further information, please call
(512) 475-8740.

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★31 TAC §3.71

The General Land Office adopts on an emergency basis an amendment to §3.71, concerning the reporting of gas production.

The amendment is adopted on an emergency basis to achieve uniformity between the administrative rules and the automated reporting system to be implemented on October 1, 1985. All current lessees and operators of state leases subject to this section have been notified of the changes to the reporting requirements, and have been sent detailed instructions for reporting under the new system.

The amendment is adopted on an emergency basis under the Natural Resources Code, §31.051, which authorizes the commissioner of the General Land Office to make and enforce sections consistent with the law.

§3.71. Reporting Gas Production [Documentation to Accompany the MA-2 Report].

(a) (No change.)

[(b) Required documentation. The following documentation must be stapled to the back of each MA-2 report:

[(1) nonprocessed gas. A settlement statement furnished by each gas purchaser which delineates for each lease all of the following:

- [(A) total MCF sold;
[(B) price per MCF;
[(C) gross value; and
[(D) BTU content;

[(2) processed gas. A statement furnished by each gas purchaser and plant operator which delineates for each lease all of the following:

- [(A) total volume (MCF) produced and delivered to the plant;
[(B) value of all liquids and other products extracted (gasoline, butane, propane, sulphur, etc.);
[(C) total residue gas volume (MCF) remaining after processing;
[(D) gross value of the residue gas sold; and
[(E) BTU content;

[(3) other documents. Other documents which may be required by the General Land Office to verify production, disposition, and market value.

[(c) Internal statements. In no event shall an internal volume and value statement prepared by the operator be acceptable unless the operator is also the purchaser of the gas or uses all the gas on the lease. If the purchaser does not furnish a settlement statement, a copy of the invoice or purchaser's check stub will be sufficient provided all criteria shown above are satisfied.]

[(b)](d) Penalties. Failure to comply with statutes and reporting requirements subjects a lease to forfeiture (cancellation), delinquency penalties, or both.

Issued in Austin, Texas, on September 25, 1985.

TRD-858834

Garry Mauro
Commissioner
General Land Office

Effective date: September 25, 1985
Expiration date: January 23, 1986
For further information, please call
(512) 475-6740

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★31 TAC §3.72, §3.73

(Editor's note: The text of the following sections repealed on an emergency basis will not be published. The sections may be examined in the offices of the General Land Office, Stephen F. Austin Building, 1700 North Congress, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The General Land Office adopts on an emergency basis the repeal of §3.72 and §3.73, concerning the preparation of Form MA-2, gas reporting, and explanation of detail of Form MA-2.

The repeal is adopted on an emergency basis to achieve uniformity between the administrative rules and the automated reporting system which will be implemented on October 1, 1985. All current lessees and operators of state leases subject to these rules have been notified of the changes to the reporting requirements and have been sent detailed instructions for reporting under the new system.

The repeal is adopted on an emergency basis under the Natural Resources Code, §31.051, which authorizes the commissioner of the General Land Office to make and enforce rules consistent with the law

§3.72. Preparation of Form, MA-2, Gas Report.

§3.73. Explanation of MA-2 Detail.

Issued in Austin, Texas, on September 25, 1985.

TRD-858835

Garry Mauro
Commissioner
General Land Office

Effective date: September 25, 1985
Expiration date: January 23, 1986
For further information, please call
(512) 475-6740

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TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration
Subchapter E. Miscellaneous
Taxes Based on Gross Receipts

★34 TAC §3.59

The Comptroller of Public Accounts adopts on an emergency basis new

§3.59, concerning telephone company receipts and exemptions.

The scope of this tax was significantly changed during the recent legislative session, and this section establishes guidelines for determining the tax status of various receipts. The new section establishes taxability guidelines as of the effective date of these changes, which is October 1, 1985. The new section is necessary to avoid confusion and to ensure proper compliance with this new area of taxability.

This new section is adopted on an emergency basis under Texas Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the miscellaneous taxes based on gross receipts.

§3.59. Receipts/Exemptions—Telephone Company.

(a) The following receipts are subject to the tax levied by the Texas Tax Code, §182.062:

- (1) receipts from coin telephone service provided by a telephone company;
(2) receipts from basic local exchange telephone service;
(3) amounts collected from customers as reimbursements for municipal or other assessments made against the telephone company.

(b) The following receipts are exempt from this tax:

- (1) receipts from a provider of telecommunications services to access a local telephone company's network;
(2) receipts from leasing or selling telephone or telephone equipment;
(3) receipts from telecommunications services taxable under the Texas Tax Code, Chapter 151, Limited Sales, Excise, and Use Tax.
(4) receipts from coin-operated telephones provided by someone other than a telephone company;
(5) receipts of a telephone company owned and operated by a cooperative, nonprofit, membership corporation.

Issued in Austin, Texas, on September 25, 1985

TRD-858822

Bob Bullock
Comptroller of Public
Accounts

Effective date: October 1, 1985
Expiration date: January 29, 1986
For further information, please call
(512) 483-4806

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**State Board of Insurance
Notification Pursuant to the
Insurance Code, Chapter 5,
Subchapter L**

(Editor's note: As required by the Insurance Code, Article 5.96 and Article 5.97, the Register publishes notices of actions taken by the State Board of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure and Texas Register Act.

The board's action on an emergency matter may be effective for 120 days and is renewable one time for a period not exceeding 60 days immediately following the 120-day period.

The text of the material being adopted will not be published, but may be examined in the offices of the State Board of Insurance, 1110 San Jacinto Street, Austin.)

On this date the State Board of Insurance considered a filing by the Surety Association of America, dated September 23, 1985, of the form and rate for a motor vehicle dealer bond

House Bill 1953, 69th Legislature, 1985, amended the Texas Dealer License Law, Texas Civil Statutes, Article 6686, con-

cerning, among other things, motor vehicle dealer bonds. The new law went into effect on September 1, 1985.

The Texas Dealer License Law was amended, according to the Texas Department of Highways and Public Transportation, to provide that a surety no longer had the right to cancel a bond by providing 30 days advance written notice, but rather must wait for a court judgment against its principal. The law was also amended to provide that the bond shall cover all valid bank drafts of the principal not just drafts between dealers as was the case under the prior law

The bond form has been amended to coincide with House Bill 1953.

The provision in the law for the payment of all valid bank drafts, the bond penalty of \$25,000 is fully exposed all the time, and committed to its principal for a full year, clearly highlights the hazardous nature of these bonds as financial guarantees for which a rate of \$20 per thousand per annum is filed

This filing should be approved as an emergency filing under the Insurance Code, Article 5.97, §(j), as there is a clear and compelling necessity that immediate action be taken to permit issuance of these bonds in compliance with the Texas Dealer License Law, Texas Civil

Statutes, Article 6686. That provision requires that a used car dealer provide a bond or security in the amount of \$25,000 to secure a license to do business in the State of Texas.

The bond provides for payment of all valid bank drafts drawn by the principal for the purchase of motor vehicles and transfer good title to each motor vehicle that the principal purports to sell. The bond and rate will permit the compliance with statutory law.

This filing is effective for 120 days from and after the date of its filing for publication in the Office of the Secretary of State.

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register Act

Issued in Austin, Texas, on September 27, 1985.

TRD-858942

James W. Norman
Chief Clerk
State Board of
Insurance

Effective date: September 27, 1985
Expiration date: January 25, 1986
For further information, please call
(512) 475-2950.

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Proposed Rules

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

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

TITLE 4. AGRICULTURE Part I. Texas Department of Agriculture Chapter 21. Seed Certification Standards

★4 TAC §§21.3, 21.11, 21.31

The Texas Department of Agriculture proposes amendments to §§21.3, 21.11, and 21.31, concerning fees for annual applications, fee for seed certification, fee for certified seed labels, and acreage inspection fees for seed certification.

The proposed amendment to §21.3 increases the annual application fee for seed certification; the proposed amendment to §21.11 adds the cost for certified, registered, and foundation seed labels; and the proposed amendment to §21.31 changes the fees for field inspections made by the department for the purpose of certifying seed crops.

Amendments to these sections are made in accordance with the intent of the 69th Legislature, 1985.

Mike Laredo, budget director, has determined that for the first five-year period the proposed 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 is an estimated increase in revenue of \$14,676 in 1986; \$20,667 in 1987; \$20,667 in 1988; \$20,667 in 1989; and \$20,667 in 1990. There will be no effect on local government for the first five-year

period the rule is in effect. The cost of compliance with the sections for small businesses will be an additional \$2.00 per application for certification; an additional \$.005 cent per gummed, foundation, registered, certified and Organization for Economic Cooperation and Development (OECD) certified label; an additional \$.01 per pressure sensitive label; and a 20% increase in acreage inspection fees. The cost of compliance will be the same for small and large businesses, dependent upon the number of applications, labels purchased, and amount of acreage inspected for certification.

Mr. Laredo also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections is additional general revenues in accordance with the intent of the 69th Legislature, 1985. The possible economic cost to individuals who are required to comply with the sections as proposed will be for application for certification, for certification labels, and for acreage inspection fees of \$14,676 in 1986; \$20,667 in 1987; \$20,667 in 1988; \$20,667 in 1989; and \$20,667 in 1990.

Comments on the proposal may be submitted to Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711.

The amendments are proposed under the Texas Agriculture Code, §62.008, which provides the Texas Department of Agriculture with the authority to fix and collect a fee for the issuance of certification labels, and for the costs of inspections, provided for in Texas Agriculture Code, Chapter 62.

§21.3. Approval of Applicant under Certification.

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

(c) When an applicant has satisfied the State Seed and Plant Board as to qualifications and ability to produce certified seed and has paid the \$12 [\$10] annual application fee to the Texas Department of Agriculture and all other requirements for certification have been met, the State Seed and Plant Board shall issue a certificate evidencing the fact that the applicant is fully licensed as a registered plant breeder or certified seed grower.

(d) (No change.)

§21.11. Labels.

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

(b) The cost of certification labels shall be:

(1) foundation, registered and certified labels, \$.03 each;

(2) Organization for Economic Cooperation and Development (OECD) certified labels, \$.03 each;

(3) pressure sensitive labels, \$.06 each;

(4) gum labels, \$.03 each.

§21.31. Inspection Fees for Certification. The following inspection fees for certification chart, as amended, [in April 1984 that] designates fees per acre for various crop kinds as required for seed certification for genetic identity only[, is adopted by reference for the purpose of seed certification by genetic identity only]. Copies may be obtained from Seed Division, Texas Department of Agriculture, P.O. Box 12847, Capitol Station, Austin, Texas 78711, or by telephoning (512) 453-7614 [475-2038].

SECTION 21.31 ACREAGE INSPECTION FEES FOR CERTIFICATION
TABLE 1

	Foundation	Registered	Certified
1/ Agroticum	\$.30[.25]	\$.30[.25]	\$.30[.25]
2/ Alfalfa	.60[.50]	.60[.50]	.60[.50]
Buckwheat	.30[.25]	.30[.25]	.30[.25]
Cantaloupe	3.00[2.50]	3.00[2.50]	2.40[2.00]
Clover (all kinds)	.60[.50]	.60[.50]	.60[.50]
3/ Corn	1.80[1.50]	--- ---	1.80[1.50]
Cotton	.25[.20]	.20[.15]	.12[.10]
Cowpea, field bean, & flat pea	.90[.75]	.60[.50]	.60[.50]
4/ Flax	.90[.75]	.90[.75]	.90[.75]
5/ Forest tree seed	--- ---	--- ---	2.40[2.00]
6/ Forest tree seedlings	--- ---	--- ---	42.00[35.00]
7/ Grass (seeded)	2.40[2.00]	2.40[2.00]	2.40[2.00]
8/ Grass (vegetatively propagated)	14.40[12.00]	14.40[12.00]	14.40[12.00]
Guar	2.40[2.00]	2.40[2.00]	1.80[1.50]
Illinois bundleflower	2.40[2.00]	2.40[2.00]	2.40[2.00]
Millet (foxtail & pearl)	1.20[1.00]	1.00[.80]	.60[.50]
Millet (gahi & hybrids)	1.80[1.50]	--- ---	1.50[1.25]
Okra	2.40[2.00]	2.40[2.00]	1.80[1.50]
9/ Peanut	.45[.35]	.45[.35]	.45[.35]
10/ Small grain	.30[.25]	.30[.25]	.30[.25]
Rice	2.40[2.00]	2.40[2.00]	1.80[1.50]
Sorghum (open-pollinated)	.75[.60]	.60[.50]	.50[.40]
11/ Sorghum (commercial hybrids)	--- ---	--- ---	1.50[1.25]
12/ Sorghum (A, B, & R Lines)	6.00[5.00]	--- ---	--- ---
Soybean	.55[.45]	.45[.35]	.30[.25]
Sugar cane	3.00[2.50]	--- ---	2.40[2.00]
11/ Sunflower (commercial hybrids)	--- ---	--- ---	1.50[1.25]
Sunflower (A & R Lines)	6.00[5.00]	--- ---	--- ---
Watermelon	4.20[3.50]	4.20[3.50]	3.60[3.00]

- 1/ THIRTY (30) [Twenty-five (25)] cents per acre for the first 50 acres in one field and TWELVE (12) [ten (10)] cents for each additional acre in one field.
- 2/ SIXTY (60) [Fifty (50)] cents per acre for the first 50 acres in one field and THIRTY (30) [twenty-five (25)] cents for each additional acre in one field.
- 3/ One (1) dollar and EIGHTY (80) [fifty (50)] cents per acre for the first 50 acres in one field and NINETY (90) [seventy-five (75)] cents for each additional acre in one field.
- 4/ NINETY (90) [Seventy-five (75)] cents per acre for the first 50 acres in one field and SIXTY (60) [fifty (50)] cents for each additional acre in one field.
- 5/ Two (2) dollars AND FORTY (40) CENTS per acre for the first 25 acres per county and one (1) dollar AND TWENTY (20) CENTS for each additional acre per county.
- 6/ FORTY-TWO (42) [thirty-five (35)] dollars for each nursery site.
- 7/ Two (2) dollars AND FORTY (40) CENTS per acre for the first 50 acres in one field and TWO (2) DOLLARS AND FIVE (5) CENTS [one (1) dollar and seventy-five (75) cents] for each additional acre in one field. Fee required only once a year at time of application, regardless of number of inspections or harvests made.
- 8/ Pre-planting inspection...FOURTEEN (14) DOLLARS AND FORTY (40) CENTS [Twelve (12) dollars] for any acreage up to and including the first three acres and two (2) dollars AND FORTY (40) CENTS for each acre in excess of three acres. Sprig inspection...FOURTEEN (14) DOLLARS AND FORTY (40) CENTS [Twelve (12) dollars] for any acreage up to and including the first three acres and two (2) dollars AND FORTY (40) cents for each acre in excess of three acres. Fee required only once a year at time of application, regardless of number of inspections or harvests made.
- 9/ FORTY-FIVE (45) [Thirty-five (35)] cents per acre for the first 50 acres in one field and EIGHTEEN (18) [fifteen (15)] cents for each additional acre in one field.
- 10/ THIRTY (30) [Twenty-five (25)] cents per acre for the first 50 acres in one field and TWELVE (12) [ten (10)] cents for each additional acre in one field.
- 11/ One (1) dollar and FIFTY (50) [twenty-five (25)] cents per acre for the first 50 acres in one field, one (1) dollar AND TWENTY (20) CENTS for each additional acre up to and including 100 acres in one field, NINETY (90) [seventy-five (75)] cents for each additional acre in excess of 100 acres in one field.
- 12/ SIX (6) [Five (5)] dollars per acre for the first 5 acres in one field, THREE (3) DOLLARS [two (2) dollars and fifty (50) cents] for each additional acre up to and including 10 acres in one field, one (1) dollar and EIGHTY (80) [fifty (50)] cents for each additional acre in excess of 10 acres in one field.

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 27, 1985

TRD-858988

Dolores Alvarado Hibbs
Hearings Officer
Texas Department of
Agriculture

Earliest possible date of adoption.

November 4, 1985

For further information, please call
(512) 463-7583.

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Chapter 23. Family Farm and Ranch Security Program

Subchapter A. General Provisions

★4 TAC §23.1, §23.5

The Texas Department of Agriculture proposes amendments to §23.1 and §23.5, concerning definitions and administration. The amendments add definitions for liquidation process, residential homestead exclusion, and assumption of the guaranty. The amendments redefine or change the definitions of advisory council, applicant, and guaranty. Under the proposed amendment, the commissioner of agriculture may delegate to the Family Farm and Ranch Advisory Council certain functions to administer the program. The department proposes these amendments for nonsubstantive clarification or to comply with the provisions of House Bill 2258, 69th Legislature, 1985, which amended the Texas Agriculture Code, §252.001, *et seq.*

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

Mr. Laredo and Margo Wilton, bond attorney, Family Farm and Ranch Program, have determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections is a greater number of family farmers and ranchers will be able to qualify for the loans. There is no anticipated economic cost to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Larry Strange, Administrator, Family Farm and Ranch Program, Texas

Department of Agriculture, P.O. Box 12847, Austin, Texas 78711-3824.

The amendments are proposed under the Texas Agriculture Code, Title 8, Chapter 252, Subchapter B, §252.011, which provides the Texas Department of Agriculture with the authority to adopt rules necessary for the efficient administration of the program.

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

Advisory council—The Family Farm and Ranch Advisory Council created under the Act[, §252.013].

Applicant—A natural person applying for a family farm and ranch security loan guaranty, or for an assumption of a family farm and ranch security loan guaranty.

Assume or assumption of a guaranty—The transfer of the obligations, contracts, agreements, and benefits of the guaranty in connection with the assumption of a family farm and ranch security loan.

Family farm and ranch security loan guaranty or guaranty—The written agreement executed by the commissioner that in the event of default the State of Texas shall pay the lender up to 90% of the sums due and payable under the [first] real estate mortgage or deed of trust, or, if the applicant makes a down payment of 10% or more of the purchase price, all of the sums due and payable under the [first] real estate mortgage or deed of trust. **The maximum loan guaranty under these sections is \$250,000.**

Liquidation process—The procedure for selling the property upon foreclosure as set forth in §23.72 of this title (relating to Liquidation of Property).

Residential homestead exclusion—The first \$100,000 of the value of the applicants residential homestead which is exempt from inclusion in calculating the applicants net worth for purposes of eligibility determination under these sections.

§23.5. Administration. The commissioner may delegate appropriate functions to the advisory council, administrator, and the staff to carry out the purposes of all applicable laws and these sections in the day-to-day conduct of the program.

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

Issued in Austin, Texas, on September 30, 1985

TRD-858989

Dolores Alvarado Hibbs
Hearings Officer
Texas Department of
Agriculture

Earliest possible date of adoption

November 4, 1985

For further information, please call
(512) 463-7583

Subchapter B. Eligibility

★4 TAC §23.11, §23.13

The Texas Department of Agriculture proposes amendments to §23.11 and §23.13, concerning eligible applicant and eligible financial arrangements. This proposal amends the eligibility requirements of the applicants for a guaranty under the Family Farm and Ranch Program and the terms of arrangements eligible for guaranties under the Family Farm and Ranch Program. These amendments allow for the transfer of a guaranty to a purchaser of land who assumes the loan underlying the guaranty if the purchaser qualifies under the Texas Agriculture Code, §252.001, *et seq.*, and the rules promulgated thereunder. The amendments change the allowable net worth of the applicant. In addition, the amendments reflect modifications to the interest cap and terms of the agreement in response to concerns raised by potential applicants and lenders.

These amendments are proposed to comply with the provisions of House Bill 2258, 69th Legislature, 1985, which amended the Texas Agriculture Code, §252.001, *et seq.*, and broaden and/or modify the acceptable terms of the documentation underlying the guaranty to allow more applicants to qualify.

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

Mr. Laredo and Margo Wilson, bond attorney, Family Farm and Ranch Program, also have determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections is a greater number of family farmers and ranchers will be able to qualify for the loans. There is no anticipated economic cost to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Larry Strange, Administrator, Family Farm and Ranch Program, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711-3824.

The amendments are proposed under the Texas Agriculture Code, Title 8, Chapter 252, Subchapter B, §252.011, which provides the Texas Department of Agriculture with the authority to adopt rules necessary for the efficient administration of the program.

§23.11. Eligible Applicant. To be eligible for a guaranty, or for the assumption of a guaranty, an applicant must meet all of the following criteria at the time of application:

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

(4) have a total net worth (computed in accordance with generally accepted accounting practices) together with the applicant's spouse and their dependents of less than \$200,000 [\$100,000], excluding the first \$100,000 of value of any residential homestead owned by the applicant on the date of the application;

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

(10) not hold a guaranty that was executed less than 36 months before the date of the current application, unless otherwise authorized by the advisory council [administrator]; and

(11) agree to provide the commissioner or his representative annual [quarterly] reports of actual income and expense for the first two years of the loan and for any additional periods of time that the commissioner or his representative may require.

§23.13. *Eligible Financial Agreements.* The financial terms and conditions of the transaction shall conform to the following requirements:

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

(3) The interest rate to be paid by the applicant shall not exceed [the lower of.

[(A)] the usury or interest rate for individuals established by the laws of this state in effect at the time of loan closing [;

[(B)] the rate in effect at the time of application for the United States Veterans Administration single family housing mortgage guaranty program, in the case of a fixed interest rate], or

[(C)] the rate in effect during the term of the loan for real estate loans of the Federal Land Bank of Texas, in the case of a variable interest rate].

(4) Loan discounts or discount points charged to the applicant may not exceed 1½ [2½] points.

(5) The term of the loan may be negotiated by the applicant and the lender, and the loan may [must] be [fully] amortized by any of the following methods:

(A) levelized payments, fully amortized, for a period not to exceed 20 years;

(B) graduated payments, fully amortized, for a period not to exceed 20 years;

(C) levelized payments for a initial term not to exceed 10 years with one balloon payment in the last period of the initial term with a provision allowing the reamortization of the balloon payment over an additional period of time not to exceed 10 years at the participants option. At the end of the initial term, the participant and lender may renegotiate the interest rate applicable to the second amortization period, but the interest rate negotiated may not be increased or decreased by more than 3.0% from the interest rate established at the beginning of the first amortization period. The total of the first and second amortization periods may not exceed 20 years.

(6) The loan must be subject to

prepayment in whole in in part without penalty. A loan and loan guaranty may be assumed under the terms and conditions set forth in these sections, but is not otherwise assignable by the participant or lender [, but may not be assignable by the participant].

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

(9) In the case of a loan in which the lender is not the seller, the lender shall evaluate the participant's performance at least annually [quarterly] based on information supplied to the lender by the participant. If the participant's performance is unsatisfactory, the lender shall provide the commissioner with a written report specifying the reasons why performance is unsatisfactory. In the case of a seller-sponsored loan, the commissioner shall evaluate the participant's performance at least annually [quarterly].

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 30, 1985.

TRD-858990

Dolores Alvarado Hibbs
Hearing Officer
Texas Department of
Agriculture

Earliest possible date of adoption:
November 4, 1985
For further information, please call
(512) 463-7583

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Subchapter C. Application Procedures

★4 TAC §§23.21, 23.24-23.29

The Texas Department of Agriculture proposes amendments to §§23.21 and 23.24-23.29, concerning application; letter of intent; financial information; review of applications, criteria for approval; notification; and denial of application. The amendments make technical clarifications adding that qualified appraisers, options and letters of intent must conform to the rules adopted on these issues; make changes and additions to required financial information; amend the provisions for review, approval, and notification; and delete the commissioner's role in the review and approval of the applications.

The required financial information will include the following additional or modified requirements under the proposal: in-

clusion of the value of the residential homestead in the financial statements, cash flow budgets or other detailed statements of projected income and expense, and two years of projected profit and loss statements. The procedure for review of the applications is proposed for amendment to place the responsibility for review of the application and notifications of denial on the administrator while the Family Farm and Ranch Advisory Council will approve or deny the application. The amendments lengthen the time in which an applicant or seller may modify their terms to qualify for a guaranty.

The amendments are proposed to comply with the provisions of House Bill 2258, 69th Legislature, 1985, which amended the Texas Agriculture Code, §252.001, *et seq.*, and to clarify the types of information submitted by applicants and to allow more flexibility in negotiation after denial of an application.

Mike Laredo, budget director, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections

Mr. Laredo and Margo Wilton, bond attorney, Family Farm and Ranch Program, have determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections is a greater number of family farmers and ranchers will be able to qualify for the loans.

There is no anticipated economic cost to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Larry Strange, Administrator, Family Farm and Ranch Program, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711-3824

The amendments are proposed under the Texas Agriculture Code, Title 8, Chapter 252, Subchapter B, §252.011, which provides the Texas Department of Agriculture with the authority to adopt rules necessary for the efficient administration of the program.

§23.21. *Application.* An individual desiring to acquire farmland or rangeland may apply to participate in the program. An applicant must apply for a guaranty on an application form provided by the commissioner. The applications must also include the following:

(1) a farm or ranch land appraisal prepared by a qualified appraiser under §23.22 of this title (relating to Farm or Ranch Land Appraisal);

(2) an earnest money contract or purchase option conforming to the requirements contained in §23.23 of this title (relating to Earnest Money Contract or Option);

(3) letters of intent, if appropriate, conforming to the requirements contained in §23.24 of this title (relating to Letter of Intent);

(4)-(5) (No change.)

§23.24. *Letter of Intent.* The applications shall contain the following information:

(1)-(3) (No change)

(4) written equipment use agreements signed by both the applicant and the equipment owner, if equipment will be shared, borrowed, rented, or leased.

§23.25. *Financial Information.* The application shall include the following financial information:

(1) a financial statement of the applicant and spouse's net worth including [excluding] the [estimated] value of their residential homestead, if any,

(2) (No change)

(3) [A] cash flow budgets [model] or other detailed statements of projected income and expense for the first two years of proposed operations, and

(4) projected profit/loss statements for the first two years of operations.

(5)[(4)] other such information as may be required by the administrator.

§23.26. *Review of Applications.* The administrator [and advisory council] shall consider an application for a guaranty and make recommendations about its disposition to the advisory council [commissioner]. The administrator [advisory council] shall make his [its] recommendations after he [it or its designee] conducts a hearing as a contested case proceeding under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a. The advisory council [commissioner] shall then consider an act upon the application, taking into account the recommendation of the administrator [and advisory council].

§23.27. *Criteria for Approval.* The following criteria shall be considered by the administrator and[,] the advisory council[, and the commissioner] in reviewing an application for a guaranty:

(1)-(8) (No change)

§23.28. *Notification.* Upon completion of the review of an application for a guaranty, the administrator [commissioner] shall provide written notification of the determination to the applicant and lender. If the application is denied, the administrator [commissioner] shall specify the reason(s) [reasons] for denial.

§23.29. *Denial of Application.*

(a) If the advisory council [commissioner] determines after review of the appraisal that the reason for denial is that the purchase price exceeds the appraised value of the land, the administrator [commissioner] shall give the applicant and seller 30 [lender 10] days from the date of receipt of the notification to modify their contract in such a manner as will permit the applica-

tion as revised to conform to the requirements of this chapter.

(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.

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Dolores Alvarado Hibbs,
Hearings Officer
Texas Department of
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For further information, please call
(512) 463-7583

★ ★ ★

Subchapter D. Closing Procedures

★ 4 TAC §§23.41, 23.45, 23.47

The Texas Department of Agriculture proposes amendments to §§23.41, 23.45, and 23.47, concerning preclosing instructions, and final title opinion. The proposal shifts certain administrative duties on preclosing and closing the agreements associated with guaranty of the loan from the commissioner of agriculture to the administrator and/or the Family Farm and Ranch Advisory Council, amends the term "first real estate mortgage" to "real estate mortgage," and deletes the mandatory receipt of the final title opinion.

The proposed change in duties relieves the commissioner from involvement in the preclosing procedure and allows the administrator or the Family Farm and Ranch Advisory Council to request and examine copies of certain documents in connection with preclosing. In addition, the proposal refers to a real estate mortgage as one of the agreements that may be guaranteed instead of the first real estate mortgage. The amendments allow the commissioner to require a final title opinion after all documents are recorded. The department is proposing these amendments as technical changes in procedure.

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

Mr. Laredo and Margo Wilton, bond attorney, Family Farm and Ranch Program, have determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections is a greater number of family farmers and ranchers will be able to qualify for the loans. There

is no anticipated economic cost to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Larry Strange, Administrator, Family Farm and Ranch Program, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711-3824.

The amendments are proposed under the Texas Agriculture Code, Title 8, Chapter 252, Subchapter B, §252.011, which provide the Texas Department of Agriculture with the authority to adopt rules necessary for the efficient administration of the program.

§23.41. *Preclosing Instructions.*

(a) Upon receiving notice of approval of a guaranty, the applicant and lender shall proceed in accordance with instructions provided by the administrator [commissioner] for closing the loan file. Such instructions may include required title opinions, acceptable title, fire, flood, hazard, or other insurance, and execution of all relevant statements or declarations required by federal or state law or rule.

(b) All actions required of the applicant and lender to prepare for the state's execution of guaranty documents shall be completed within 60 days of receipt of the notice unless an extension is granted by the administrator [commissioner]. An extension for a reasonable period of time may be granted under the following conditions related either to the farmland or ranchland acquired under the program or to assets of the applicant essential to completing the purchase:

(1)-(3) (No change)

(c) The administrator or advisory council [commissioner] may request and examine copies of other security agreements or loan documents or other records which relate to the applicant's land purchase in order to determine all liens and encumbrances on the property.

§23.45. *Guaranty.*

(a) When the closing documents are properly executed, the commissioner shall enter into an agreement with the participant and the lender providing that, in the event of default by the participant, the state shall pay the lender up to 90% of the sums due and payable under the [first] real estate mortgage or deed of trust, or if the applicant makes a down payment of 10% or more of the purchase price, all of the sums due and payable under the [first] real estate mortgage or deed of trust. Sums due and payable include the principal balance outstanding, accrued interest up to the date on which the state performs under the guaranty, and any other expenses incurred by the lender for maintenance and protection of the property during the default period which are determined by the commissioner to be reasonable and prudent.

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

§23.47. *Final Title Opinion.* After the appropriate instruments are recorded, the applicant may be required to [shall] furnish the commissioner with a final title opinion which recognizes the interests of all parties.

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-858992 Dolores Alvarado Hibbs, Hearings Officer Texas Department of Agriculture

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Subchapter E. Default by Participant

★ 4 TAC §23.61

The Texas Department of Agriculture proposes amendments to §23.61, concerning conditions of default by participant. The amendment reduces the ongoing reporting burden on the farmer

Mike Laredo, budget director, has determined that for the first five-year period the proposed 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 Laredo and Margo Wilton, bond attorney, Family Farm and Ranch Program, have determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section is a greater number of family farmers and ranchers will be able to qualify for the loans. There is no anticipated economic cost to individuals who are required to comply with the proposed section

Comments on the proposal may be submitted to Larry Strange, Administrator, Family Farm and Ranch Program, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711 3824

The amendment is proposed under the Texas Agriculture Code, Title 8, Chapter 252, Subchapter B, §252.011, which provides the Texas Department of Agriculture with the authority to adopt rules necessary for the efficient administration of the program

§23.61. *Conditions of Default by Participant.* A participant is in default if one or more of the following conditions exist:

- (1)-(5) (No change.)
(6) the participant fails to provide the commissioner or his representative annual [quarterly] reports of actual income

and expense as required by §23.11(a)(11) of this title (relating to Eligible Applicant).

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-858993 Dolores Alvarado Hibbs Hearing Officer Texas Department of Agriculture

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Subchapter F. Foreclosure Procedures

★ 4 TAC §23.72, §23.73

The Texas Department of Agriculture proposes amendments to §23.72 and §23.73, concerning liquidation of property and distribution of proceeds. The proposed changes implement amendments to the Texas Agriculture Code, §§252.001, et seq., as adopted in House Bill 2258, 69th Legislature, 1985, which specifically allows the commissioner of agriculture to reject bids on property foreclosed under the program and restart the process. The proposal includes technical amendments on the amount of time a bidder has to remit the balance of the purchase price and allows the farm and ranch loan security fund to be reimbursed for expense related to the foreclosure sale

Mike Laredo, budget director, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections

Mr Laredo and Margo Wilson, bond attorney, Family Farm and Ranch Program, have determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections is a greater number of family farmers and ranchers will be able to qualify for the loans. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the program may be submitted to Larry Strange, Administrator, Family Farm and Ranch Program, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711-3824

The amendments are proposed under the Texas Agriculture Code, Title 8, Chapter 252, Subchapter B, §252.011, which provides the Texas Department of Agriculture with the authority to adopt rules necessary for the efficient administration of the program.

§23.72. *Liquidation of Property.*

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

(c) The commissioner may elect to sell the property by sealed bids or by public auction to the highest bidder, or the commissioner may reject all bids. If the commissioner accepts the highest bid, the successful bidder shall be notified within 15 days of the date of sale. If the commissioner elects to reject all bids, the liquidation process shall be restarted within 180 days of the date of the bid opening.

(d) The successful bidder shall remit the balance of the purchase price to the commissioner within 90 [30] days of the date of notification of acceptance of the bid. On remittance of the balance, the commissioner shall transfer all rights, title, and interest of the state in the property to the purchaser. If the purchaser fails to remit any part of the balance within 90 [30] days, the purchaser shall forfeit all rights to the property and any money paid for it, and the commissioner shall restart the liquidation [sale] process

§23.73 *Distribution of Proceeds* Proceeds of the sale shall be distributed as follows

- (1) to the farm and ranch loan security fund, an amount equal to the amount paid to lender under the guaranty plus costs incidental to foreclosure, maintenance, and protection of the property, and preparation for and the conduct of the sale,
(2)-(3) (No change)

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

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TRD 858994 Dolores Alvarado Hibbs Hearing Officer Texas Department of Agriculture

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Subchapter G. Default by Lender

★ 4 TAC §23.81

The Texas Department of Agriculture proposes an amendment to §23.81, concerning conditions of default by lender. The amendment deletes as a condition of default of the lender the failure to exercise due diligence in the servicing, maintenance, review, and evaluation of the performance of a loan guaranteed under the program

Mike Laredo, budget director, has determined that for the first five-year period the proposed 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. Laredo and Margo Wilton, bond attorney, Family Farm and Ranch Program, have determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section is a greater number of family farmers and ranchers who will be able to qualify for the loans. No economic costs to individuals are anticipated as a result of compliance with the section as proposed.

Comments on the proposal may be submitted to Larry Strange, Administrator, Family Farm and Ranch Program, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711-3824.

The amendment is proposed under the Texas Agriculture Code, Title 8, Chapter 252, Subchapter B, §252.011, which provides the Texas Department of Agriculture with the authority to adopt sections necessary for the efficient administration of the program.

§23.81. Conditions of Default by Lender. A lender for whom a guaranty has been issued shall be in default if:

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

(5) the lender fails to exercise diligence as required in §23.12(a)(3) of this title (relating to Eligible Lenders);

(5)(6) the seller in a seller-sponsored loan interferes in the participant's peaceful enjoyment of the land and improvements.

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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Subchapter H. Miscellaneous Provisions

★ 4 TAC §§23.91, 23.95-23.102

The Texas Department of Agriculture proposes new §23.95 and §23.97, and amendments to §§23.91 and 23.95-23.100 concerning sale or conveyance, leasing, minerals, reamortization, amendment to underlying documentation and the guaranty, partial release, relinquishment of the guaranty, conflicting provisions, discrimination, privacy, written communications, and statements and opinions. Current §23.95 will be renumbered to §23.96; §23.96 will be renumbered §23.98, and §§23.97-23.100 will be renumbered §§23.99-23.102. These amendments implement the amendment made by House Bill 2253, 69th Legislature, 1985, which amended the Texas Agriculture Code, §252.001 *et seq.* allowing for the assumption of a family farm

and ranch loan, or are technical in nature, including the administrator in the list of persons who will not discriminate and who may not give binding statements except in formal orders.

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

Mr. Laredo and Margo Wilton, bond attorney, Family Farm and Ranch Program, have determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections is a greater number of family farmers and ranchers who will be able to qualify for the loans. No economic costs to individuals are anticipated as a result of compliance with the sections as proposed.

Comments on the proposal may be submitted to Larry Strange, Administrator, Family Farm and Ranch Program, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711-3824.

The new sections and amendments are proposed under the Texas Agriculture Code, Title 8, Chapter 252, Subchapter B, §252.011, which provides the Texas Department of Agriculture with the authority to adopt sections necessary for the efficient administration of the program.

§23.91. Sale or Conveyance. A participant who sell or conveys the property for which a guaranty was issued shall immediately retire the entire indebtedness owed to the lender, **unless the loan and guaranty are assumed in accordance with the Act and these rules.** [The new owner may apply for a guaranty in his or her own right, but the original guaranty may not be assumed by the new owner.]

§23.95. Amendment to Underlying Documentation and the Guaranty. The documentation required by these rules may be amended after the guaranty has been duly executed only in accordance with the procedures set forth herein.

(1) All proposed material amendments to required documentation underlying the guaranty and affecting the guaranty must be approved by the advisory council prior to execution by the lender and the participant. The proposed amendment(s) should be submitted to the administrator in writing at least two weeks prior to an advisory council meeting. The administrator shall review the proposed amendment(s) and submit his recommendation for approval or denial to the advisory council. The advisory council shall approve or deny the proposed amendment(s). The advisory council or the administrator may require further information on the proposed amendment(s).

(2) All proposed amendments to the guaranty shall be approved or denied by the advisory council except as set forth in §23.96 of this title (relating to Partial Release). No amendment to the guaranty shall be authorized by the advisory council except upon a showing of good cause by the lender, participant, and administration.

§23.96. [§23.45.] Partial Release. The commissioner and lender may approve the release of a portion of the property purchased under a family farm and ranch security loan from lender's lien under the following conditions:

(1) the commissioner and lender determine that the release will not adversely affect the participant's ability to continue in the program;

(2) the participant agrees to comply with the conditions for release jointly imposed by the lender and commissioner, which may include conditions as to the amount of acreage released and the location of the released acreage; and

(3) the current market value of the acreage to be released does not exceed 75% of the participant's equity in the property.

§23.97. Relinquishment of the Guaranty. The guaranty agreement may be terminated by agreement of the lender and participant with written notification in a form acceptable to the advisory council delivered to the administrator and advisory council.

§23.98. [§23.96.] Conflicting Provisions. If a provision in a document underlying a family and ranch security loan conflicts with these rules, then the rules shall prevail.

§23.99. [§23.97.] Discrimination. To promote equal access to farm and ranch ownership, neither the commissioner, [nor] the advisory council, **nor the administrator** shall discriminate against any person because of age, race, color, creed, religion, national origin, sex, marital status, disability, or political, or ideological persuasion.

§23.100. [§23.98.] Privacy. The administrator, to the extent authorized by law, shall hold all applications that are being reviewed by the commissioner in confidence.

§23.101. [§23.99.] Written Communications. All communications to the advisory council or the commissioner pertaining to the Family Farm and Ranch Security Program shall be addressed to the Administrator, Family Farm and Ranch Security Program, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711.

§23.102. [§23.100.] Statements and Opinions. Statements and opinions of the staff, **administrator**, advisory council, and commissioner, other than formal orders and rules, are not binding in any way on the staff, **administrator**, advisory council, or commissioner.

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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(512) 463-7583

TITLE 7. BANKING AND SECURITIES

Part II. Banking

Department of Texas

Chapter 12. Lending Limits

★ 7 TAC §12.1

The Banking Department of Texas proposes new §12.1, concerning the authority, purpose, and scope of its regulations concerning the statutory lending limits for state banks. This new section explains the department's objective in promulgating rules on this subject.

Hubert Bell, Jr., assistant general counsel, has determined that for the first five-year period the proposed 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. Bell also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section is a clearer understanding in the banking industry of the purpose and scope of the department's rules concerning bank's lending limits. There will be no cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Jorge A. Gutierrez, General Counsel, Banking Department of Texas, 2601 North Lamar, Austin, Texas 78705.

The new section is proposed under Texas Civil Statutes, Article 342-507(d), which provide the banking commissioner with the authority to prescribe rules to administer and carry out this Article.

§12.1 Authority, Purpose, and Scope

(a) Authority. The sections in this chapter are issued pursuant to the authority in Texas Civil Statutes, Article 342-507(d).

(b) Purpose. The sections in this chapter are intended to prevent one individual, or a relatively small group, from borrowing an unduly large amount of a state bank's funds. The sections in this chapter are also intended to safeguard the bank's depositors by spreading the loans among a relatively large number of persons engaged in different lines of business.

(c) Scope. This chapter applies to all loans and extensions of credit made by state banks and their domestic operating subsidiaries.

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 26, 1985

TRD-858863 Jorge A. Gutierrez
General Counsel
Banking Department of
Texas

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For further information, please call
(512) 475-4451

★ ★ ★

★ 7 TAC §12.2

The Banking Department of Texas proposes new §12.2, concerning definition of terms used in connection with lending limit issues. This new section defines those terms that arise most frequently in addressing questions with regard to determining what constitutes a loan and the applicability of lending limitations.

Hubert Bell, Jr., assistant general counsel, has determined that for the first five-year period the proposed 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. Bell also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section is a better understanding in the banking industry of the terms used in determining what constitutes a loan or extension of credit through the establishment of certain basic, uniform definitions.

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 Jorge A. Gutierrez, General Counsel, Banking Department of Texas, 2601 North Lamar, Austin, Texas 78705.

The new section is proposed under Texas Civil Statutes, Article 342-507(d), which provide the banking commissioner with the authority to prescribe rules to administer and carry out this Article.

§12.2 Definitions. Texas Civil Statutes, Article 342-507(d), provide the basic definition of loans and extensions of credit. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

Consumer—For the purposes hereof, consumer includes the user of any products, commodities, goods, or services,

whether leased or purchased, and does not include any person who purchases products or commodities for the purpose of resale or for fabrication into goods for sale.

Installment consumer paper—For purposes hereof, installment consumer paper includes paper relating to automobiles, mobile homes, residences, office equipment, household items, tuition fees, insurance premium fees, and similar consumer items. Also included is paper covering the lease (where the bank is not the owner or lessor) or purchase of equipment for use in manufacturing, farming, construction, or excavation.

Interest or discount on loans—The term loan or extension of credit as defined herein does not include that portion of a loan or extension of credit that represents the accrued or discounted interest.

Liability of guarantors and accommodation parties—Loans and extensions of credit as defined in Texas Civil Statutes, Article 342-507(a)(1), do not include the liability of a drawer, endorser, or guarantor who does not receive any of the proceeds, or the benefits of the proceeds of the loan or extension of credit, provided that the benefits of the proceeds of the loan or extension of credit, provided that the bank is relying primarily on the credit worthiness of the primary obligor and none of the tests set forth in §12.4 of this title (relating to Combining Loans to Separate Borrowers and Attributing Loans to Persons other than the Maker) are satisfied. Said reliance shall be evidenced by the certification of an officer of the bank, that the bank is, in fact, relying primarily on the responsibility and financial condition of the primary obligor for payment of the loan or extension of credit and not on the guarantee, or commitment in whatever form, of the guarantor, drawer, or endorser. For the purposes of the sections in this chapter, guarantees are deemed to include agreements to purchase collateral that secures a loan. In the event that the loan or extension of credit to the primary obligor, deemed by the bank to be of sufficient credit quality at its inception, experiences subsequent deterioration such that the primary obligor is not performing in accordance with the terms of the initial loan agreement, then such occurrence shall not result in a violation merely by virtue of those subsequent developments. However, the total amount of such deteriorated loans guaranteed by an accommodating person should be combined with any other obligations of such guarantor in determining whether the guarantor may obtain additional loans or extensions of credit from the bank.

Loans charged off in whole or in part—The lending limits apply to all existing loans or extensions of credit to a person by the bank, including loans or extensions of credit that have been charged off on the books of the bank in whole or in part. Loans or extensions of credit that have become unenforceable by reason of discharge

in bankruptcy or are no longer legally enforceable for other reasons are not loans and extensions of credit within the meaning hereof.

Obligation to advance funds—Under the authority granted to the commissioner in Texas Civil Statutes, Article 342-507(a)(1), loans and extensions of credit as defined in Texas Civil Statutes, Article 342-507, will be deemed to include an obligation advance funds. For purposes of the sections in this chapter, an obligation to advance funds shall mean an obligation on the part of the bank to make payments (directly or indirectly) to a designated third party contingent upon a default by the bank's customer and the performance of an obligation under the terms of that customer's contract with the third party or an obligation to guarantee or stand as surety for the benefit of a third party. The term includes, but is not limited to standby letters of credit (as defined in this section), guarantees, puts, and other similar arrangements. For purposes of the sections in this chapter, undisbursed funds and loan commitments not yet drawn upon which are not equivalent to an obligation to advance funds as otherwise defined herein are not obligations to advance funds. Thus, a bank may enter into a binding commitment to advance funds to a borrower at a future date without such binding commitment being treated as an obligation to advance funds hereunder so long as the commitment made to the borrower is not in the nature of a guaranty of performance, surety, or other mechanism to make payments to a designated third party upon the borrower's default. However, if said commitment exceeds the bank's then lending limit, the bank must have no intent to have outstanding (fully funded), at any one time, the total amount of the commitments; or, if such is expected, the bank must have in its files written participation agreement(s) to fund any excess over the lending limit. The definition also does not include commercial letters of credit and similar instruments where the issuing bank expects the beneficiary to draw upon the issuer, which do not guarantee payment of a money obligation, and which do not provide for payment in the event of default by the account party. Where a bank is the beneficiary of a letter of credit, whether direct or in a stand-by capacity, the issuing bank shall not be considered as a borrower from the beneficiary bank for lending limitation purposes. However, the board of directors of the beneficiary bank must not allow the sum of its total deposits in the issuing bank plus all obligations of the issuing bank to it, to exceed an amount that is considered reasonable based on prudent banking standards.

Overdrafts—Overdrafts, whether or not prearranged, are considered loans and extensions of credit for the purpose hereof. This rule does not apply to intra-day or daylight overdrafts.

Person—For the purposes hereof, the term person as defined in Texas Civil

Statutes, Article 342-507 (a)(1), shall be deemed to include not-for-profit corporations as well as business corporations.

Purchase of third-party paper—When a bank purchases third-party paper subject to an agreement that the seller will repurchase the paper upon default or at the end of a stated period after default or the bank otherwise has full recourse against the seller, the seller's obligation is treated as a loan and extension of credit within the meaning of Texas Civil Statutes, Article 342-507(a), and the total of such loan or extension of credit to such seller is measured by the total unpaid balance of the paper owned by the bank less any applicable dealer reserves. When the seller's obligation to repurchase or other recourse against the seller is limited, the seller's total loans or extensions of credit hereunder are measured by the total amount of paper the seller may ultimately be obligated to repurchase. Where no more than an agreed percentage of the purchase price is retained by the bank and credited to a reserve to be held as a form of collateral security, but the bank has no direct or indirect recourse to the seller, the purchase transaction will not be treated as a loan or extension of credit for the purposes hereof. In all situations, and regardless of whether recourse exists against the seller, the purchase will also be treated as a loan or extension of credit to the maker of the paper. Additional rules regarding the discount of installment consumer paper may be found in §12.5 of this title (relating to Discount of Consumer Paper).

Standby letter of credit—Any letter of credit, or similar arrangement, however named or described, which represents an obligation to the beneficiary on the part of the issuer:

(A) to repay money borrowed by or advanced to or for the account of the account party; or

(B) to make payment on account of any indebtedness undertaken by the account party; or

(C) to make payment on account of any default by the account party in the performance of an obligation.

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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Jorge A. Gutierrez
General Counsel
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(512) 475-4451

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★ 7 TAC §12.3

The Banking Department of Texas proposes new §12.3, concerning the general

limitations on the dollar amount of loans that may be outstanding to a person at any one time. This new section also addresses the effects on an outstanding loan or commitment due to a decline in the bank's capital subsequent to the making of the loan or commitment.

Hubert Bell, Jr., assistant general counsel, has determined that for the first five-year period the proposed 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. Bell also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section is enhanced knowledge in the banking industry of the department's position regarding lending limit matters and thus a better opportunity for banks to plan, administer and structure its operations accordingly. There is no anticipated cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Jorge A. Gutierrez, General Counsel, Banking Department of Texas, 2601 North Lamar, Austin, Texas 78705.

The new section is proposed under Texas Civil Statutes, Article 342-507(d), which provide the banking commissioner with the authority to prescribe rules to administer and carry out this article.

§12.3. General Limitation.

(a) Law Texas Civil Statutes, Article 342-507(b), establish the basic limitations for loans and extensions of credit that may be outstanding to a person at any one time. Such loans and extensions of credit may not exceed 25% of a bank's capital and certified surplus.

(b) Change in lending limit due to a change in the bank's net capital and certified surplus. For the purpose of these sections, net capital and certified surplus used in determining a bank's lending limit represents the lesser of the actual capital stock and certified surplus or the net balance of all capital accounts not including the reserve for bad debts. In the event that a loan or binding commitment to make a loan is within a bank's lending limit when made, but due to a subsequent decrease in the bank's net capital and certified surplus, for whatever reason, said loan or advances (made pursuant to the commitment) then exceeds the bank's new lending limit, such occurrence in itself will not result in the bank being in violation of its legal lending limit; provided, however, that when the loan or commitment was made, the bank must have had no knowledge of any impending decrease in its net capital or certified surplus. Any new or additional advances (in excess of those previously committed), including advances of additional funds upon renewal or extension of said loan or commitment, shall be based on compliance with the



bank's lending limit as shall be determined at the time of such advance.

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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(512) 475-4451

★ 7 TAC §12.4

The Banking Department of Texas proposes new §12.4, concerning situations wherein loans to separated borrowers will be combined and when a loan to one person may be attributed to another. This new section specifically addresses loans to corporations, partnerships, or joint ventures, associations, and loans made to persons for direct investment in a corporation.

Hubert Bell, Jr., assistant general counsel, has determined that for the first five-year period the proposed 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. Bell also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section is a provision of consistent information to bankers regarding situations wherein loans to separate borrowers may be combined so that their affairs may be conducted with more certainty and potential violations, therefore, may be avoided. This new section is intended to safeguard the bank's depositors by spreading the loans among a relatively large number of persons engaged in different lines of business.

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 Jorge A. Gutierrez, General Counsel, Banking Department of Texas, 2601 North Lamar, Austin, Texas 78705.

The new section is proposed under Texas Civil Statutes, Article 342-507(d), which provide the banking commissioner with the authority to prescribe rules to administer and carry out this Article.

§12.4. Combining Loans to Separate Borrowers and Attributing Loans to Persons Other than the Maker.

(a) General rule. Loans or extensions of credit to one person will be attributed to other persons for purposes of lending limit determinations under Texas Civil Statutes, Article 342-507, when:

(1) the proceeds of the loans or extensions of credit are to be used for the direct benefit of the other person or persons; or

(2) the expected source of repayment for each loan or extension of credit is the same for each person. For the purposes hereof, the term "direct benefit" shall include situations in which the proceeds of a loan or extension of credit to one person are to be loaned or contributed by such person to another person.

(b) Loans for investing in a business enterprise. When separate persons borrow from a bank for the purpose of acquiring or investing in a business enterprise of which those persons own or will own more than 50% of the voting securities, such loans will be combined and attributed to the business enterprise for lending limitation purposes.

(c) Loans to corporations. Loans to a person and the subsidiaries of such person need not be combined unless one of the tests set forth in subsection (a) of the section is satisfied. The tests set forth in subsection (a) of this section will be deemed to be satisfied when loans to a subsidiary are repayable principally from intercompany loans, dividends, intercompany receivables, or capital contributions received from the related entity. For purposes of this section, a corporation is a subsidiary of any person which owns or beneficially owns more than 50% of the voting stock of the corporation. Such ownership need not be direct.

(d) Loans to partnerships, joint ventures, and associations.

(1) Loans to partnerships, joint ventures, or associations. Loans or extensions of credit to a partnership, joint venture, or association shall, for the purposes of these sections, be considered loans or extensions of credit to each member of such partnership, joint venture, or association, if under applicable law, each member of such partnership, joint venture, or association is liable for repayment of the loan or extension of credit to the entity involved.

(2) Loans to partners or joint ventures. Loans or extensions of credit to members of a partnership, joint venture, or association shall, for purposes of these sections, be attributed to the partnership, joint venture, or association (but not to the other partners or joint venturers) where one or more of the tests set forth in subsection (a) of this section is satisfied.

(3) Loans to limited partnerships. The rule set forth in paragraph (1) of this subsection is not applicable to limited partners in limited partnerships or to members of joint ventures or associations if such partners or members, by the terms of the partnership or membership agreement, are not to be held liable for the debts or actions of the partnership, joint venture, or association. However, the rules set forth in subsection (a) of this section are applicable to such partners or members.

This agency hereby certifies that the pro-

posal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on September 26, 1985.

TRD-858866

Jorge A. Gutierrez
General Counsel
Banking Department of
Texas

Earliest possible date of adoption:

November 4, 1985

For further information, please call
(512) 475-4451

★ ★ ★

★ 7 TAC §12.5

The Banking Department of Texas proposes new §12.5, concerning loans and extensions of credit which arise from the discount of negotiable or nonnegotiable installment consumer paper that carries a full recourse endorsement or unconditional guaranty by the transferor of the paper. This new section provides for the exclusion of such paper, under specified conditions, from the guarantor lending limit.

Hubert Bell, Jr., assistant general counsel, has determined that for the first five-year period the proposed 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. Bell also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section is a clear and consistent interpretation of this new provision of the Banking Code so that bankers may be better informed and may conduct their affairs accordingly. 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 Jorge A. Gutierrez, General Counsel, Banking Department of Texas, 2601 North Lamar, Austin, Texas 78705.

The new section is proposed under Texas Civil Statutes, Article 342-507(d), which provide the banking commissioner with the authority to prescribe rules to administer and carry out this article.

§12.5. Discount of Consumer Paper.

(a) Law. The 12th exception to the lending limit statute, Texas Civil Statutes, Article 342-507(b)(12), provides an exception from lending limits for loans and extensions of credit arising from the discount of negotiable or nonnegotiable installment consumer paper that carries a full recourse endorsement or unconditional guaranty by the person transferring the paper.

(b) General limitation. Loans and extensions of credit arising from the discount of negotiable or nonnegotiable installment

consumer paper and which carries a full recourse endorsement or unconditional guaranty by the person transferring the paper will be treated as a loan or extension of credit to the person transferring the paper and will be subject to the general lending limitation of 25% of the bank's capital and certified surplus, unless the provisions of exception 12 are met. In all situations, and regardless of whether recourse exists against the seller, the purchase will also be treated as a loan or extension of credit to each maker of the paper.

(c) Compliance with exception 12. Loans and extensions of credit arising from the discount of negotiable or nonnegotiable installment consumer paper, which meets the requirements of exception 12 will be considered a loan or extension of credit to the maker of the paper rather than the seller of the paper even though the bank has recourse to the seller. In order to comply with its exception, the bank's files or the knowledge of its officers of the financial condition of each maker of the consumer paper must be reasonably adequate; and, an officer of the bank, designated for that purpose by the board of directors of the bank, must certify in writing that the bank is relying primarily on the responsibility of each maker for payment of the loans or extensions of credit and not on a full partial recourse endorsement or guaranty by the transferor. In complying with the requirements of exception 12 in situations in which paper is purchased in substantial quantities, the required information concerning the financial condition of each maker and the certification may be in such form as is appropriate for the class and quantity of paper involved.

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 26, 1985

TRD-858887

Jorge A. Gutierrez
General Counsel
Banking Department
of Texas

Earliest possible date of adoption
November 4, 1985

For further information, please call
(512) 475-4451



TITLE 25. HEALTH SERVICES

Part I. Texas Cancer Council Chapter 701. Policies and Procedures

★ 25 TAC §§701.1-701.9

(Editor's note: The Texas Cancer Council proposes for permanent adoption the new sections it adopts on an emergency basis in this issue. The text of the new sections is

published in the Emergency Rules section of this issue.)

The Texas Cancer Council proposes new §§701.1-701.9, concerning policies and procedures of the council. The new sections will cover the policies and procedures by which the council will implement the Texas cancer plan developed by the Legislative Task Force on Cancer in Texas. Specifically, the sections will cover a preamble, membership, organization; committees, executive director; grants, contracts, and agreements; relationship with the Texas Department of Health; and actions requiring council approval.

Dan LaFleur, attorney, Texas Department of Health, has determined that for the first five years the sections are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. LaFleur also has determined that for each year of the first five years the sections as proposed are in effect the public benefits anticipated as a result of enforcing the sections is to make known to the public the policies and procedures the council will follow to implement the Texas cancer plan. There is no anticipated cost to individuals who are required to comply with the sections as proposed.

Comments on the proposed new sections may be submitted to James Dannenbaum, Chairman, Texas Cancer Council, 6723 Bertner Avenue, P.O. Box 223, Houston, Texas 77030. Comments will be received for 30 days from the date of publication of the proposed rules in the *Texas Register*.

The new sections are proposed under Texas Civil Statutes, Article 4477-41, §2 and §5, which provide the Texas Cancer Council the power and duty to develop and implement the Texas cancer plan, and Article 6252-13a, §4, which authorizes the council to adopt rules covering council practice and procedures.

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

Issued in Austin, Texas, on September 26, 1985

TRD-858893

James Dannenbaum
Chairperson
Texas Cancer Council

Proposed date of adoption
November 14, 1985

For further information, please call
(713) 792-2203

Chapter 703. Grants Submission, Approval, and Cancellation of Grants

★ 25 TAC §§703.1-703.4

(Editor's note: The Texas Cancer Council proposes for permanent adoption the new

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

The Texas Cancer Council proposes new §§703.1-703.4, concerning the submission, approval, and cancellation of grants related to the implementation of the Texas cancer plan developed by the Legislative Task Force on Cancer in Texas. Specifically, the sections cover the procedures and requirements concerning the submission of grant applications; the form and content of application proposals; the review and approval process; and the procedures concerning the cancellation of contracts, agreements, and memoranda of understanding.

Dan LaFleur, attorney, Texas Department of Health, has determined that for the first five years the sections are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. LaFleur also has determined that for each year of the first five years the sections as proposed are in effect the public benefits anticipated as a result of enforcing the sections is to make known to the public council procedures and requirements concerning the submission, approval, and cancellation of grants related to the implementation of the Texas cancer plan. 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 James Dannenbaum, Chairperson, Texas Cancer Council, 6723 Bertner Avenue, P.O. Box 223, Houston, Texas 77030. Comments will be received for 30 days from the date of publication of the proposed rules.

The new sections are proposed under Texas Civil Statutes, Article 4477-41, §6, which provide the Texas Cancer Council the authority to adopt rules covering the submission, approval, and cancellation of grants to implement the Texas cancer plan, and Article 6252-13a, §4, which authorizes the council to adopt rules covering council practice and procedures.

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

Issued in Austin, Texas, on September 26, 1985.

TRD-858895

James Dannenbaum
Chairperson
Texas Cancer Council

Proposed date of adoption
November 14, 1985

For further information, please call
(713) 792-2203



TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part I. General Land Office Chapter 3. Energy Resources Reporting Oil and Condensate Production[: Form MA-1]

★ 31 TAC §3.61

The General Land Office proposes an amendment to §3.61 and the repeal of §3.62 and §3.63, concerning reporting of oil and condensate production and Form MA-1.

These sections cover the reporting of oil and condensate production and specify who must submit production reports, the forms to be used, the documentation needed, the method of preparation of the reports, and penalties for failure to comply with the agency's reporting requirements.

The General Land Office proposes the amendment and repeal to achieve uniformity between the administrative rules and the automated oil and condensate production reporting system to be implemented by the agency.

Glynis Thomas, director of systems development, has determined that for the first five-year period the amendment and repeal are in effect there will be fiscal implications as a result of enforcing or administering the proposed amendment and repeal. The cost to state government is estimated to be \$247,000 in 1986, and \$212,000 each year in 1987 and 1988. There will be no cost to state government in 1989 and 1990. The increase in revenue for state government is estimated to be \$1 million each year in 1986-1990.

The cost of compliance with the proposed amendment and repeal for small business will vary depending on whether they have sophisticated computer systems or are preparing reports manually from source documents. Those preparing reports manually should incur very minimal costs. Companies utilizing computer systems will have greater costs. Costs will depend on the number of leases for which companies are required to report. With equal reporting responsibilities, the cost to large companies will be approximately two to three times greater per employee than for small companies. As reporting responsibilities decrease or increase, this comparison could change significantly.

Ms. Thomas also has determined that for each year of the first five years the proposed amendment and repeal are in effect, the public benefit will be as follows. Because of the new reporting requirements, the agency anticipates a \$5 million increase to the permanent school fund. This will generate approximately \$3.5 million in interest income to be de-

posited to the available school fund during these five years, which will reduce property taxes. The agency may be able to reduce costs to the state. With the implementation of the new requirements, the agency will be able to respond more efficiently to requests from the private sector. The new requirements will provide data which will significantly support royalty audits, and raise an estimated \$40 million over the next biennium. The anticipated economic cost to individuals who are required to comply with the amendment and repeal as proposed cannot be determined.

Comments on the proposal may be submitted to Dan Miller, Deputy Commissioner for Legal Services, General Land Office, 1700 N. Congress Avenue, Austin, Texas 78701.

★ 31 TAC §3.61

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

The amendment is proposed under the Natural Resources Code, §31.051, which authorizes the commissioner of the General Land Office to make and enforce rules consistent with the law.

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 25, 1985

TRD-858836 Garry Mauro
Commissioner
General Land Office

Earliest possible date of adoption:
November 4, 1985
For further information, please call
(512) 475-6740

★ ★ ★

★ 31 TAC §3.62, §3.63

(Editor's note: The General Land Office proposes for permanent adoption the repeal it adopts on an emergency basis in this issue. The text of the sections proposed for repeal will not be published. The rules may be examined in the offices of the General Land Office, Stephen F. Austin Building, 1700 North Congress, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The repeal is proposed under the Natural Resources Code, §31.051, which authorizes the commissioner of the General Land Office to make and enforce rules consistent with the law.

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 25, 1985.

TRD-858837 Garry Mauro
Commissioner
General Land Office

Earliest possible date of adoption:
November 4, 1985
For further information, please call
(512) 475-6740

★ ★ ★

The General Land Office proposes an amendment to §3.71 and the repeal of §3.72 and §3.73, concerning reporting of gas production and Form MA-2. These sections cover the reporting of gas production and specify who must submit production reports, the forms to be used, the documentation needed, the method of preparation of the reports, and penalties for failure to comply with the agency's reporting requirements.

The General Land Office proposes this amendment and repeal to achieve uniformity between the administrative rules and the automated gas production reporting system to be implemented by the agency. The agency has simultaneously adopted these rule changes on an emergency basis, because the agency is converting to the automated reporting system on October 1, 1985.

Glynis Thomas, director of systems development, has determined that there will be fiscal implications as a result of enforcing or administering the proposed section and the repeal. The effect on state government for the first five-year period the proposed section and the repeal will be in effect will be an estimated additional cost of \$247,000 in 1986 and \$212,000 each year in 1987 and 1988. There will also be an estimated increase in revenue of \$1 million each year in 1986-1990. There will be no effect on local government for the first five-year period the proposed section and the repeal will be in effect. The cost of compliance with the proposed section and the repeal for small businesses will vary, depending on whether they have a sophisticated computer system or are preparing reports manually from source documents. Those preparing reports manually should incur very minimal costs. Companies utilizing computer systems would have greater cost. This cost would be a function of the number of leases for which they are required to report.

With equal reporting responsibilities, the agency anticipates that the cost to larger companies will be approximately two to three times greater per employee than for a small company. As reporting responsibilities decrease or increase, this comparison could change significantly.

Ms. Thomas also has determined that for each year of the first five years the section and the repeal are in effect the public benefit anticipated as a result of enforcing the section will be as follows. Because of the new reporting requirements, the agency anticipates a \$5 million increase to the permanent school fund, which will generate approximately \$3.5 million in interest income to be deposited to the available school fund during these five years, which will be to reduce property taxes. The agency may be able to reduce costs to the state. With the implementation of the new requirements, the agency will be able to respond more efficiently to requests from the private sector. The new requirements will provide data which will significantly support royalty audits and raise an estimated \$40 million dollars over the next biennium. The anticipated economic cost to individuals who are required to comply with the repeal and the section as proposed cannot be determined.

Comments on the proposal may be submitted to Dan Miller, Deputy Commissioner for Legal Services, General Land Office, 1700 North Congress Avenue, Austin, Texas 78701.

★31 TAC §3.71

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

The amendment is proposed under the Natural Resources Code, §31.051, which provides the commissioner of the General Land Office with the authority to make and enforce rules consistent with the law.

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 25, 1985

TRD-858838 Garry Mauro
Commissioner
General Land Office

Earliest possible date of adoption.

November 4, 1985
For further information please call
(512) 475-5740

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Reporting Gas Production[;
Form MA-2]

★31 TAC §3.72, §3.73

(Editor's note: The General Land Office proposes for permanent adoption the repeal it adopts on an emergency basis in the text of the sections proposed for repeal will not be published. The sections may be examined in the offices of the General Land Office, Stephen F. Austin Building, 1700

North Congress Avenue, Austin, or in the Texas Register office, 503E, Sam Houston Building, Austin

The repeals are proposed under the Natural Resources Code, §31.051, which provide the commissioner of the General Land Office with the authority to make and enforce rules consistent with the law.

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 25, 1985

TRD-858839 Garry Mauro
Commissioner
General Land Office

Earliest possible date of adoption

November 4, 1985
For further information, please call
(512) 475-6740

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TITLE 34. PUBLIC
FINANCE

Part IV. Employees
Retirement System of
Texas
Chapter 77. Judicial
Retirement

★34 TAC §77.1

The Employees Retirement System of Texas proposes amendment to §77.1, concerning reduction factors for death before age 65. As a result of Senate Bill 105, 69th Legislature, Retirement System, 1985, factors applicable to the newly created Judicial Retirement System of Texas, Plan Two must be developed by the system's trustees and the actuary. Consequently, the proposed amendment to §77.1 will make clear that the section applies only to the Judicial Retirement System of Texas, Plan One.

James T Herod, general counsel, 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. Herod also has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing the section as proposed is clarification concerning the retirement system to which the section applies. There is no anticipated economic cost to individuals who are required to comply with the section.

Comments on the proposal may be submitted to James T Herod, General Counsel, Employees Retirement System of Texas, P.O. Box 13207, Austin, Texas 78711

The amendment is proposed under Texas Civil Statutes, Title 110B, §45.002, which provide the Employees Retirement System of Texas with the authority to adopt rules and to provide for forms as it finds necessary for the administration of the Judicial Retirement System of Texas, Plan One.

§77.1. Reduction Factors for Death Before Age 65. If a member of the Judicial Retirement System of Texas, Plan One who is eligible to select a death benefit plan dies prior to age 65, the annuity will be reduced by the factors developed by the actuaries. Those factors are adopted by reference and are made a part of this section for all purposes. Copies of the factors may be obtained from the executive director of the Employees Retirement System of Texas at 18th and Brazos Streets, P.O. Box 13207, [Capitol Station,] Austin, Texas 78711.

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 28, 1985.

TRD-858898 Clayton T. Garrison
Executive Director
Employees Retirement
System of Texas

Earliest possible date of adoption.

November 4, 1985
For further information, please call
(512) 476-6431, ext. 178

★ ★ ★

★34 TAC §77.3

The Employees Retirement System of Texas proposes an amendment to §77.3, concerning the time a judicial retirement becomes effective. The proposed amendment to this section makes clear that judicial retirement commences at midnight on the effective retirement date in both the Judicial Retirement System of Texas, Plan One and in the Judicial Retirement System of Texas, Plan Two.

James T Herod, general counsel, has determined that for the first five-year period the proposed 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. Herod also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section is clarification as to when a retirement commences under the Judicial Retirement System of Texas, Plan Two. There is no anticipated economic cost to individuals.

Comments on the proposal may be submitted to James T Herod, General Counsel, Employees Retirement System of Texas, P.O. Box 13207, Austin, Texas 78711

The amendment is proposed under Texas Civil Statutes, Title 110B, §75.002, which

provide the Employees Retirement System of Texas with the authority to adopt rules and to provide for forms it considers necessary for the administration of the Judicial Retirement System of Texas, Plan Two.

§77.3. Time Retirement Becomes Effective. Retirements from the Judicial Retirement System of Texas, Plan One and the Judicial Retirement System of Texas, Plan Two commence [A retirement commences] at midnight on the effective date.

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 26, 1985

TRD-858900 Clayton T. Garrison
Executive Director
Employees Retirement
System of Texas

Earliest possible date of adoption:
November 4, 1985

For further information, please call
(512) 476-6431, ext 178

★ ★ ★

★34 TAC §77.5

The Employees Retirement System of Texas proposes an amendment to §77.5, concerning eligible periods of organized armed conflict for which military service credit can be established. The proposed amendment to this section would clarify

for members that the eligible periods apply to credit in both the Judicial Retirement System of Texas, Plan One and the newly created Judicial Retirement System of Texas, Plan Two

James T. Herod, general counsel, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state government or small businesses as a result of enforcing or administering the section. The fiscal implications for local government are the result of the enactment of Senate Bill 105, 69th Legislature, 1985, which established the Judicial Retirement System of Texas, Plan Two. The Texas Legislature has appropriated \$100,000 for fiscal year 1986 and \$400,000 for fiscal year 1987 for the state's contribution to establish an actuarially funded retirement benefit for judges who become members of the Judicial Retirement System of Texas, Plan Two

Mr. Herod also has determined that for each year of the first five years the section will be in effect the public benefit anticipated as a result of enforcing the section is clarification concerning periods of military service for which military service credit may be purchased in the Judicial Retirement System of Texas, Plan Two. 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 James T. Herod, General Counsel, Employees Retirement System of

Texas, PO Box 13207, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Title 110B, §73.103(c), which provide the Employees Retirement System of Texas with the authority to determine the periods recognized as times of armed conflict for the purpose of purchasing military service credit in the Judicial Retirement System of Texas, Plan Two

§77.5 Military Service Credit—Eligible Periods Time of organized conflict, for purposes of military service credit in the Judicial Retirement System of Texas, Plan One and the Judicial Retirement System of Texas, Plan Two, is defined as being from April 6, 1917, through November 11, 1918; and from October 16, 1940, through August 31, 1973, all dates inclusive

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 26, 1985

TRD 858899 Clayton T. Garrison
Executive Director
Employees Retirement
System of Texas

Earliest possible date of adoption:
November 4, 1985

For further information, please call
(512) 476-6431, ext. 178

★ ★ ★

Withdrawn

Rules An agency may withdraw proposed action or the remaining effectiveness of emergency action on a rule by filing a notice of withdrawal with the *Texas Register*. The notice is effective immediately upon filing. If a proposal is not adopted or withdrawn within six months after the date of publication in the *Register*, it will automatically be withdrawn by the *Texas Register* office and a notice of the withdrawal will appear in the *Register*.

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part VI. Texas Commission for the Deaf

Chapter 181. General Rules of Practice and Procedure

Operations

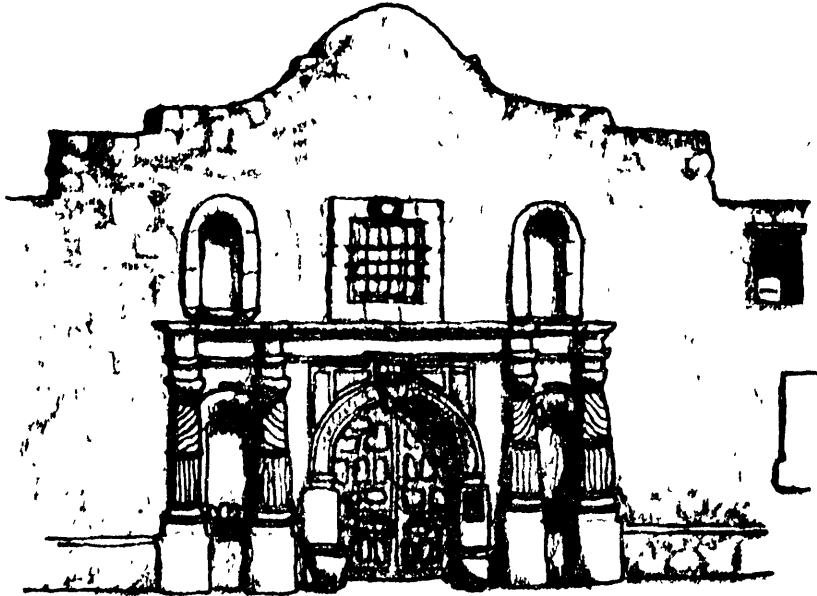
★ 40 TAC §181.25

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed new §181.25, submitted by the Texas Commission for the Deaf, has been automatically withdrawn, effective September 27, 1985. The new section as proposed appeared in the March 26, 1985, issue of the *Texas Register* (10 TexReg 1027).

TRD-859067

Filed. September 27, 1985

★ ★ ★



Adopted

Rules An agency may take final action on a rule 30 days after a proposal has been published in the *Texas Register*. The rule becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

If an agency adopts the rule without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the rule with changes to the proposed text, the proposal will be republished with the changes.

TITLE 10. COMMUNITY DEVELOPMENT

Part I. Texas Department of Community Affairs Chapter 13. Housing Services Subchapter B. Texas Rental Rehabilitation Program

★ 10 TAC §13.40

The Texas Department of Community Affairs adopts new §13.40, without changes to the proposed text published in the April 19, 1985, issue of the *Texas Register* (10 TexReg 1253).

The purpose of this new section is to establish variations from the Uniform Grant and Contract Management Standards (UGCMS) adopted by the Office of the Governor in 1 TAC §§5.141-5.167.

The variances pertain to contracts awarded to units of general local government under the Texas Rental Rehabilitation Program (TRRP). The new section establishes variances from the uniform cost principles and uniform administrative accounting, reporting, and auditing standards applicable to TRRP recipients and establishes additional assurances required by federal statute and regulations with which TRRP recipients will be required to comply.

No comments were received regarding the adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 4413(32g), which provide the Texas Department of Community Affairs with the authority to establish variations from the UGCMS through rule making, if such variations are required as specifically authorized by federal statute or regulation or state statute.

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 25, 1985.

TRD-858824

Douglas C. Brown
General Counsel
Texas Department of
Community Affairs

Effective date: October 16, 1985
Proposal publication date: April 19, 1985
For further information, please call
(512) 834-6060.

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas Chapter 5. Transportation Division Subchapter B. Operating Certificates, Permits, and Licenses

★ 16 TAC §5.37

The Railroad Commission of Texas adopts §5.37, with changes to the proposed text published in the July 19, 1985, issue of the *Texas Register* (10 TexReg 2308).

Provisions of the section were rearranged; word changes were made for clarity. Subsection (c) became subsection (c)(2), and subsection (d) became subsection (c). The language in subsection (d) was added to the section. This addition was made in response to comments, to liberalize the procedure for amending permits.

The section implements the provisions of Senate Bill 228, 69th Legislature, 1985, defines an armored contract carrier, establishes a procedure for obtaining operating authority, implements the section which governs these carriers, and resolves conflicts with the existing section which limits a contract carrier to five shippers.

Comments submitted in opposition to the section stated that requiring applicants to file for amendments to permits would be ineffective and inefficient for carriers which deal with hundreds of contract shippers; that Subchapter M, concerning motor bus companies, should be excluded; that Subchapter P, concerning commercial zones, should be included; and that the commission should not exercise rate-making jurisdiction over armored contract carriers because the courts, the legislature, and the commission have exhibited an intent to free contract carriers of regulatory restraint and control.

Those commenting against the section were Brinks Inc. of Texas and Wells Fargo Armored Service Corporation.

The commission agrees that the procedure for amending permits should be more flexible than originally proposed.

The procedure adopted in subsection (d) facilitates filing requirements and accelerates determination of amendments for armored contract carrier permits.

The commission also agrees that Subchapter M should not be included in this rule. It is deleted because it is inapposite.

The commission disagrees that it is necessary to include Subchapter P as regulations applicable to armored contract carriers. Under the Motor Carrier Act, contract carriage is not regulated within commercial zones.

The commission further disagrees that its power to regulate rates for armored contract carriers has been abrogated. Court decisions give the commission discretion to determine to what extent a contract carrier may participate in commission proceedings. Senate Bill 228 did not expressly remove rate regulation from the commission's jurisdiction. Specifically, Texas Civil Statutes, Article 911(b), §4(a), vests in the commission the power and authority to prescribe rates for motor carriers, without distinction.

The new section is adopted under Texas Civil Statutes, Article 911(b), §4(a), which authorizes the Railroad Commission of Texas to prescribe all rules and regulations necessary for the governance of motor carriers.

§5.37. Armored Contract Carriers.

(a) Definition. Armored contract carrier means any person in the business of transporting currency, coin, securities, and other items of high intrinsic value in armored motor vehicles with armed guards, pursuant to Texas Civil Statutes, Article 911b, §6dd. (Act of May 24, 1985, Chapter 139, §1, 1985 Texas Session Law Service 744.)

(b) Applications for armored contract carrier permits.

(1) Filing. Applications for armored carrier permits shall be filed on forms prescribed by the commission.

(2) Contents of the application. The application for an armored contract carrier permit shall contain:

(A) the name and address of the applicant and the names and addresses of its officers, if any, and shall give full information concerning the financial condition and facilities of the applicant;

(B) the nature of the transportation in which the applicant wishes to engage, stating substantially the territory to

be covered by the operation and including the character of the roads over which the transportation is to be performed;

(C) a description of each vehicle which the applicant intends to use;

(D) a list of names and addresses of shippers which have executed written contracts for armored contract carrier services with the applicant;

(E) a statement which indicates why the public interest will be served by a grant of the armored contract carrier permit;

(F) other information which supports the application; and

(G) a filing fee of \$10.

(3) Publication. Unless otherwise indicated in this title, all applications for new and amended authority for armored contract carrier permits shall be published as provided in §5.407(a) of this title (relating to Service of Notice in Nonrule-making Proceedings).

(4) Hearings and proof required.

(A) Hearings. All proceedings for armored contract carrier permits shall be governed by all rules in Chapter 5, Subchapter U, of this title (relating to General and Special Rules of Practice and Procedure) unless otherwise specified herein.

(B) Evidence required. At hearing, in addition to producing the contracts listed in the application, the applicant must demonstrate that:

(i) it has financial and operating fitness; and

(ii) the public interest will be served by granting the armored contract carrier permit.

(5) Issuance of permit. If the commission determines that the applicant for an armored contract carrier permit has complied with all applicable provisions of Texas Civil Statutes, Article 911(b), and amendments thereto and applicable rules of the commission, the commission may issue the applicant an armored contract carrier permit or an amendment thereto.

(c) Applicability of commission regulations to armored contract carriers.

(1) General. Unless otherwise specified in this title, all rules in Chapter 5, Subchapters A-L, of this title (relating to General Provisions; Operating Certificates, Permits, and Licenses; System of Accounts and Records; Maintenance, Preservation, and Destruction of Records; Annual and Other Reports; Bills of Lading and Waybills; C.O.D. Shipments; Tariffs and Schedules; Equipment: Identification and Reports; Lease of Operating Rights and Equipment; Safety Requirements; and Insurance Requirements), inclusive, and Subchapter Q of this title (relating to Miscellaneous Provisions), except §5.33 of this title (relating to Contract Carriers), shall govern armored contract carriers and their permits.

(2) Unlimited number of contracts. The permit of an armored contract carrier and amendments thereto shall not limit the

number of contracts which the carrier may hold.

(d) Permit amendment.

(1) An armored contract carrier may apply to amend its permit to provide service to additional shippers within its permitted territory by filing copies of new contracts with the commission. The permit shall be amended upon receipt of written approval from the commission. If upon review the director of the Transportation Division determines the applicant for amendment to add an additional shipper should not be granted administratively, he shall notify the applicant of that determination within 30 days after filing, stating the basis for failure to approve. The applicant shall be entitled to a hearing on the proposed amendment prior to final determination on its merits. Upon receipt of a request, such cause shall be set for hearing.

(2) To increase the geographical scope of its authority, the holder of an armored contract carrier permit shall file an application to amend its permit. The application shall be subject to all procedures specified by this title.

(e) Rates applicable. The rates which have been prescribed for contract carriers of currency, coin, securities, and other items of high intrinsic value in armored motor vehicles with armed guards shall be applicable to armored contract carriers. The rates may be amended in accordance with Texas Civil Statutes, Article 911b, §4(a).

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 23, 1985.

TRD-858952 Buddy Temple
Chairman
Jim Nugent and
Mack Wallace
Commissioners
Railroad Commission of
Texas

Effective date: October 18, 1985
Proposal publication date: July 19, 1985
For further information, please call
(512) 463-7149.

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Part V. Texas Amusement Machine Commission Chapter 83. Licenses and Registration Certificates

★ 16 TAC §83.1

The Texas Amusement Machine Commission adopts amendments to §83.1, without changes to the proposed text published in the July 19, 1985, issue of the *Texas Register* (10 TexReg 2312).

The amendment sets out new registration certificate fees as established by new legislation. It is adopted to conform with the coin-operated machine laws of Texas.

The amendment allows a new applicant for a registration certificate to pay the registration certificate fee based on the quarter of the calendar year when first entering into the business.

No comments were received regarding the adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Title 132, Chapter 8, which provide the Texas Amusement Machine Commission with the authority to promulgate rules to insure that all persons affected are afforded due process of law.

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 26, 1985.

TRD-858872 Jim Luek
Executive Director
Texas Amusement
Machine Commission

Effective date: October 17, 1985
Proposal publication date: July 19, 1985
For further information, please call
(512) 835-4767.

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Chapter 85. Coin-Operated Machines

★ 16 TAC §85.3

The Texas Amusement Machine Commission adopts an amendment to §85.3, without changes to the proposed text published in the July 19, 1985, issue of the *Texas Register* (10 TexReg 2313).

The amendment sets out new duplicate occupation tax permit fees established by new legislation; it was necessary to clarify the reading of the text and to indicate a fee increase.

The amendment establishes the procedure for applying for a duplicate permit for a coin-operated music, skill, or pleasure machine when the original occupation tax permit has been lost, stolen or destroyed within the calendar year.

No comments were received regarding the adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Title 132, Chapter 8, which provide the Texas Amusement Machine Commission with the authority to promulgate rules to insure that all persons affected are afforded due process of law.

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 26, 1985.

TRD-858873

Jim Lusk
Executive Director
Texas Amusement
Machine Commission

Effective date: October 17, 1985

Proposal publication date: July 19, 1985

For further information, please call
(512) 835-4767.

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TITLE 22. EXAMINING BOARDS

Part XXI. Texas State Board of Examiners of Psychologists

Chapter 463. Applications

★22 TAC §463.10

The Texas State Board of Examiners of Psychologists adopts an amendment to §463.10, without changes to the proposed text published in the August 20, 1985, issue of the *Texas Register* (10 TexReg 3164).

The amendment requires applicants to sit for two examinations before becoming certified. The second exam covers the requirements of the Act, rules, and ethical principles of the board. Passage of this exam indicates that candidates are aware of their responsibilities to the public.

All applicants for certification must pass both the professional and jurisprudence exams before becoming certified as psychological associates or psychologists.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4512C, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules that are not inconsistent with the constitution and laws of this state and which are reasonable necessary for the proper performance of its duties and regulations of proceedings before it.

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 25, 1985.

TRD-858814

Patti Bizzell
Executive Director
Texas State Board of
Examiners of
Psychologists

Effective date: October 16, 1985

Proposal publication date: August 13, 1985

For further information, please call
(512) 835-2036.

★22 TAC §463.23

The Texas State Board of Examiners of Psychologists adopts new §463.23, without changes to the proposed text published in the August 20, 1985, issue of the *Texas Register* (10 TexReg 3164).

The new section insures that applicants are prepared to enter the professional practice of psychology by testing their skills through an oral exam process. Applicants are examined on their knowledge in their claimed area of competence.

Beginning in September, 1986, all applicants for licensure must pass the oral exam requirements before becoming licensed to practice independently.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 4512C, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules that are not inconsistent with the constitution and laws of this state, and which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

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 25, 1985.

TRD-858815

Patti Bizzell
Executive Director
Texas State Board of
Examiners of
Psychologists

Effective date: October 16, 1985

Proposal publication date: August 13, 1985

For further information, please call
(512) 835-2036.

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Chapter 465. Rule of Practice

★22 TAC §465.15

The Texas State Board of Examiners of Psychologists adopts the repeal of §465.15, without changes to the proposal published in the August 20, 1985 issue of the *Texas Register* (10 TexReg 3165).

The repealed section is a duplication of the requirement contained in the board's ethical principles and is no longer needed by the board.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 4512C, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules that are not inconsistent with the constitution and laws of this state and which are reasonably necessary for the

proper performance of its duties and regulations of proceedings before it.

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 25, 1985.

TRD-858816

Patti Bizzell
Executive Director
Texas State Board of
Examiners of
Psychologists

Effective date: October 16, 1985

Proposal publication date: August 15, 1985

For further information, please call
(512) 835-2036.

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★22 TAC §465.23

The Texas State Board of Examiners of Psychologists adopts new §465.23, without changes to the proposed text published in the August 20, 1985, issue of the *Texas Register* (10 TexReg 3165).

The new section allows recognition of qualified psychologists from other states who practice psychology in Texas for short periods of time. The public will know that these persons are credentialed in their own states to practice psychology.

Licensed psychologists from other states are required to submit a written request at least 30 days prior to the expected working days in Texas. The petition must include services to be performed, dates of services, and documentation of credentials.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 4512C, which provides the Texas State Board of Examiners of Psychologists with the authority to make all rules that are not inconsistent with the constitution and laws of this state and which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

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 25, 1985.

TRD-858817

Patti Bizzell
Executive Director
Texas State Board of
Examiners of
Psychologists

Effective date: October 16, 1985

Proposal publication date: August 13, 1985

For further information, please call
(512) 835-2036.

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Chapter 467. Announcements

★ 22 TAC §467.2

The Texas State Board of Examiners of Psychologists adopts new §467.2, without changes to the proposed text published in the August 20, 1985, issue of the *Texas Register* (10 TexReg 3165).

The new section identifies the requirements for a psychologist's use of a specialty title and establishes criteria that the public can review in their selection of a psychologist.

Psychologists will be required to use only those specialty titles which satisfy the requirements of this section.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 4512C, which provides the Texas State Board of Examiners of Psychologists with the authority to make all rules that are not inconsistent with the constitution and laws of this state, and which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

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 25, 1985.

TRD-858818 Patti Bizzell
Executive Director
Texas State Board of
Examiners of
Psychologists

Effective date: October 16, 1985
Proposal publication date: August 13, 1985
For further information, please call
(512) 835-2038.

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TITLE 25. HEALTH SERVICES

Part II. Texas Department of Mental Health and Mental Retardation

Chapter 405. Client (Patient) Care

Subchapter A. Employment of Independent Contractors (Consultants)

★ 25 TAC §§405.3, 405.4, 405.7

The Texas Department of Mental Health and Mental Retardation adopts amendments to §§405.3, 405.4 and 405.7, without changes to the text as proposed in the July 26, 1985, issue of the *Texas Register* (10 TexReg 2402).

The amendments update titles and indicate that the Form P-11 has been updated. Changes to this form, which is known as Exhibit A, update terminology, clarify that consultants are not subject to the general personnel rules of the department, and emphasize the confidentiality of client-identifying information under Texas and federal laws. It is noted that consultants provide services in compliance with the standards of outside accrediting or certifying agencies, as applicable. A termination clause has been added to the contract.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 5547-202, §2.11, which provide the Texas Board of Mental Health and Mental Retardation with rule-making powers.

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 27, 1985

TRD-858980 Coke Miller
Chairman
Texas Department of
Mental Health and
Mental Retardation

Effective date: October 18, 1985
Proposal publication date: July 26, 1985
For further information, please call
(512) 465-4670.

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TITLE 34. PUBLIC FINANCE

Part IV. Employees Retirement System of Texas

Chapter 81. Insurance

★ 34 TAC §81.7

The Employees Retirement System of Texas adopts an amendment to §81.7, without changes to the proposed text published in the August 23, 1985, issue of the *Texas Register* (10 TexReg 3214).

Adoption of this amended section will limit adverse selection against health maintenance organizations (HMOs) in the state health benefits program. It is anticipated that, in limiting adverse selections, the effect will be to contain a rise in the cost of employee insurance premiums.

This amended section will also permit an employee to add eligible dependents to his or her HMO coverage only during the dependents' first 31 days of eligibility or during the annual limited enrollment period.

No comments were received regarding adoption of the amendment.

The amendment is adopted under The Texas Insurance Code, Article 3.50-2, §4A, which provides the Employees Retirement System of Texas with the authority to adopt rules consistent with this Act that provide standards for determining eligibility for participation in the state insurance program established by this Act, including standards for determining disability.

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 26, 1985.

TRD-858897 Clayton T. Garrison
Executive Director
Employees Retirement
System of Texas

Effective date: November 1, 1985
Proposal publication date: August 23, 1985
For further information, please call
(512) 476-8431, ext. 178.

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part I. Texas Department of Public Safety

Chapter 1. Organization and Administration

Disposition of Fees

★ 37 TAC §1.181

The Texas Department of Public Safety adopts an amendment to §1.181, without changes to the proposed text published in the August 23, 1985, issue of the *Texas Register* (10 TexReg 3166).

The amendments provide a cost reduction to the state by eliminating writing of warrants for refunds under \$5.00 unless requested by the payor.

The amendments to subsection (b) increase the amounts from \$1.00 to \$5.00 for refunds. Money paid by mistake of fact or law or in excess of a required fee or charge will not entitle a party to a refund. Only amounts in excess of \$5.00 will be refunded unless the payor requests a refund in writing within 90 calendar days from the date of deposit.

No comments were received regarding adoption of the amendment.

The amendment is adopted under House Bill 20, Article V, 69th Legislature, 1985, which authorizes the Texas Department of Public Safety to refund money deposited into the state treasury by the Texas Department of Public Safety, either by mistake of fact or by mistake of law, by warrant issued against the fund in the state treasury into which such money

was deposited and so much as is necessary for said refunds is appropriated.

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 23, 1985.

TRD-858843

James B. Adams
Director
Texas Department of
Public Safety

Effective date: October 17, 1985
Proposal publication date: August 20, 1985
For further information, please call
(512) 485-2000.

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services Chapter 57. Rehabilitation and Self-Support Services

The Texas Department of Human Services adopts the repeal of §§57.8201, 57.8301-57.8306, and 57.8401-57.8408, without changes to the proposal published in the August 6, 1985, issue of the *Texas Register* (10 TexReg 2533).

The repealed sections concern the Work Incentive, Comprehensive Employment and Training Act, and the Department of Human Resources—Vocational Rehabilitation (DHR-VR) Programs.

These programs no longer exist or do not operate as described in the repealed sections. Rules governing the department's self-support services are in Chapter 10 of this title.

No comments were received regarding the adoption of the repeals.

Work Incentive (WIN) Program

★ 40 TAC §57.8201

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

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 27, 1985.

TRD-858969

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: October 18, 1985
Proposal publication date: August 6, 1985
For further information, please call
(512) 450-3766

Comprehensive Employment and Training Act (CETA)

★ 40 TAC §§57.8301-57.8306

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

This agency hereby certifies that the rule as adopted has been reviewed by legal

counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 27, 1985.

TRD-858968

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: October 18, 1985
Proposal publication date: August 6, 1985
For further information, please call
(512) 450-3766.

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Standards for the DHR-VR Program

★ 40 TAC §§57.8401-57.8408

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

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 27, 1985.

TRD-858967

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: October 18, 1985
Proposal publication date: August 6, 1985
For further information, please call
(512) 450-3766.

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Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Register*.

Emergency meetings and agendas. Any of the governmental entities named above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol, Austin. These notices may contain more detailed agendas than what is published in the *Register*.

Texas Department of Agriculture

Wednesday, October 16, 1985, 2 p.m. The Texas Department of Agriculture will meet in Room 1033, Stephen F. Austin Building, 1700 North Congress, Austin. According to the agenda, the department will conduct a public hearing to receive comments on proposed amendments to the Texas Seed Law, Chapter 61, Texas Agriculture Code, §§19.3-19.6, 19.9, and 19.12.

Contact: John Metcalf, P.O. Box 12847, Austin, Texas 78711, (512) 463-7614.

Filed: September 27, 1985, 8:42 a.m.
TRD-858901

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Texas Antiquities Committee

Friday, October 11, 1985, 9:30 a.m. The Texas Antiquities Committee (TAC) will meet in Room 109, John H. Reagan Building, 105 West 15th Street, Austin. Items on the agenda include approval of the September 13, 1985, minutes; discussion and decision on proposals for curation of the Platoro/Kenon/Purvis collection; discussion of moratorium on and the TAC's future policy regarding historical structures; proposed additions to rules for practice and procedure for archeological investigation reports (13 TAC §41.11); and a staff report.

Contact: Dr. William G. Reeder, 2400 Trinity Street, Austin, Texas 78705, (512) 471-4794.

Filed: September 27, 1985, 4:57 p.m.
TRD-858987

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Apprenticeship and Training Advisory Committee

Friday, October 18, 1985, 8:30 a.m. The Apprenticeship and Training Advisory Committee will meet at the Hobby Airport Hilton, 8181 Airport Boulevard, Houston. According to the agenda, the committee will

discuss the apprenticeship coordinator's report; Finance Committee report concerning a 1983 study, fiscal year 1986 program funding report; Planning Committee report recapping the state conference, a recommendation for a state plan on apprenticeship, and future meeting dates.

Contact: Dan C. Lowe, 1701 North Congress, Austin, Texas 78701, (512) 463-9294.

Filed: September 30, 1985, 4:32 p.m.
TRD-859044

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Texas Commission for the Deaf

Friday and Saturday, October 11 and 12, 1985, 7 p.m. and 9 a.m. respectively. The Board for Evaluation of Interpreters of the Texas Commission for the Deaf will meet in the commissioner's meeting room, 510 South Congress, Austin. According to the agenda summary, the board will discuss action on previous meeting minutes; morphemic sign system materials and evaluation; oral certification materials and evaluation; and the chairperson's report. The board also will meet in executive session to finalize plans for October evaluation; select a direct consultant; select committee chairpersons; and discuss meritorious service awards.

Contact: Larry Evans, 510 South Congress, Suite 300, Austin, Texas 78704, (512) 475-2492.

Filed: September 26, 1985, 2:02 p.m.
TRD-858869

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Coordinating Board, Texas College and University System

Thursday, October 17, 1985. Committees of the Coordinating Board, Texas College and University System will meet in the boardroom, Bevington A. Reed Building, 200 East Riverside Drive, Austin. Times, committees, and agendas follow.

9:30 a.m. The Financial Planning Committee will consider matters relating to ratifica-

tion of investment transactions since July 19, 1985; a revision to the coordinating board operating budget for fiscal year 1986; an amendment to coordinating board internal management rules; and procedures for allocation of contingency fund appropriations to public senior colleges and universities and health-related institutions for other educational and general income shortfall for fiscal year 1986.

9:45 a.m. The Student Services Committee will consider matters relating to student services.

10:15 a.m. The Campus Planning Committee will consider requests for endorsement of construction and rehabilitation projects from University of Houston-Downtown, Texas Tech University, Texas Southern University, North Texas State University, the University of Texas at Austin, and Prairie View A&M University; and requests for endorsement of acquisition of real property from University of Houston-University Park, Southwest Texas State University, Sam Houston State University, Stephen F. Austin State University, and Lamar University-Port Arthur.

11 a.m. The Health Affairs Committee will consider a request from Texas A&M University to offer a Doctor of Philosophy degree in medical sciences.

11:15 a.m. The Community Junior Colleges Committee will consider final adoption of amendments to the rules and regulations for public junior colleges (Public Junior Colleges, Chapter 9, Subchapter A and B) to implement legislation delegating additional authority to the board; and adoption of proposed rules and regulations for partnership agreements between community/junior colleges and upper-level universities or centers (Chapter 9, Subchapter F).

1:30 p.m. The Senior College and University Committee will consider matters relating to senior colleges and universities.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 475-4361.

Filed: October 1, 1985, 8:30 a.m.
TRD-859060-859065

Friday, October 18, 1985, 9 a.m. The Coordinating Board, Texas College and University System will meet in the boardroom, Bevington A. Reed Building, 200 East Riverside, Austin. According to the agenda summary, the board will consider matters relating to the Committee on Financial Planning and Administration; the Committee on Health Affairs; the Committee on Community Junior Colleges; the Committee on Student Services; the Committee on Facilities and Campus Planning; and the Committee on Senior Colleges and Universities.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 475-4361.

Filed: October 1, 1985, 8:30 a.m.
TRD-859066

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Texas Education Agency

Wednesday, October 16, 1985, 9 a.m. The Task Force for the Development of the Long-Range Master Plan for Vocational Education of the Texas Education Agency will meet in Room 1-110, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the task force will discuss the content of the long-range master plan for vocational education.

Contact: R. D. Bristow, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9704.

Filed: September 30, 1985, 4:32 p.m.
TRD-859043

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Texas Employment Commission

Friday, October 4, 1985, 9 a.m. The Advisory Council of the Texas Employment Commission (TEC) will meet in Room 644, TEC Building, 101 East 15th Street, Austin. Items on the agenda summary include approval of prior meeting notes; administrative update on UI, job service, trust fund, strategic planning process, work share, agricultural workers, Comprehensive Languages Services Program, and policy, planning, and evaluation; economic outlook and TEC, with speakers from the Governor's Office of State/Federal Relations, Economic Development, the Economic Development Commission, and the comptroller's office, revenue and total uninsured rate forecasts; annual report to the governor, 1985 overview and 1986 and forward-goals/work plan.

Contact: C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: September 26, 1985, 1:29 p.m.
TRD-858868

Tuesday, October 8, 1985, 8:30 a.m. The Texas Employment Commission will meet in Room 644, TEC Building, 101 East 15th Street, Austin. Items on the agenda include internal procedures of commission appeals; consideration and action on tax liability cases and higher level appeals in unemployment compensation cases listed on commission Docket 41.

Contact: Courtenay Browning, 101 East 15th Street, Austin, Texas 78778, (512) 463-2226.

Filed: September 27, 1985, 2:06 p.m.
TRD-858972

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Texas State Board of Registration for Professional Engineers

Wednesday and Thursday, October 16 and 17, 1985, 8:30 a.m. daily The Texas State Board of Registration for Professional Engineers will meet in the boardroom, 1917 IH 35 South, Austin. According to the agenda summary, the board will receive reports from board members and staff; interview applicants; take action on applications for registration; reading of communications; and any other business which comes before the board.

Contact: Kenneth J. Bartosh, P.E., 1917 IH 35 South, Austin, Texas 78741, (512) 475-3141.

Filed: September 30, 1985, 2:59 p.m.
TRD-859035

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Office of the Governor

Monday, October 7, 1985, 9:30 p.m. The Ad Hoc Committee on JTPA Performance and 6.0% Funds of the State Job Training Coordinating Council of the Office of the Governor will meet in Sam Bass Lecture Hall, Sid Richardson Building, University of Texas, Austin. Items on the agenda include determination of 6.0% funds currently available for planning and programming; discussion of past uses and options and future uses of available 6.0% funds; discussion and analysis of program year 1984 service delivery area performance against standards and incentive award systems; and discussion of options for changes in the program year 1986 performance standards and incentive award systems.

Contact: Rik Mackay, 107 West 27th Street, Austin, Texas 78712, (512) 471-6010.

Filed: September 27, 1985, 9:50 a.m.
TRD-858923

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Texas Department of Human Services

Tuesday, October 15, 1985, 9:30 a.m. The Church Relations Advisory Group of the Texas Department of Human Services (DHS) will meet on the first floor, Room 1-W, West Tower, 701 West 51st Street, Austin. According to the agenda, the group will discuss concerns of the group, the current issue, Clergy Penitential Privilege and Child Abuse Reporting Law; issues from July meeting: DHS employee hiring, promotions, and performance evaluation, assuring client and employee rights; special interest work groups: Children's Protective Services, Adult Protective Services/Community Care, Family Violence, Hunger/Emergency Food.

Contact: Lucy Todd, P.O. Box 2960, Austin, Texas 79769, (512) 450-3129.

Filed: September 30, 1985, 11:40 a.m.
TRD-859029

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State Board of Insurance

Friday, September 27, 1985, 4:30 p.m. The State Board of Insurance met in emergency session in Room 414, 1110 San Jacinto Street, Austin. Items on the agenda included ruling on motions for rehearing which were filed regarding board Order 47551 on Texas workers' compensation and employers' liability rates (Docket 1446) and motions by board members to reevaluate the board's order. The emergency status was necessary because workers' compensation and employers' liability rates became effective under board Order 47551 on October 1, 1985, and September 27, 1985, was the last day for filing of motions for rehearing and the last day the board had jurisdiction over this board order.

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

Filed: September 27, 1985, 2:21 p.m.
TRD-858979

Tuesday, October 8, 1985, 9 a.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 9059--whether disciplinary action should be taken against Shawn Lawrence Wilkinson, Houston, who holds a Group II health and accident insurance agent's license and a local recording agent's license.

Contact: J.C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 463-6524.

Filed: September 30, 1985, 2:26 p.m.
TRD-859036

Tuesday, October 8, 1985, 10 a.m. The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. Items on the agenda include final action on an amendment to 28 TAC §3.3501 (Rule 059.03.48.001) published at 10 TexReg 3355; appointment of an advisory committee to make recommendations on future rates to be established by the State Board of Insurance for the issuance of title insurance in the State of Texas; 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; pending and contemplated litigation; and proposed rules on relocating books and records out of state.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2940.

Filed: September 30, 1985, 2:34 p.m.
TRD-859032

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Texas Advisory Commission on Intergovernmental Relations

Thursday, October 10, 1985, 8:30 a.m. The Texas State Data Center (Texas Data Management Program) of the Texas Advisory Commission on Intergovernmental Relation will meet in the Bass Lecture Hall, LBJ School of Public Affairs, 26th and Red River, Austin. Items on the agenda include 1990 census; population items and issues; housing items and issues; data products and services issues; geographic issues; 1990 census outreach; and public comment on each issue.

Contact: Susan Szanislo, Room 407, Sam Houston Building, 201 East 14th Street, Austin, Texas 78701, (512) 475-3728.

Filed: September 30, 1985, 4:07 p.m.
TRD-859042

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North Texas State University

Friday, October 4, 1985, 4:30 p.m. The Board of Regents of the Texas College of Osteopathic Medicine of North Texas State University will meet in the boardroom, Administration Building, North Texas State University, Denton. Items on the agenda include a faculty tenure appeal; bonding for Proposition 2 monies; use of Proposition 2 monies; an architect for Advancement Center remodeling; purchase of capital equipment items exceeding \$100,000; selection of a bond advisor and/or managing underwriter; selection of bond counsel; and a personnel change. The board also will meet in executive session (under Texas Civil

Statutes, Article 6252-17, §2, paragraphs e, legal; f, real estate; and g, personnel).

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

Filed: September 30, 1985, 11:03 a.m.
TRD-859030

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Pan American University

Friday, October 4, 1985. Committees of the Board of Regents will meet in the Benito Longoria Room, Arnulfo L. Oliveira Library, Texas Southmost College Campus, Brownsville, Texas. Times, committees, and agendas follow.

2 p.m. The Grounds Committee will review items of information.

2:15 p.m. The Finance Committee will consider budget changes; financial disclosures statement; Proposition 2 equipment; and informational items.

2:30 p.m. The Development Committee will consider gifts and donations from the Starr Foundation, Tenneco Incorporated, Zenith Electronics Corporation of Texas, and Meadows Foundation; and informational items.

2:45 p.m. The Academic Affairs Committee will consider informational items. The committee will meet in executive session to consider new hires-tenure tract; new hires-one year appointment; leave of absence; and contemplated litigation.

3 p.m. The Board of Regents will consider the reports of Buildings and Grounds Committee, Finance Committee, Development Committee, Academic Affairs Committee; and Committee of the Whole; alumni contracts; and a resolution regarding president's residence in president's home, Pan American University at Brownsville.

Contact: Miguel A. Nevarez, Pan American University, Edinburg, Texas 78539, (512) 381-2100.

Filed: October 27, 1985, 1:43 p.m.
TRD-858974-858978

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Board of Pardons and Paroles

Monday-Friday, October 7-11, 1985, 1:30 p.m. daily Monday-Thursday and 11 a.m. Friday. A three-member panel by the Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the panel will review and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's

jurisdiction and initiate and carry through with appropriate action.

Contact: Mike Roach, 8610 Shoal Creek Boulevard, Austin, Texas 78711, (512) 495-2713.

Filed: September 27, 1985, 10:13 a.m.
TRD-858926

Tuesday, October 8, 1985, 1:30 p.m. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will consider parole matters requiring full board action, to consider executive clemency recommendations and related actions including full pardons/restoration of civil rights of citizenship; emergency medical reprieves; commutations of sentence; and other reprieve, remissions, and executive clemency actions.

Contact: Gladys Sommers, 8610 Shoal Creed Boulevard, Austin, Texas 78711, (512) 459-2704.

Filed: September 27, 1985, 10:13 a.m.
TRD-858925

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Texas Parks and Wildlife Department

Wednesday, October 9, 1985, 10 a.m. The Operation Game Thief Committee of the Texas Parks and Wildlife Department will meet at 4200 Smith School Road, Austin. Items on the agenda include the approval of April 9, 1985, public hearing minutes, a financial report, consideration of payment of rewards, a four-year overview, and the date of the next meeting.

Contact: M. Stanley Brooks, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4850.

Filed: September 30, 1985, 2:30 p.m.
TRD-859031

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Texas Board of Private Investigators and Private Security Agencies

Wednesday, October 9, 1985, 9:30 a.m. The Board of Directors of the Texas Board of Private Investigators and Private Security Agencies will meet at the John H. Reagan Building, 105 West 15th Street, Austin. Items on the agenda including the August 6, 1985 minutes; the approval of staff action of new licenses, suspension orders, reinstatement orders, certificates for replacement managers, license termination, revocations, denials, reprimands, requests for waiver of board rule, other proposals for decision, and request for rehearing, discussion and possible approval of certain nonmandatory training programs, and dis-

discussion and possible board action on proposed rule reference standards of conduct.

Contact: Clema D. Sanders, 313 East Anderson Lane, Austin, Texas 78711, (512) 475-3944.

Filed: September 30, 1985, 3:24 p.m.
TRD-859033

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Public Utility Commission of Texas

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

Friday, October 4, 1985, 9:30 a.m. A prehearing conference in Docket 6505—Application of Windy's Water Works, Inc., for a rate increase.

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

Filed: September 26, 1985, 2:29 p.m.
TRD-858889

Wednesday, October 9, 1985, 1:30 p.m. A prehearing conference in Docket 6488—Petition of Cogen Power, Inc., for determination concerning applicability of certificate of convenience and necessity provisions to certain sales of power by a qualifying facility.

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

Filed: September 30, 1985, 2:36 p.m.
TRD-859037

Thursday, October 17, 1985, 9 a.m. A prehearing conference in Docket 6440—Application of Sam Rayburn, G&T, Inc., for authority to change rates.

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

Filed: September 30, 1985, 2:42 p.m.
TRD-859038

Wednesday, October 23, 1985, 10 a.m. A hearing on the merits in Docket 6495—MCI Telecommunications, Inc.'s request to release from the protective order certain documents obtained from AT&T Communications of the Southwest, Inc.

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

Filed: September 30, 1985, 2:43 p.m.
TRD-859039

Monday, October 28, 1985, 11 a.m. A prehearing conference in Docket 6008—Complaint of South Grayson Water Supply Corporation against the City of Anna.

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

Filed: September 30, 1985, 2:43 p.m.
TRD-859040

Monday, November 4, 1985, 10 a.m. A hearing on the merits in Docket 5642—Inquiry of the commission into service rendered and rates charged by Martin Utility Company.

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

Filed: September 30, 1985, 2:36 p.m.
TRD-859041

Monday, November 18, 1985, 1:30 p.m. A hearing on the merits in Docket 6475—Application of Farmers Electric Cooperative, Inc., for a rate increase.

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

Filed: September 26, 1985, 2:28 p.m.
TRD-858890

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Railroad Commission of Texas

Monday, September 30, 1985, 9 a.m. The Gas Utilities Division of the Railroad Commission of Texas met in emergency session on the 12th floor, 1701 North Congress, Austin. Items on the agenda included the consideration of gas utilities Docket 4506—application of Tenggaroco Gas Gathering Company for approval of sale of reserves. The emergency status was necessary because this item was properly noticed for conference held on September 23, 1985, was passed.

Contact: Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7003.

Filed: September 27, 1985, 11:03 a.m.
TRD-858932

Monday, September 30, 1985, 9 a.m. The Transportation Division of the Railroad Commission of Texas submitted an emergency revised agenda for a meeting held in the first floor auditorium east, 1701 North Congress, Austin. According to the revised agenda, the commission considered Docket 026/79ZZT—application of England Transportation Company of Texas to amend Item 188 series, RCT Tariff 8-L; and the application of S.D. Diver, Dockets 05.167 A1AR and 05.361A2AR) to amend 16 TAC §5.167 and §5.361, concerning lease-related activities of motor carriers and definitions. The emergency status was necessary because these matters were properly posted for conference on September 23, 1985, but were passed.

Contact: Mike James, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7122.

Filed: September 27, 1985, 11:01 a.m.
TRD-858945

Monday, October 7, 1985, 9 a.m. Divisions of the Railroad Commission of Texas will meet in the first floor auditorium east, William B. Travis Building, 1701 North Congress, Austin. Divisions and agendas follow.

The Administrative Services Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Roger Dillon, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7122.

Filed: September 27, 1985, 11:01 a.m.
TRD-858946

The Automatic Data Processing Division director's report on administration, budget, procedures, equipment acquisitions, and personnel matters.

Contact: Bob Kmetz, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7251.

Filed: September 27, 1985, 11:01 a.m.
TRD-858939

The Flight Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Ken Fossler, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-7251.

Filed: September 27, 1985, 11:02 a.m.
TRD-858940

Various matters falling within the Gas Utilities Division's regulatory jurisdiction.

Contact: Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7003.

Filed: September 27, 1985, 11:03 a.m.
TRD-858933

The Office of Information Services director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Drawer, Austin, Texas 78711-2967, (512) 463-6710.

Filed: September 27, 1985, 11:02 a.m.
TRD-858938

The LP-Gas Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Thomas D. Petru, P.O. Drawer 12967, Austin, Texas 78711-2967, (512) 463-6931.

Filed: September 27, 1985, 11:03 a.m.
TRD-858936

Various matters falling within the Oil and Gas Divisions' regulatory jurisdiction.

Contact: Timothy A. Poe, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6713.

Filed: October 27, 1985, 11 a.m.
TRD-858949

Additions to the previous agenda:

Consideration of category determinations under the Natural Gas Policy Act of 1978, §§102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108.

Contact: Margie L. Osborn, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6755.

Filed: September 27, 1985, 10:59 a.m.
TRD-858950

Application of All American Pipeline Company for a pipeline permit across various counties in Texas.

Contact: Susan Cory, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6922.

Filed: September 27, 1985, 11:01 a.m.
TRD-858947

Celeron Oil & Gas Company's application for rule making and motion for rehearing of commission letter orders of July 8, 1985 (dealing with proposed statewide rules and field rules for the Panhandle fields and a commission letter to operators in the Panhandle fields) and various other requests for rule making with regard to the Panhandle fields.

Contact: Susan Cory, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6923.

Filed: September 27, 1985, 11 a.m.
TRD-858948

The Personnel Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Mark Bogan, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6981.

Filed: September 27, 1985, 11:03 a.m.
TRD-858935

The office of Research and Statistical Analysis director's report on division administration, budget, procedures, and personnel matters.

Contact: Gail Gemberling, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6976.

Filed: September 27, 1985, 11:02 a.m.
TRD-858937

The Office of Special Counsel director's report relating to pending litigation, state and federal legislation and other budget, administrative, and personnel matters.

Contact: Walter Earl Lilie, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-7149.

Filed: September 27, 1985, 11:03 a.m.
TRD-858934

The Surface Mining and Reclamation Division's consideration of acceptance of the reclamation bond of the Lower Colorado River Authority for its Cummins Creek Mine and the issuance of Permit 21; and consideration and action upon the division director's report on division administration, budget, procedures, and personnel matters.

Contact: J. Randel (Jerry) Hill, 1701 North Congress, Austin, Texas 78701.

Filed: September 27, 1985, 11:02 a.m.
TRD-858941

The Surface Mining and Reclamation Division's consideration of oral arguments in Docket 21—application of the Lower Colorado River Authority for its Cummins Creek Mine.

Contact: J. Randel (Jerry) Hill, 1701 North Congress, Austin, Texas 78701.

Filed: September 27, 1985, 11:02 a.m.
TRD-858943

Various matters falling within the Transportation Division's regulatory jurisdiction.

Contact: Mike James, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7122.

Filed: September 27, 1985, 10:59 a.m.
TRD-858951

Addition to the previous agenda.

Application of City of Midlothian (Docket 05.294A8AR) concerning amendments to Dallas commercial zone.

Contact: Mike James, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7122.

Filed: September 27, 1985, 3 p.m.
TRD-858984

Tuesday, October 15, 1985, 1:30 a.m. The Oil and Gas Division of the Railroad Commission of Texas will meet in the first floor auditorium east, 1701 North Congress, Austin. According to the agenda, the commission will hold statewide oil and gas hearing.

Contact: Paula Milton, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6729.

Filed: September 27, 1985, 11:02 a.m.
TRD-858944

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School Land Board

Tuesday, October 1, 1985, 10 a.m. The School Land Board submitted an emergency revised agenda for a meeting held in Room 831, General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the revised agenda, the board discussed an application for lease suspension. The emergency status was necessary due to lease expiration.

Contact: Linda Fisher, 1700 North Congress Avenue, Room 837, Austin, Texas 78701, (512) 475-0219.

Filed: September 27, 1985, 4:46 p.m.
TRD-858985

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University of Texas System

Friday, October 4, 1985, 2:30 p.m. The Intercollegiate Athletics Council for Men of the University of Texas at Austin of the University of Texas System will meet in Room 240, Bellmont Hall, San Jacinto between 21st and 23rd Streets, Austin. Items on the agenda summary include minutes of July 29, 1985; items from the executive session; approval of team schedules and recommended schedule changes; approval of budgets and budget changes; approval of awards and awards policies; construction; old business; and new business. The council also will meet in executive session to consider personnel matters and potential litigation pursuant to Texas Civil Statutes, Article 6252-17, §2(g).

Contact: Haila Kauffman, P.O. Box 7399, Austin, Texas 78713, (512) 471-1332.

Filed: September 27, 1985, 9:57 a.m.
TRD-858924

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Texas Water Commission

Tuesday, October 8, 1985, 10 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin. The commission will consider water district bond issues, release from escrow, use of surplus funds, water quality proposed permits, renewals, and amendments, water use applications, certificate of adjudication and the filing and setting of a hearing date, and consideration of adoption of Subchapter Y of Chapter 335 of the rules of the Texas Water Commission.

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

Filed: September 27, 1985, 10:39 a.m.
TRD-858928

Addition to the previous agenda:

The commission will consider Permit 10250-01, concerning a motion for rehearing for the City of Pittsburg.

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

Filed: September 27, 1985, 2:24 p.m.
TRD-858981

Wednesday, October 9, 1985, 10 a.m. The Texas Water Commission made an addition to the agenda of a meeting to be held in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin. The addition concerned consideration of authorizing the executive director to enter into a contract not to exceed \$880,000 from remedial

design of the Motco Superfund clean-up and consultant selection.

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

Filed: September 27, 1985, 10:39 a.m.
TRD-858929

Wednesday, October 16, 1985, 9:30 a.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 conduct a hearing on Application TA-5309 of Williams Brothers Construction Co., Inc., for permit to divert and use seven acre-feet of water for a three-year period from a drainage ditch, tributary Clear Creek, tributary Galveston Bay, San Jacinto-Brazos Coastal Basin, for industrial purposes in Harris County.

Additions to the previous agenda:

A hearing on Application TA-5286 of Williams Brothers Construction Co., Inc., for a permit to divert and use seven acre-feet of water for a three-year period from drainage ditch, tributary of Carpenter Bayou, tributary San Jacinto River, San Jacinto River Basin, for industrial purposes in Harris County.

A hearing on Application TA-5287 of Williams Brothers Construction Co., Inc., for permit to divert and use seven acre-feet of water for a three-year period from drainage ditch, tributary Little Cedar Bayou, tributary Galveston Bay, San Jacinto-Brazos Coastal Basin, for industrial purposes in Harris County.

A hearing on Application TA-5288 of Williams Brothers Construction Co., Inc., for permit to divert and use seven acre-foot of water for a three-year period from drainage ditch, tributary Bastrop Bayou, tributary Oyster Creek, tributary Intracoastal Waterway, San Jacinto-Brazos Coastal Basin, for industrial purposes in Harris County.

A hearing on Application TA-5290 of Williams Brothers Construction Co., Inc., for permit to divert and use seven-acre feet of water for a three-year period from a stream crossing, Pond Gully, tributary Galveston Bay, San Jacinto-Brazos Coastal Basin, for industrial purposes in Harris County.

A hearing on Application TA-5289 of Williams Brothers Construction Co., Inc., for a permit to divert and use seven acre-feet of water for a three-year period from a drainage ditch, tributary Bastrop Bayou, tributary Oyster Creek, tributary Intracoastal Waterway, San Jacinto-Brazos Coastal Basin, for industrial purposes in Brazoria County.

A hearing on Application TA-5315 of Sunshine Services, Inc., for a permit to divert and use 19 acre-feet of water for a four-

month period from Rio Grande, tributary Rio Grande Basin, for industrial purposes in Brewster County.

A hearing on Application TA-5316 of Valero Transmission Company for a permit to divert and use 26 acre-feet of water for one-year period from San Antonio River Basin, for industrial purposes in Karnes County.

A hearing on Application TA-5297 of Summertree Ranch for permit to divert and use 72 acre-feet of water for a three-year period from a private reservoir on Kickapoo Branch, tributary Neches River, Neches River Basin for irrigation purposes in Anderson County.

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

Filed: September 27, 1985, 10:40 a.m.
TRD-858953-858959, 858930
858931

Friday, October 18, 1985, 10 a.m.
The Texas Water Commission will meet in Room 618, Stephen F. Austin Building, 1700 North Congress, Austin. According to the agenda, the commission will conduct a hearing in the matter of the complaint of the Texas Board of Irrigators against Edward Sidney Allen, a licensed irrigator.

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

Filed: September 27, 1985, 2:25 p.m.
TRD-858982

Thursday, November 7, 1985, 9 a.m.
The Texas Water Commission will meet in the council chambers, second floor, Conroe City Hall, 505 West Davis, Conroe. According to the agenda summary, the commission will consider the application of Earl and Gilda Dungan doing business as Lake Livingston Properties, P.O. Box 10751, Houston, Texas 77292, which has applied to the Texas Water Commission for a permit (proposed permit 13145-01) to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 50,000 gallons per day from the proposed Holiday Shores Subdivision II Wastewater Treatment Plant which is to be constructed in phases to serve the proposed Holiday Shores subdivision.

Addition to previous agenda:

Application of Sawdust Road Property Owners Association, 5 Grogan's Park Drive, Suite 101, The Woodlands, Texas 78380, which has applied to the Texas Water Commission for proposed Permit 13119-01 to authorize a discharge of treated domestic sewage effluent at a volume not to exceed an average flow of 50,000 gallons per day from the proposed facility which is to serve a proposed 9.32-acre office/condominium project.

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

Filed: September 27, 1985, 10:42 a.m.
TRD-858960, 858962

Thursday, November 7, 1985, 9 a.m.
The Texas Water Commission will meet in the commissioners courtroom, Wood County Courthouse, Quitman. The commission will consider the application of the City of Yantis, P.O. Box 245, Yantis, Texas 75497, which has applied to the Texas Water Commission for renewal of Permit 12187-01 which authorizes a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 50,000 gallons per day from the wastewater treatment facilities which are located approximately one mile south of the intersection of FM Road 17 and State Highway 154 in Wood County. The effluent is discharged into Little Caney Creek; thence to Lake Fork Reservoir in Segment 0512 of the Sabine River Basin.

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

Filed: September 27, 1985, 10:42 a.m.
TRD-858961

Wednesday, November 13, 1985, 10 a.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 conduct a hearing on the petition for creation of Davis Spring Municipal Utility District containing 649.80 acres of land.

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

Filed: September 27, 1985, 2:26 p.m.
TRD-858983

Thursday, November 14, 1985, 9 a.m.
The Texas Water Commission will meet in Room 215, Stephen F. Austin Building, 1700 North Congress, Austin. According to the agenda summary, the commission will consider the application of Russell D. Parker, Ray Rogers, Charles H. Steger, Don H. Bizzell, and Thomas G. Parker, P.O. Box 858, Georgetown, Texas 78627, who have applied to the Texas Water Commission for proposed Permit 13126-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 200,000 gallons per day from the proposed Creek Place Wastewater Treatment Plant which is to be constructed in phases and will serve a proposed residential subdivision. The executive director of the former Texas Department of Water Resources has recommended that the Texas Water Commission deny this application and has requested that the application be set for public hearing.

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

Filed: September 27, 1985, 10:43 a.m.
TRD-858963

Thursday, November 14, 1985, 9 a.m. The Texas Water Commission will meet in Room 618, Stephen F. Austin Building, 1700 North Congress, Austin. The commission will consider the application of the City of Leander, P.O. Box 319, Leander, Texas 78641, which has applied to the Texas Water Commission for an amendment to Permit 12644-01 to authorize an increase in the discharge of treated domestic wastewater effluent from a volume not to exceed an average flow of 750,000 gallons per day to 3.75 million gallons per day. The applicant proposes to construct a temporary 200,000 gallon per day capacity plant which would be abandoned upon completion of the 750,000 gallon per day plant which in turn would be expanded to an ultimate capacity of 3.75 million gallons.

Contact: Joe O'Neal, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: September 27, 1985, 10:43 a.m.
TRD-858964

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Texas Water Well Drillers Board

Tuesday, November 12, 1985, 1:30 p.m. The Texas Water Well Drillers Board will meet in Room 513E, Stephen F. Austin Building, 1700 North Congress, Austin. According to the agenda summary, the board will conduct a hearing to consider whether to suspend or revoke the license of Gene Wiser.

Contact: R. Michael Rogan, P.O. Box 13087, Austin, Texas 78711, (512) 475-8079.

Filed: September 27, 1985, 1:47 p.m.
TRD-858971

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Regional Agencies Meetings Filed September 26

The Dallas Area Rapid Transit, Budget and Finance Committee, met at 601 Pacific Avenue, Dallas, on September 30, 1985, at 4 p.m. The Board met at the same location on the same day, at 6:30 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Dawson County Appraisal District, Board met at 611 North Dallas Avenue, Dallas, on October 2, 1985, at 7 a.m. Information may be obtained from Tom Anderson, P.O. Box 797, Lamesa, Texas 79331, (806) 872-7060.

The East Texas Council of Governments, Executive Committee, met at 3800 Stone Road, Kilgore, on October 3, 1985, at 2 p.m. Information may be obtained from Glynn J. Knight, 3800 Stone Road, Kilgore, Texas 75662, (214) 984-8641.

The Region II Education Service Center, Board of Directors, will meet at 209 North Water, Corpus Christi, on October 8, 1985, at 6:30 p.m. Information may be obtained from Gerald V. Cook, 209 North Water, Corpus Christi, Texas 78401, (512) 883-9288.

The Fisher County Appraisal District, Board of Directors, will meet at the Tax/Appraisal Office, Roby, on October 8, 1985, at 7:30 p.m. Information may be obtained from Teddy Kral, P.O. Box 516, Roby, Texas 79543, (915) 735-2578.

The Scurry County Appraisal District, Board of Directors, met at 2612 College Avenue, Snyder, on October 1, 1985, at 8 p.m. Information may be obtained from L. R. Peveler, 2612 College Avenue, Snyder, Texas 79549, (915) 573-8549.
TRD-858862

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Meetings Filed September 27

The Archer County Appraisal District, Board of Directors, will meet at 108 West Main Street, Archer City, on October 9, 1985, at 5 p.m. Information may be obtained from A. G. Reis, P.O. Box 1141, Archer City, Texas 76351, (817) 574-2172.

The Ark-Tex Council of Governments, Board of Directors, met at City Hall, Mount Pleasant, on October 3, 1985, at 7 p.m. Information may be obtained from Vivienne Arvin, City Hall, Mount Pleasant, Texas, (214) 832-8636.

The Blanco County Appraisal District, Board of Directors, will meet at the Blanco County Courthouse Annex, Johnson City, on October 14, 1985, at 6 p.m. Information may be obtained from Hollis Petri, P.O. Box 338, Johnson City, Texas, (512) 868-4624.

The Region IV Education Service Center, Board of Directors, will meet in the boardroom, 7145 West Tidwell, Houston, on October 8, 1985, at 6 p.m. Information may be obtained from Tom Pate, Jr., P.O. Box 863, Houston, Texas 77001, (713) 462-7708.

The Hickory Underground Water Conservation District 1, Board and Advisors, will meet at 2005 Old Nine Road, Brady, on October 10, 1985, at 7 p.m. Information may be obtained from Rick Illgner, P.O. Box 1214, Brady, Texas, (915) 597-2785.

The Leon County Central Appraisal District, Board of Directors, met at the Gresham Building, Centerville, on September 30, 1985, at 7:30 p.m. Information may be obtained from Tom G. Holmes, P.O. Box 536, Centerville, Texas 75833, (214) 536-2606.

TRD-858965

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Meetings Filed September 30

The Bexar-Medina-Atascosa Counties Water Control and Improvement District 1, Board of Directors, will meet at the district office, Highway 81, Natalia, on October 7, 1985, at 8 a.m. Information may be obtained from C. A. Mueller, P.O. Box 170, Natalia, Texas 78059, (512) 663-2132.

The Brown County Appraisal District, Board of Directors, will meet at 403 Fisk Avenue, Brownwood, on October 7, 1985, at 7 p.m. Information may be obtained from Alvis Sewalt, 403 Fisk Avenue, Brownwood, Texas 76801, (915) 643-5676.

The Carson County Appraisal District, Board of Directors, will meet at 102 Main Street, Panhandle, on October 9, 1985, at 8:30 a.m. Information may be obtained from Dianne Lavake, P.O. Box 970, Panhandle, Texas 79068, (806) 537-3569.

The Dallas Area Rapid Transit, Board of Directors, made an emergency revision to the agenda of a meeting held at 601 Pacific Avenue, Dallas, on September 30, 1985, at 6:30 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Dallas County Appraisal District, Appraisal Review Board, will meet at 2601 Live Oak Street, Dallas, on October 11, 1985, at 10 a.m. Information may be obtained from Rick L. Kuehler, 2601 Live Oak Street, Dallas, Texas 75204, (214) 826-0030.

The Central Appraisal District of Erath County, Board of Directors, will meet at 1390 Harbin Drive, Stephenville, on October 9, 1985, 10 a.m. Information may be obtained from James Bachus, 1390 Harbin Drive, Stephenville, Texas 77640, (817) 965-5434.

The Gonzales County Appraisal District, Board of Directors, revised the agenda for a meeting to be held at 928 St. Paul Street, Gonzales, Texas, on October 10, 1985, at 5 p.m. Information may be obtained from Nancy Seitz, P.O. Box 867, Gonzales, Texas 78629, (512) 672-2879.

The High Plains Underground Water Conservation District 1, Board of Directors, will meet in the conference room, 2930 Avenue Q, Lubbock, on October 8, 1985, at 10 a.m. Information may be obtained from A. Wayne Wyatt, 2930 Avenue Q, Lubbock, Texas 79405, (806) 762-0181.

The Rusk County Appraisal District, Appraisal Review Board, will meet at 107 North Van Buren, Henderson, on October 15, 1985, at 7 p.m. Information may be obtained from Melvin R. Cooper, P.O. Box 7, Henderson, Texas 75653-0007, (214) 657-9697.

TRD-859000

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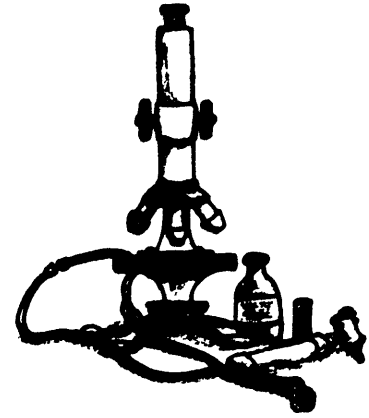
Meetings Filed October 1

The Hood County Appraisal District, Board of Directors, will meet at 1902 West Pearl, Granbury, on October 8, 1985, at 7:30 p.m. Information may be obtained from Ben H. Griffin, P.O. Box 819, Granbury, Texas 76048, (817) 573-2471.

The Wheeler County Appraisal District, Board of Directors, will meet at County Courthouse Square, Wheeler, on October 7, 1985, at 2 p.m. Information may be obtained from Marilyn Copeland, P.O. Box 349, Wheeler, Texas 79096, (806) 826-5900.

TRD-859071

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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 the Attorney General Consultant Proposal Request

Pursuant to Texas Civil Statutes, Article 6252-11c, the attorney general of the State of Texas requests proposals to provide the following data processing consultant and computer support services.

Description of Work. The selected consultant will be required to assist in the construction and implementation of the interim system child support enforcement system. System products will be subject to review and monitoring by data services project control personnel and to quality review and acceptance by data services quality assurance personnel. The application development cycle (milestones and products), project management and control approach, and status reporting procedures will be established by the Data Services Division of the attorney general. The basic tasks that the consultant will perform include:

- (1) convert approximately 120 programs averaging about 2,000 lines of code from Sperry Univac Series 1100 ASCII COBOL Level 5R2 1974 to IBM ANS COBOL 1974;
- (2) convert approximately 25 runstreams from Sperry ECL to IBM OS JCL runstreams with related PROC's. This will involve converting some tape files to disk files;
- (3) convert approximately 25 tapes from Univac format to IBM format;
- (4) full operations and programming documentation for all changes made for conversion according to child support standards and procedures.

The conversion, testing, and implementation, will begin November 18, 1985, with a completion target date of January 31, 1986. An estimated 1600 hours of contract service will be needed for the project.

Interested parties must submit a resume for each person who will be working on the project. The resume should include educational background and experience, at least two professional references, and a record of any past employment with the State of Texas. All personnel will be under the direction of staff member(s) of the Attorney General's Office.

Person To Be Contacted. Detailed specifications are contained in the request for proposal (RFP), a copy of which may be obtained after October 7, 1985, from the Data Services Division of the Attorney General's Office, 1124 South IH 35, Room 119-G, between 8 a.m. and 5 p.m., Monday-Friday. A presentation of information concerning the RFP will be held for interested parties in Room 119-I, 1124 South IH 35, at 10 a.m. on October 14, 1985. For additional information, interested persons may contact Allan Fletcher, Director of Data Services, Room 119-G, 1124 South IH 35, Austin, Texas 78704, (512) 441-0717.

Closing Date. Written proposals are to be submitted by 4 p.m. on October 31, 1985, to Allan Fletcher, Director of Data Services, Attorney General's Office, P.O. Box 12548, Austin, Texas 78711, (512) 441-0717.

Procedure for Selection of Consultant. The attorney general's office will consider the demonstrated competence, knowledge, and qualifications of each individual who will work on the project, and of the firm as a whole, and the reasonableness of the proposed fee. When other considerations are equal, a consultant whose principal place of business is within the State of Texas will be given preference.

Final selection will be made by the attorney general based upon staff recommendation. The attorney general reserves the right to reject any or all proposals. No oral proposals will be accepted. The attorney general also reserves the right to require oral presentations from selected respondents prior to award of the contract.

Issued in Austin, Texas, on September 27, 1985.

TRD-858927 Jim Mattox
Attorney General

Filed: September 27, 1985
For further information, please call (512) 475-5445.



State Banking Board Hearing Cancellation

As no opposition has been noted in the application for domicile change for MBank Greenway, Houston, the hearing previously scheduled for Thursday, October 3, 1985, has been cancelled. This application will be scheduled for State Banking Board action on October 11, 1985.

Issued in Austin, Texas, on September 25, 1985.

TRD-858902 William F. Aldridge
Director of Corporate Activities
State Banking Board

Filed: September 27, 1985
For further information, please call (512) 475-4451.



Office of Consumer Credit Commissioner Rate Ceilings

The consumer credit commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79,

Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

Type of Rate Ceilings Effective Period (Dates are Inclusive)	Consumer ⁽³⁾ Agricul- tural/Commercial ⁽⁴⁾ thru \$250,000	Commercial ⁽⁴⁾ over \$250,000
Indicated (Weekly) Rate—Article 1.04(a)(1) 10/07/85-10/13/85	18.00%	18.00%
Monthly Rate— Article 1.04(c) ⁽¹⁾ 10/01/85-10/31/85	18.00%	18.00%
Standard Quarterly Rate—Article 1.04(a)(2) 10/01/85-12/31/85	18.00%	18.00%
Retail Credit Card Quarterly Rate— Article 1.11 ⁽³⁾ 10/01/85-12/31/85	18.00%	N/A
Lender Credit Card Quarterly Rate— Article 15.02(d) ⁽³⁾ 10/01/85-12/31/85	14.46%	N/A
Standard Annual Rate— Article 1.04(a)(2) ⁽²⁾ 10/01/85-12/31/85	18.00%	18.00%
Retail Credit Card Annual Rate— Article 1.11 ⁽³⁾ 10/01/85-12/31/85	18.00%	N/A
Annual Rate Applica- ble to Pre-July 1, 1983, Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from 10/01/85-12/31/85	18.00%	N/A
Judgment Rate— Article 1.05, §2 09/01/85-09/30/85	10.00%	10.00%

- (1) For variable rate commercial transactions only
 (2) Only for open-end credit as defined in Texas Civil Statutes, Article 5069-1.01(f)
 (3) Credit for personal, family, or household use.
 (4) Credit for business, commercial, investment, or other similar purpose

Issued in Austin, Texas, on September 30, 1985.

TRD-858997 Sam Kelley
Consumer Credit
Commissioner

Filed: September 30, 1985
For further information, please call (512) 479-1280.

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Texas Department of Health Public Hearing

The Texas Department of Health will conduct a public hearing on Application 1660 of Evergreen Development for a permit to operate a proposed Type I municipal solid waste disposal site to be located northeast of Houston, approximately 300 yards south of North Belt Drive (Beltway 8) at a point 3.4 miles east of U.S. Highway 59, in Harris County. The public hearing will be held at 9 a.m.

on Tuesday, October 15, 1985, at the Sheraton Crown Hotel and Conference Center, 15700 Drummet, Houston.

Issued in Austin, Texas, on September 26, 1985.

TRD-858896 Robert A. MacLean
Deputy Commissioner
Texas Department of Health

Filed: September 26, 1985
For further information, please call (512) 458-7271.

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Radioactive Material License Termination

The following radioactive material license has been terminated:

Radioactive Material License 11-1801 issued to Gulf Nuclear, Inc., for its Tavenor Street facility located in Houston, Harris County, (mailing address: Gulf Nuclear, Inc., 202 Medical Center Boulevard, Webster, Texas 77598).

This termination reflects the acquisition of Gamma Industries by Gulf Nuclear, Inc., and the subsequent termination of the license.

This notice affords the opportunity for a public hearing upon written request within 30 days of the date of publication by a person affected as required by Texas Civil Statutes, Article 4590f, §11B(b) as amended, and as set out in the *Texas Regulations for Control of Radiation*, Part 13.6(b). A person affected is defined as a person who is resident of a county, or a county adjacent to a county, in which the radioactive materials are or will be used, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation. A person affected may request a hearing by writing David K. Lacker, Chief, Bureau of Radiation Control, (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756. Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated.

A copy of all material submitted is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin. Information relative to the termination of this specific radioactive material license may be obtained by contacting David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756. For further information, please call (512) 835-7000.

Issued in Austin, Texas, on September 25, 1985.

TRD-858870 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Filed: September 26, 1985
For further information, please call (512) 458-7236.

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Intent to Revoke a Certificate of Registration

The Bureau of Radiation Control, Texas Department of Health, is seeking the revocation of Certificate of Registration 99-09879, issued to Dentalloy, Inc., because the agency determined that the registrant is no longer located at 7542 Santa Rita Circle, Stanton, California 90680. The registrant has not notified the agency of a change of address and no forwarding address is available.

All attempts by the agency to contact the registrant by telephone, by certified mail, and by inspection have been unsuccessful. Therefore, the Texas Department of Health, Bureau of Radiation Control, recommends that the certificate of registration be revoked immediately.

In accordance with *Texas Regulations for Control of Radiation* Part 13.8, this notice affords the opportunity for a hearing to show cause why the certificate or registration should not be revoked. A written request for a hearing must be received within 30 days from the date of publication of this notice to be valid. Such written request must be filed with David K. Lacker, Director, Radiation Control Program, 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed, the certificate of registration will be revoked 14 days after the end of the 30-day period of notice.

Issued in Austin, Texas, on September 26, 1985.

TRD-858973 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Filed: September 27, 1985
For further information, please call (512) 458-7236.



State Department of Highways and Public Transportation Consultant Contract Award

In accordance with Texas Civil Statutes, Article 6252-11c, the State Department of Highways and Public Transportation publishes this notice of consultant contract awards. The request for proposals was published in the July 23, 1985, issue of the *Texas Register* (10 TexReg 2364). Contractors will provide technical assistance and specific direct training which will increase the abilities of minority contractors and subcontractors to participate in the Federal-Aid Highway Construction Program.

The contractors selected to perform this service are A. O. Phillips & Associates, 8 Greenway Plaza, Suite 802, Houston, Texas 77046; Southwest Development Associates, 1106 Clayton Lane, Suite 530W, Austin, Texas 78723; and Mexican American Research Center, Inc., 2525 Wallingwood, Suite 115, Austin, Texas 78746. Each contract contains a specific statement of work. The total value and period of each contract are as follows: A. O. Phillips & Associates, \$115,000, September 17, 1985-September 16, 1986; Southwest Development Associates, \$125,000, September 17, 1985-September 16, 1985; Mexican American Research Center, Inc., \$110,000, September 17, 1985-September 16, 1985. Final report will be due by October 15, 1986.

Issued in Austin, Texas, on September 24, 1985.

TRD-858831

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

Filed: September 25, 1985
For further information, please call (512) 475-2141.



Texas Department of Human Services Announcement of New Maximum Payment

As stipulated in 40 TAC §33.302 governing Early and Periodic Screening, Diagnosis, and Treatment dental services, the department announces an increase in the maximum payment to dental providers for emergency dental services. Effective November 1, 1985, the department will pay up to \$80 for emergency dental work done without prior authorization.

Issued in Austin, Texas, on September 26, 1985.

TRD-858855 Marlin W. Johnston
Commissioner
Texas Department of Human Services

Filed: September 26, 1985
For further information, please call (512) 450-3766.

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 notice for request for proposals was published in the June 28, 1985, issue of the *Texas Register* (10 TexReg 2142).

Description of Services. The contractors will provide one or more of the following services: psychological evaluations; developmental testing; individual, group, or family therapy; and court testimony for neglected or abused children.

Name of Contractors and Value of Contracts. Contractors selected are Dr. David Feltoon, 5315 Everhart, Building 4, Suite #8, Corpus Christi, Texas, 78411—\$40,000; Dr. Chris Klaas, 4925 Everhart, Building 4, Suite #113, Corpus Christi, Texas 78411—\$46,000; Family Counseling Services, 505 South Water, Suite 507, Corpus Christi, Texas, 78404—\$100,000; Counseling & Psychology Resource Center, 5440 Everhart, Suite #2, Corpus Christi, Texas 78411—\$20,000; Anderson-Parker Incorporated, 2525 Wallingwood, Suite #502, Austin, Texas 78746—\$44,445; Nurse Placement of Harlingen, 1724 Ed Carey Drive, Harlingen, Texas 78550—\$42,705; and TVNS II, 422 East Elizabeth, Brownsville, Texas 78520—\$62,850.

Effective Date of Contract. The contracts began September 1, 1985, and will end August 31, 1986.

Due Date of Reports. All reports will be issued within the times specified in each contract and are confidential due to client-specific information.

Issued in Austin, Texas, on September 26, 1985.

TRD-858856 Marlin W. Johnston
Commissioner
Texas Department of Human Services

Filed: September 26, 1985
For further information, please call (512) 450-3766.

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Human Services (DHS) furnishes this notice of consultant contract award. The notice for request for proposals was published in the May 24, 1985, issue of the *Texas Register* (10 TexReg 1706).

Description of Services. The contractor will provide licensed professional services dealing with child abuse and neglect, and in testifying as witnesses in court proceedings for DHS Region 02 conservatorship.

Name of Contractor and Value of Contract. Charles H. Mahone, Ph.D., c/o The Southwest Center, 4316 23rd Street, Lubbock, Texas, 79410. The amount of the contract is \$20,000.

Effective Date of Contract. The contract began September 1, 1985, and will end August 31, 1986.

Due Date of Reports. All reports are due as specified in the contract.

Issued in Austin, Texas, on September 27, 1985.

TRD-858966 Marlin W. Johnston
Commissioner
Texas Department of Human Services

Filed: September 27, 1985
For further information, please call (512) 450-3766.

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Texas State Library and Archives Commission Consultant Contract Award

To comply with the provisions of Texas Civil Statutes, Article 6252-11c, the Texas State Library and Archives Commission furnishes this notice of consultant contract awards. After solicitation of proposals in the February 1, 1985, issue of the *Texas Register* (10 TexReg 318), four proposals were recommended and approved for funding.

(1) A cooperative project to extend the services of the Harrington Library Consortium computer system to public, academic, and school libraries in the Panhandle region will continue, along with a demonstration of the possibilities for cooperative processing of library materials to serve all of the participants in the computer system. The contractor is the Amarillo Junior College District, P.O. Box 477, Amarillo, Texas 79178. The total value of the contract is \$177,171.

(2) The Bibliographic Association of the Red River, consisting of two academic and two public libraries in Grayson County, will prepare to share an automated library system by converting bibliographic records to machine-readable form, and by undertaking an automation planning study. The contractor is Grayson County College, 6101 Grayson Highway, Denison, Texas 75020. The total value of the contract is \$70,880.

(3) The PAISANO Consortium of Libraries, comprised of 10 public and academic libraries in South Texas, will work to create a union list of serial holdings in the OCLC database, and will experiment with telefacsimile transmission of interlibrary loan requests and journal articles. The contractors are the University of Houston at Victoria, 2602 North Ben Jordan, Victoria, Texas 77901, and the AMIGOS Bibliographic Council, Inc., 11300 North Central Expressway, Dallas, Texas 75243. The total value of the contracts are \$49,389 (University of Houston, Victoria) and \$12,878 (AMIGOS Bibliographic Council, Inc.).

(4) The Texas Advisory Council on Intergovernmental Relations will work with state documents depository libraries across the state to produce an annotated union list of state data sources relating to business and industry. The contractor is the Texas Advisory Council on Intergovernmental Relations, P.O. Box 13206, Austin, Texas 78711. The total value of the contract is \$10,319.

The beginning date for all contracts is September 1, 1985, and the ending date is August 31, 1986. Financial status reports are due on December 31, 1985, March 25, 1986, June 25, 1986, September 25, 1986, and December 31, 1986. A performance report is due on March 25, 1986, for the first six months of the project, and a final report is due on September 25, 1986.

Issued in Austin, Texas, on September 25, 1985.

TRD-858854 William D. Gooch
Assistant State Librarian
Texas State Library and Archives
Commission

Filed: September 26, 1985
For further information, please call (512) 475-2188.

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Texas Low-Level Radioactive Waste Disposal Authority Request for Qualifications and Experience Statement

The Texas Low-Level Radioactive Waste Disposal Authority was established by the legislature in 1981 to assure safe disposal of the state's low-level radioactive waste. The authority operates under provisions of the Texas Low-Level Radioactive Waste Disposal Authority Act, Texas Civil Statutes, Article 4590f-1, and other general administrative statutes. The authority is specifically charged with the responsibility of site selection, preparation, construction, operation, maintenance, decommissioning, closing, and financing of a low-level radioactive waste disposal site for Texas waste only.

Low-level radioactive waste is defined in the statute as any radioactive material that has a half-life of 35 years or less, or that has less than 10 nanocuries per gram of transuranics and may include radioactive material not excluded by this definition with a half-life of more than 35 years if special disposal criteria are established. Low-level radioactive waste does not include irradiated reactor fuel and high-level radioactive waste defined by the Code of Federal Regulations, Title 10.

The authority is requesting qualifications and experience statements from architectural/engineering and construction firms with experience in the hazardous waste, nuclear, or environmental field. Experience in design of conventional shallow-land burial facilities may be helpful, but selected enhanced designs will be evaluated and analyzed.

An average of 133,000 ft³ of low-level radioactive waste will be generated annually in Texas by 1988. The authority previously prepared a conceptual design and economic analysis for a conventional shallow-land burial facility to dispose of this Texas-generated waste.

Legislative amendments to the Texas Low-Level Radioactive Waste Disposal Authority Act require evaluation of alternative disposal techniques. The authority wishes to have conceptual designs prepared for three low-level radioactive waste disposal technologies. The three technologies to be investigated are: aboveground—sufficient to provide for long-term waste isolation; above/below ground—similar to the earth-mounded concrete bunker concept; enhanced below ground confinement—considering stabilization techniques such as overpack containers and monoliths. The designs should incorporate, wherever possible, the existing design for the service buildings and other auxiliary structures developed by the authority under previous contracts. Consideration must also be given to published information developed by the U.S. Nuclear Regulatory Commission, U.S. Environmental Protection Agency, U.S. Department of Energy, and the Electric Power Research Institute to reduce duplication of effort and to expedite the study. All parties should have a thorough knowledge of these programs.

Specific work will include conceptual and preliminary design, complete with drawings, layouts, general specifications, and dimensions for each of the three technologies. Also required for each technology, to the extent possible, will be radiological and environmental analyses, regulatory performance assessments, economic analyses, and risk/benefit analyses. Analyses dependent on final design and site-specific data will be performed after this project is completed. These analyses must be sufficient to demonstrate compliance with the provisions of Texas Civil Statutes, Article 4590f-1, and the *Texas Regulations for Control of Radiation*, Part 45.

Previously referenced public and private entities are conducting conceptual design work pertaining to low-level radioactive waste disposal facilities. Interested parties should, in a brief discussion, identify applicable recent and current works and indicate their impact on this study. The authority is not requesting a literature review but asks, for sufficient information to evaluate the firm's knowledge in this area. This discussion should not exceed 10 pages.

In the interest of uniformity, the qualifications and experience statements should be assembled and submitted in the following order: cover page, administrative section, qualifications and experience section, and technical discussions. The cover page shall include the request title; number; name and address of the firm(s); name and address and telephone numbers of person(s) to be contacted concerning technical and contractual matters; and signature of the firms' authorized representative(s). The administrative section includes a brief discussion of the organization of the project term and a flow-chart reflecting administrative control. The qualifications and experience section should include only resumes of those personnel who will actually be working on the project. Previous work performance and support of the firms' qualifications should be limited to specific projects which relate directly to the subject matter of this request. A complete listing of all the firms' accomplishments, such as unrelated projects, is neither requested nor desired. If consultants or subcontractors are included in the statement,

letters of commitment shall be appended as confirmation. The previously mentioned discussion of alternatives should be placed in the technical discussion.

To be considered, 12 copies of the qualifications and experience statement must be received no later than 5 p.m. on Friday, November 8, 1985. Statements submitted to arrive prior to October 25, 1985, will be received at 1300-C East Anderson Lane, Suite 175, Austin, Texas 78752. Those submitted on or after October 25, 1985, should be addressed to 7703 North Lamar Boulevard, Suite 300, Austin, Texas 78752.

All statements will be systematically evaluated by assigning numerical values to overall project team organization, disciplines represented, total experience of team members, relevant experience of team members, and knowledge of work in progress. Experience in low-level radioactive waste disposal, hazardous waste disposal, and municipal waste disposal will be given relative values.

All parties are cautioned not to load qualifications and experience statements with an excessive number of team members. Firms will be penalized for top-heavy or excessively large team.

If any material included in statements submitted to the authority in response to this request contains confidential or proprietary information, the statement should clearly indicate this on the cover page and on each page where the confidential or proprietary information is contained. Firms are advised to exclude confidential or proprietary information, if at all possible. After contracts are awarded, statements must be released to the general public under the Texas Open Records Act.

The authority will assign a project administrator to supervise both the technical and administrative execution of the project. Periodic progress reports, generally monthly, will be required to coincide with billings. Payment for services will be on a negotiated cost plus fee basis and documentation of costs will be required. The authority will supply, upon request, copies of contract forms for review by firms.

The contract(s) are expected to be awarded by January 2, 1986. If, in the opinion of the authority, the project may be more efficiently completed by splitting the scope of work among several firms, it may, at its opinion, do this.

Approximately 20 months will be allowed for completion of the project. An interim report will be due on or about October 1, 1986, and the final camera-ready copy shall be available on or about August 31, 1987.

The authority reserves the right to reject any or all statements submitted in response to this request.

Questions and requests for additional information should be directed to Ruben A. Alvarado, P.E., Chief Engineer, 1300-C East Anderson Lane, Suite 175, Austin, Texas 78752, (512) 835-6795.

Issued in Austin, Texas, on September 26, 1985.

TRD-858871

Lee H. Mathews
General Counsel
Texas Low-Level Radioactive Waste
Disposal Authority

Filed: September 26, 1985

For further information, please call (512) 835-6795.

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