

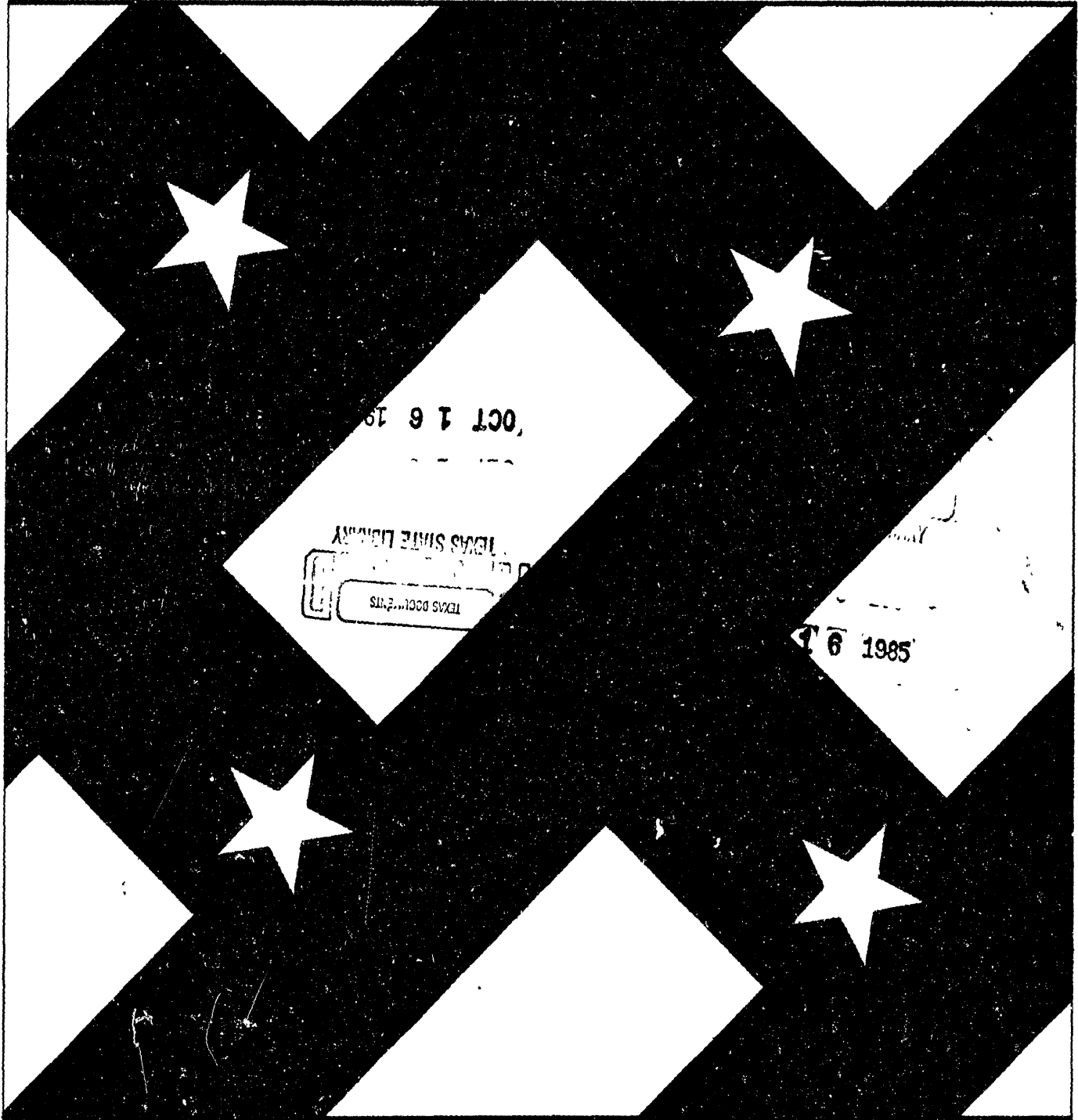
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# Texas Register

Volume 10, Number 75, October 8, 1985

Pages 3865 - 3918



## Highlights

The Texas Economic Development Commission adopts emergency amendments concerning approval of bonds. Effective date - October 1.....page 3871

The Texas Department of Labor and Stan-

dards adopts emergency amendments concerning insurance for installers. Effective date - October 1.....page 3873

The Texas State Board of Pharmacy proposes amendments concerning Class C pharmacies. Earliest possible date of adoption - November 8.....page 3882

Office of  
the Secretary  
of State

## Texas Register

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

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# Attorney General

**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*.

## Opinions

**JM-336 (RQ-320).** Request from Robert Bernstein, M.D., F.A.C.P., commissioner of health, Texas Department of Health, Austin, concerning authority of a joint city-county public health district to issue licenses, exact fees, and impose fines for non-compliance with its rules.

**Summary of Opinion.** A public health district's administrative board organized pursuant to the Local Public Health Reorganization Act, Texas Civil Statutes, Article 4436b is authorized to exact fees for health services within the limitations imposed in §4.08. However, the district is without specific statutory authority to issue licenses, or impose fines for noncompliance with its rules.

TRD-859005

★ ★ ★

**JM-337 (RQ-460).** Request from Bob Bullock, Comptroller of Public Accounts, Austin, and James Hambleton, director, State Law Library, Austin, concerning whether a state employee is entitled to paternity leave.

**Summary of Opinion.** The 1983 General Appropriations Act, Article V, §8g, does not entitle male employees to six weeks paternity leave following the birth of a child. The Pregnancy Discrimination Act 1978, 42 United States Code §2000e(k), 2000e-2 (1982), does not require state agencies to grant male employees such leave. A male employee may take sick leave under the Appropriations Act, Article V, §8c, when a member of his immediate family, as defined in that provision, is so disabled due to pregnancy or childbirth as to need the care of another person. Applications for sick leave for this purpose should be evaluated on a case-by-case basis. If a male seeks to take unpaid sick leave under the Appropriations Act, Article V, §8m, he must first exhaust his vacation leave. Whether he must first exhaust his sick leave is to be determined in accordance with Article V, §8m(1). The Appropriations Act does not address the question of maternity and paternity leave for employees who become parents by adoption.

TRD-859006

★ ★ ★

**JM-338 (RQ-515).** Request from Charles F. Aycock, Parmer County attorney, Farwell, concerning whether the City of Bovina may charge home owners and business owners a flat fee for maintenance of a police department.

**Summary of Opinion.** A general law municipality has no authority to raise revenue by charging each home owner and each business owner in Bovina a flat fee.

TRD-859007

★ ★ ★

**JM-339 (RQ-551).** Request from Roger D. Shipman, executive secretary, Texas Board of Veterinary Medical Examiners, Austin, concerning whether an individual who performs veterinary services for a governmental agency must be licensed under Texas Civil Statutes, Article 7465a.

**Summary of Opinion.** Veterinarians employed by governmental entities are not exempt from the licensing requirement of Texas Civil Statutes, Article 7465a.

TRD-859008

★ ★ ★

**JM-340 (RQ-571).** Request from Carl A. Parker, chairman, Education Committee, Texas Senate, Austin, concerning whether a grievance hearing is open to the public under certain circumstances and related questions.

**Summary of Opinion.** A grievance committee of the Alamo Community College District is not a governmental body within the Open Meetings Act, Texas Civil Statutes, Article 6252-17.

TRD-859009

★ ★ ★

**JM-341 (RQ-579).** Request from Stan Schlueter, chairman, Ways and Means Committee, Texas House of Representatives, Austin, concerning legality of foreign lottery under Texas law.

**Summary of Opinion.** Whether a lottery held in a foreign country can violate the Texas Penal Code, §47.03(a)(5), by advertising and offering lottery tickets in Texas involves fact questions.

TRD-859010

★ ★ ★

**JM-342 (RQ-446).** Request from Luther Jones, county attorney, El Paso, concerning whether a minister is required to file a report of child abuse under the Family Code, §34.07.

**Summary of Opinion.** Texas Civil Statutes, Article 3715a, which provide for clergyman-penitent privilege in judicial proceedings, does not conflict with the Family Code, §34.07, a reporting statute. Section 34.07 does not violate the free exercise clause of the First Amendment to the United States Constitution. It requires a minister of an established church to report evidence of child abuse when confidentially disclosed to him by a parishioner.

TRD-859011

★ ★ ★

**JM-343 (RQ-622).** Request from Bob Bullock, Comptroller of Public Accounts, Austin, concerning applicability of the General Appropriations Act, Article V, §86, which requires the filing of financial statements by state employees.

**Summary of Opinion.** A rider attached to the General Appropriations Act cannot repeal, modify, amend, or conflict with an existing general law. House Bill 20, Article V, §86, 69th Legislature, does not do so; it merely implements Texas Civil Statutes, Article 6252-9b. Guidelines applicable to that rider are the guidelines provided by Article 6252-9b.

TRD-859012

★ ★ ★

**JM-344 (RQ-453).** Request from Joyce A. Hammer, executive director, Board of Vocational Nurse Examiners, Austin, concerning the meaning of "approved course of not less than 12 months" for purposes of the Licensed Vocational Nurse Act, Texas Civil Statutes, Article 4528c.

**Summary of Opinion.** The 12-month minimum educational requirement of Article 4528c, subsection 6(a), requires that an approved course in vocational nursing amount to at least 12 months of instruction.

TRD-859013

★ ★ ★

**JM-345 (RQ-490).** Request from T. R. Bandy, Jr., Nueces County attorney, Cor-

pus Christi, concerning whether a county may impose an annual fee for parking of motor vehicles on Gulf Coast beaches.

**Summary of Opinion.** A county may not impose, pursuant to the Natural Resources Code, §61 122(a), an annual parking fee for on beach parking.

TRD-859014

★ ★ ★

**JM-346 (RQ-472).** Request from Henry Wade, criminal district attorney, Dallas, concerning fees to be charged for filing certain instruments in probate court.

**Summary of Opinion.** County clerks are authorized to charge an initial fee of \$25 to be paid by the party initiating an adverse action or contest in a probate court. An additional fee is not authorized for the filing of pleadings and legal instruments by the defendants in adverse actions in a probate court.

TRD-859015

★ ★ ★

**JM-347 (RQ-500).** Request from Garry Mauro, commissioner, General Land Office, Austin, concerning whether the school land board is authorized to sell certain tracts of land acquired through tax foreclosure sales.

**Summary of Opinion.** The real property acquired by the state as the purchasing taxing unit at a tax foreclosure sale does not belong to the permanent school fund and the School Land Board does not have authority to sell such land. Only the purchasing taxing unit is authorized by statute to resell land which it acquired at a tax foreclosure sale and to receive and distribute the proceeds of a resale of such property. Current statutes do not authorize any official or governmental entity to act for the state in a resale and distribution of proceeds when the state was the purchasing taxing unit at a prior tax foreclosure sale. However, effective August 26, 1985, the legislature has authorized conveyance of the specific property in Comal County.

TRD-859016

★ ★ ★

**JM-348 (RQ-597).** Request from Bob E. Bradley, executive director, Texas State Board of Public Accountancy, Austin, concerning whether the Texas State Board of Public Accountancy may require applicants for licensing to furnish character references from Texas residents.

**Summary of Opinion.** The Texas Board of Public Accountancy's substantive rule 22 TAC §511.21, requiring applicants to furnish character references from Texas residents, cannot stand under the United States Constitution, Article IV, §2, privileges and immunities clause, unless the board can demonstrate that there is substantial reason for discriminating against nonresidents by requiring that character references be furnished by Texas residents and that the discrimination practiced bears a substantial relationship to that reason.

TRD-859017

★ ★ ★

**JM-349 (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.

**Summary of Opinion.** A member of the State Property Tax Board is not entitled to receive compensatory per diem, as provided in the current General Appropriations Act, Article V, §4, for service on the board.

TRD-859018

★ ★ ★

**JM-350 (RQ-501).** Request from Jim Weems, Hockley County attorney, Leveland, concerning whether a commissioners court may expend county travel funds to oppose issuance by the Texas Alcoholic Beverage Commission of a private club permit.

**Summary of Opinion.** If a county commissioners court deems it to be in the interest of the county to do so, it may expend county travel funds for the purpose of opposing an application for a private club registration permit pending before the Texas Alcoholic Beverage Commission.

TRD-859019

★ ★ ★

**JM-351 (RQ-593).** Request from Tim R. Taylor, Titus County attorney, Mount Pleasant, concerning whether a commissioners court may bar video cameras from a public meeting held under Texas Civil Statutes, Article 6252-17.

**Summary of Opinion.** The Texas Open Meetings Act, Texas Civil Statutes, Article 6252-17, does not require the commissioners court of Titus County to allow videotaping of its meetings.

TRD-859020

★ ★ ★

**JM-352 (RQ-437).** Request from Kenneth H. Ashworth, commissioner, Coordinating Board, Texas College and University System, Austin, concerning whether a state institution of higher education may appoint to a faculty teaching position an individual who is nominated and salaried by a religious denomination.

**Summary of Opinion.** The United States Constitution, First Amendment, establishment clause, as applied to the states through the 14th Amendment, prohibits a state institution of higher education from appointing individuals who are either nominated or salaried by a religious organization to a university faculty position to teach religious studies courses. These processes involve excessive entanglement between the university and religion and involve the potential for and the appearance of advancing, endorsing, or favoring religion.

TRD-859021

★ ★ ★

**JM-353 (RQ-466).** Request from Philip F. Ricketts, chairman, Public Utility Commission of Texas, Austin, concerning authority of the Public Utility Commission of Texas to certificate facilities of cogenerators making retail sales of electricity.

**Summary of Opinion.** The Public Utility Commission of Texas has jurisdiction under the Public Utilities Regulatory Act, Texas Civil Statutes, Article 1446c, to promulgate a rule requiring qualifying cogenerators making or planning to make retail sales to obtain a certificate of convenience and necessity.

TRD-859022

★ ★ ★

### Open Records Decision

**JM-431 (RQ-582).** Request from Robert J. Provan, general counsel, Stephen F. Austin State University, Nacogdoches, concerning whether information subject to the Open Records Act, Texas Civil Statutes, Article 6252-17a, §14(e), may be withheld under the Act, §3(a)(3).

**Summary of Decision.** The Open Records Act, Texas Civil Statutes, Article 6252-17a, §3(a)(3), may not be used to deny records to a student at a state-supported institution.

TRD-859023

★ ★ ★



# Emergency

## Rules

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

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

### TITLE 10. COMMUNITY DEVELOPMENT Part II. Texas Economic Development Commission Chapter 107. Industrial Projects General Rules and Industrial Revenue Bond Program

#### ★ 10 TAC §107.2

The Texas Economic Development Commission adopts on an emergency basis an amendment to §107.2, concerning the approval of bonds and related documents pursuant to Texas Civil Statutes, Article 5190.6, bond applications filing fees, and approval standards for commercial projects to be financed with bond proceeds. This amendment is also proposed for permanent adoption in this issue of the *Texas Register*. The commission is adopting this amendment on an emergency basis to comply with the provisions of House Bill 690 and House Bill 2395, 69th Legislature, 1985, and to otherwise clarify certain bond approval standards pursuant to Texas Civil Statutes, Article 5190.6. The effective dates of the legislation requires the immediate adoption of rules which will provide procedures and guidelines for public compliance.

The amendment is adopted on an emergency basis under House Bill 690 and House Bill 2395, 69th Legislature, 1985, and Texas Civil Statutes, Article 5190.6, which provide the commission with the authority to adopt rules necessary to carry out the purposes of the Act.

#### §107.2. Industrial Revenue Bond Program.

##### (a) General.

(1) Filing of applications. Applications for approval of lease, sale, and loan agreements, and industrial revenue bonds shall be filed by the applicant with the Industrial Revenue Bond Division of the commission. Each application shall be as complete as practicable and not requiring addendum in order to be conditionally approved. To ensure adequate time for review by the commission staff, an application should be filed with the commission at least seven days prior to the proposed date of closing and delivery of the bonds.

(2) Filing fee. Each application for approval of an industrial revenue bond financing shall be accompanied by a filing fee in an [the] amount equal to 1/10 of 1.0% of the face amount of the bond issue, but not less than \$500. This fee is payable to the commission upon the initial filing of such application.

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

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

(C) Blighted area—Those areas and areas immediately adjacent thereto within a city which by reason of the presence of a substantial number of substandard, slum-deteriorated, or deteriorating structures, or which suffer from a high relative rate of unemployment, or which have been designated and included in a tax incremental district under Acts of the 66th Legislature, 1979, Texas Civil Statutes, Chapter 695, Article 1066d, or any combination of the foregoing, which the city finds and determines, after a hearing held pursuant to subsection (b)(9)(A) of this section, substantially impair or arrest the sound growth of the city, or constitute an economic or social liability and/or a menace to the public health, safety, or welfare in their present condition and use. Blighted area includes the terms "development area" as to any area designated by a city as a development area prior to October 1, 1985, and "economically depressed [distressed] area," which must comply with the requirements set forth in this subchapter for eligibility as a blighted area.

(D)-(K) (No change.)

(L) Development area—Any area or areas of a city that the city finds and determines, after a public hearing, should be developed in order to meet the development objectives of the city. The term also refers to any area designated by a city as a development area prior to October 1, 1985, under the requirements set forth in this section for eligibility as a blighted area.

(M)[(L)] District—A conservation and reclamation district established under authority of Texas Constitution, Article XVI, §59.

(N)[(M)] Executive director—The executive director of the commission.

(O)[(N)] Federally assisted new community—Those federally-assisted areas which have received or will receive assis-

tance in the form of loan guarantees under the National Housing Act, Title X, and a portion of the federally-assisted area has received grants under the Housing and Community Development Act of 1974, §107(a)(1), as amended.

(P)[(O)] Final approval—The completion of the conditional approval process upon the satisfaction of the conditions expressed in the conditional approval letter, if any, previously issued by the commission.

(Q)[(P)] Governing body—The board, council, commission, commissioner's court, or legislative body of the unit.

(R)[(Q)] Governmental agency—

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

(S)[(R)] Guarantor—

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

(T)[(S)] Population—The number of inhabitants within a geographical area as found and determined by the last preceding federal decennial census.

(U)[(T)] Project—The project as defined in the Act.

(V)[(U)] Resolution—The resolution, order, ordinance, or other official action by the governing body of a unit.

(W)[(V)] Rules—The rules of the commission.

(X)[(W)] Unit—A city, county, or district which may create and utilize a corporation.

(Y)[(X)] User—The private business enterprise which will lease, sublease, purchase, or otherwise operate the project pursuant to a lease, sale, or loan agreement with the corporation. The user is also sometimes referred to as the applicant in this chapter.

(4) Fee schedules and bond procedures. Each corporation shall file with the commission a schedule of all fees charged by, collected by, or otherwise involved with the corporation, directly or indirectly, in the application for approval to issue industrial revenue bonds. Further, each corporation shall file on or before September 1 of each year, a complete set of the corporation's written procedures for application of industrial revenue bond projects. Such written procedures shall be updated upon amendment, such update to be filed with the commission within 30 days from the effective date of such amendment. Proper filing of such fee schedules and bond procedures shall, after September 1, 1981, be

a precondition of commission review of industrial revenue bond applications involving such corporation; provided, however, a failure to timely file such information may be waived if such information is filed prior to the filing of an application for conditional approval. All bond procedures filed with the commission after October 1, 1985, must contain the name, street address, mailing address, and telephone number of the corporation's authorized agent or representative.

(b) Application contents.

(1) Generally.

(A) (No change.)

(B) List of participants. The name, street, mailing address, and telephone number of each of the following:

(i)-(viii) (No change.)

(ix) Bond counsel.

(2)-(5) (No change.)

(6) The bonds.

(A) (No change.)

(B) Proposed investment letters.

Proposed investment letters from the original purchasers of the bonds, or the purchasers of the bonds from the underwriter, in the form to be delivered at closing, substantially to the effect that said purchaser:

(i) is a financial institution or other accredited investor as defined in the Securities Act of 1933, Regulation D, 17 Code of Federal Regulations §230.501(a) [such as a bank or insurance company engaged in the business of investing in securities like the bonds];

(ii)-(iii) (No change.)

(C) (No change.)

(7) (No change.)

(8) Project approval standards—generally.

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

(D) If applicable, the user must certify and represent that no car, truck, mobile unit, or any vehicle of any kind whatsoever, which is financed in whole or in part by the proceeds of the bonds, will be away from the project site for more than 30 continuous calendar days and that all cars, trucks, mobile units, or vehicles of any kind whatsoever, financed in whole or in part by the proceeds of the bonds, will be rendered on the local tax rolls.

(9) Special rules for commercial projects in blighted [or economically depressed] areas and development areas. Under the Act, the financing of projects for commercial use is confined to, among others, geographic areas within the corporate limits of a city found and determined by the governing body of such city to be either a blighted area (or areas immediately adjacent thereto) or a development area. Rules for establishing a blighted area are set forth in subparagraph (A) of this paragraph. Rules for establishing a development area on and after October 1, 1985, are set forth in subparagraph (B) of this paragraph.

(A) Establishment of eligible blighted areas. [Under the Act, the financ-

ing of projects for commercial uses is confined to, among others, geographic areas within the corporate limits of a city found by the governing body of such city to be a blighted area or areas immediately adjacent thereto.] The provisions of this subparagraph [rule] govern the method of establishing blighted areas and set forth the criteria to be used by a city in declaring an area (whether one or more) within its jurisdiction to be a blighted area.

(i)-(vi) (No change.)

(B) Establishment of development areas. The provisions of this subparagraph set forth the method of establishing a development area.

(i) The commission will not approve the designation of any area as a development area unless:

(I) the governing body of a city shall first notify the commission of its intention to hold a public hearing under the act and these sections for the purpose of establishing one or more development areas. The notice to the commission shall be given in writing not less than 15 days prior to the date of the public hearing; and

(II) notice of such hearing is given to the public by publishing once a week for two consecutive weeks in a newspaper of general circulation in the city, and posting a copy of the same at the city hall not later than 15 days prior to the date thereof. Such notice shall contain a description of the area or areas proposed by the city to be designated as a development area, and the date, time, and location of such hearing.

(ii) If the governing body of the city shall conclude to request the commission to approve projects for commercial uses in development areas, it shall adopt a resolution, citing the Act and this chapter, and further containing:

(I) a description and map of the boundaries of the development area with such adequacy as would permit the boundaries to be properly located on the ground; provided, the commission will not approve the designation of any development area if approval would result in the entire geographic area within the corporate limits of a city being designated as a development area;

(II) a statement that the area designated as a development area should be developed in order to meet the development objectives of the city, together with a description of the overall objectives of the city for development of the designated area;

(III) a finding and representation to the commission that the availability of financing of projects for commercial uses under the act will contribute significantly to the development of the designated area;

(IV) a description of the type of projects for commercial uses desired and authorized by the city to enhance its development efforts in the development

area, together with the description of any exclusions or limitations by type or amount of commercial uses which the city would consider detrimental to its efforts to develop the designated area;

(V) a representation on the part of the governing body of the city that it will review all project descriptions for approval of specific projects for commercial uses in order to determine whether such projects are consistent with the city's objectives for development of the development area; and

(VI) based upon the city's best estimates at the time of the adoption of the resolution, a description of proposed public improvements, if any, to be made in the development area, the estimated commencement date for such public improvements, the approximate schedule for such improvements, and the sources of funds the city will use for such purposes.

(iii) unless the city shall be notified by the commission to the contrary in writing within 30 days from the date of receipt of such resolution, the development areas described in such resolution shall be deemed accepted by the commission. After final acceptance of a resolution under this provision, the commission will approve projects for commercial uses in the development area only after the applicant demonstrates to the satisfaction of the commission that:

(I) the specific project conforms with any limitation specified in the resolution as provided in this subsection;

(II) the city, after posting notice and holding a public hearing, has approved the projects and has made the determinations and findings required by this chapter; and

(III) the specific project to be financed for commercial uses will significantly contribute to the fulfillment of the overall development objectives of the city for the development area; and the project conforms to the project approval standards specified in paragraph (8) of this subsection and subparagraph (C) of this paragraph.

(C)(B) Commercial project approval standards. The applicant shall provide evidence satisfactory to the commission, in addition to the evidence required by paragraph (8) of this subsection that:

(i) the proposed project is located within or adjacent to a designated blighted area or within a development area;

(ii) the city has approved the proposed project and has found that the project to be financed will:

(I) contribute significantly to the fulfillment of the redevelopment or development objectives of the city for the blighted [or economically depressed] area or development area, respectively; and

(II) (No change.)

(iii) the user will not, during the life of the bonds, direct the proposed project to a use not authorized within the

eligible blighted area or development area as defined by the Act and this chapter.

(10)-(12) (No change.)

(c) (No change.)

Issued in Austin, Texas, on October 1, 1985.

TRD-859104

David V. Brandon  
Executive Director  
Texas Economic  
Development  
Commission

Effective date: October 1, 1985

Expiration date: January 29, 1986

For further information, please call  
(512) 472-5059.

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## TITLE 16. ECONOMIC REGULATION

### Part IV. Texas Department of Labor and Standards Chapter 69. Manufactured Housing Division General Requirements

#### ★ 16 TAC §69.125

The Texas Department of Labor and Standards adopts on an emergency basis an amendment to §69.125, concerning the amount of insurance required by registered installers of manufactured housing in Texas. The amendment will allow, in addition, a combined single limit of insurance instead of just specific limit amounts. The amendment is adopted on an emergency basis to protect the health, safety, and welfare of the manufactured housing consumer in Texas.

The amendment is adopted on an emergency basis pursuant to Texas Civil Statutes, Article 5221f, which provide for the adoption of rules and for action necessary to assure compliance with the intent and purpose of the Act and provide for uniform enforcement of all provisions of the Act.

#### §69.125. *Registration Requirements.*

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

(e) Installer registration.

(1) (No change.)

(A) Each applicant for registration shall have public liability insurance coverage including completed operations in an amount of not less than \$300,000 for bodily injury each occurrence and property damage insurance in an amount of not less than \$100,000 each occurrence. A combined single limit of \$300,000 will be considered to be in compliance with this section. If the applicant will be engaged in the transportation of manufactured housing incidental to the installation, the applicant must also have motor vehicle liability insurance coverage in an amount of not less

than \$250,000 bodily injury each person, \$500,000 bodily injury each occurrence, \$100,000 property damage each occurrence. A combined single limit of \$500,000 will be considered to be in compliance with this section: [and] Cargo insurance on each home or transportation section of not less than \$25,000 per towing motor vehicle is required.

(B)-(D) (No change.)

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

(f)-(i) (No change.)

Issued in Austin, Texas, on September 30, 1985.

TRD-859088

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

Effective date: October 1, 1985

Expiration date: January 29, 1986

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

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#### Titling

#### ★ 16 TAC §§69.202, 69.204, 69.207

The Texas Department of Labor and Standards adopts on an emergency basis amendments to §§69.202, 69.204, and new §69.207, concerning the increase in fees for a title document, the fee for a title search, miscellaneous information to be required, and the reinstatement of cancelled certificates of ownership.

The basis for the emergency adoption of the amendments is Senate Bill 1267, 69th Legislature, 1985, which is effective September 1, 1985. The adoption of these emergency amendments implement the statutory mandate.

The amendments and new section are adopted on an emergency basis under Texas Civil Statutes, Article 5221f, which provide for the adoption of sections pursuant to Texas Civil Statutes, Article 6252-13a, and to take all action necessary to assure compliance with the intent and purpose of this Act and to provide for uniform enforcement of all provisions of this Act.

#### §69.202. *Fees for Title Documents.*

(a) There shall be a fee of \$15 [\$9.00] for the issuance of a manufactured home document of title. Except as may otherwise be authorized, the fee shall be submitted in the form of a cashier's check or money order payable to the Texas Department of Labor and Standards. The fee shall accompany the required documents and affidavits forwarded to the department at its principal office in Austin.

(b) The \$15 [\$9.00] fee is payable for any subsequent issuance or reissuance of a manufactured home document of title except for the following.

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

(c) (No change.)

(d) One check may be submitted in payment of the aggregate fees for the issuance of more than one document of title. When multiple applications are submitted, a cover letter must be included which shall identify each application and reconcile the \$15 [\$9.00] fee for each application with the total amount of the check.

(e) There shall be a fee of \$10 for any title search which shall be paid to the department by the requesting party in the form of a cashier's check or money order. The request must be in writing and must state the specific information being requested.

#### §69.204. *Titling Forms.*

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

(c) Manufactured home affidavit of transaction.

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

(6) Other information shall include, but not be limited to, the following:

(A) the name(s) and address(es) of the owner(s); and

(B) the name(s) and address(es) of the lienholder.

(7) The affidavit of transaction must be properly executed in the presence of a notary.

(d) (No change.)

#### §69.205. *Titling Transactions.*

(a) Corrected Texas document of title.

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

(3) No fee shall be required for this transaction if an error was made by the department.

(b) (No change.)

(c) Inventory financing liens.

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

(3) The inventory finance security form shall contain the following:

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

(C) the name, [and] address, and registration number of the retail business location covered by the filing;

(D) (No change.)

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

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

§69.207. *Reinstatement of Cancelled Certificates of Ownership.* A certificate of ownership issued by the department to a manufactured home which has been canceled because the home has been affixed to real estate may be reinstated subject to the following documents being filed with the department:

(1) a properly executed affidavit of transaction releasing any lien resulting from a security interest in the home from the lender;

(2) if no lien or security interest exists, an affidavit executed before a notary public that no lien or security interest exists;

(3) a properly executed affidavit of disposition accompanied by a cashier's check or money order for \$15;

(4) box 27 of the affidavit of transaction must be marked as evidence to the department that no active title exists;

(5) a certification from a title insurance company authorized to do business that no other liens exist on the realty.

Issued in Austin, Texas, on September 30, 1985.

TRD-859068

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

Effective date: October 16, 1985

Expiration date: February 13, 1986

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

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## TITLE 19: EDUCATION

### Part II. Texas Education

#### Agency

#### Chapter 145. Professional

#### Environment

#### Subchapter C. Employment

#### Assurances

#### ★ 19 TAC §145.44

The Texas Education Agency adopts on an emergency basis an amendment to

§145.44, concerning the 45-minute planning and preparation period for teachers that is required by the Texas Education Code, §13.902. The amendment provides that school districts which extend the school day beyond the required seven-hour minimum for instructional purposes may include the 45-minute planning and preparation period for teachers within the extended school day. This amendment has been adopted on an emergency basis to enable school districts to schedule in accordance with the section for the current year.

This amendment is adopted on an emergency basis under the Texas Education Code, §13.902, which provides for the 45-minute planning and preparation period; and the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for administration of the Foundation School Program.

#### §145.44. *Preparation and Planning Time.*

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

(c) Districts which extend the school day beyond the required seven-hour minimum for instructional purposes may include the required 45-minute planning and preparation period within the extended school day. Preparation and planning periods must be scheduled within the time that students are being instructed in regularly scheduled classes. A district may not extend the seven-

hour school day solely to provide time for the required 45-minute planning and preparation period. Such extension must be primarily for instructional purposes, not to provide time for extracurricular activities.

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

TRD-859045

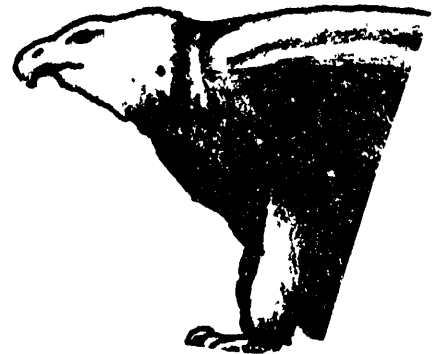
W.N. Kirby  
Commissioner of  
Education

Effective date: September 30, 1985

Expiration date: January 28, 1986

For further information, please call  
(512) 463-9682.

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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 10. COMMUNITY DEVELOPMENT Part II. Texas Economic Development Commission Chapter 107. Industrial Projects General Rules and Industrial Revenue Bond Program

#### ★ 10 TAC §107.2

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

The Texas Economic Development Commission proposes an amendment to §107.2, concerning the approval of bonds and related documents pursuant to Texas Civil Statutes, Article 5190.6, bond application filing fees, and approval standards for commercial projects to be financed with bond proceeds. The proposed amendment is necessary to comply with House Bill 690 and House Bill 2395, 69th Legislature, 1985, and to otherwise clarify certain bond approval standards pursuant to Texas Civil Statutes, Article 5190.6.

Wardaleen F. Belvin, director of finance, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications as a result of enforcing or administering these section. The anticipated effect on state government is an estimated increase in revenue of \$1 million in 1986, \$750,000 in 1987, \$500,000 each year in years 1988 and 1989, and zero in 1990. There is no anticipated economic effect on local government. Small businesses submitting an application for industrial revenue bond financing would be required to pay a fee equal to 1/10 of 1.0% of the face amount of the bond issue.

Ms. Belvin 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 is the continuation of tax-exempt financing for manufacturing, industrial, and commercial projects. The anticipated economic cost to individuals who are required to comply with the section as proposed equals to 1/10 of 1.0%

of the face amount of each bond issue, but not less than \$500. The application filing fee is provided for in House Bill 690, 69th Legislature, 1985.

Comments on the proposal may be submitted to Johanna McCully-Bonner, General Counsel, Texas Economic Development Commission, P.O. Box 12728, Austin, Texas 78711.

The amendment is proposed under House Bill 690 and House Bill 2395, 69th Legislature, 1985, and Texas Civil Statutes, Article 5190.6, which provides the Texas Economic Development Commission with the authority to adopt rules pertaining to the industrial revenue bond 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 October 1, 1985.

TRD-859103 David V. Brandon  
Executive Director  
Texas Economic  
Development  
Commission

Earliest possible date of adoption:  
November 8, 1985  
For further information, please call  
(512) 472-5059.

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### TITLE 16. ECONOMIC REGULATION Part IV. Texas Department of Labor and Standards Chapter 69. Manufactured Housing Division General Requirements ★ 16 TAC §69.125

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

The Texas Department of Labor and Standards proposes an amendment to §69.125, concerning registration requirements of registered installers. Combined single

limit insurance coverage will be allowed as meeting the insurance requirements of registered installers.

John P. Steele, Manufactured Housing Division 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. Steele 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 that registered installers will be allowed a certain amount of flexibility in the purchase of insurance coverage. 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 John P. Steele, Director, Manufactured Housing Division, Texas Department of Labor and Standards, 920 Colorado Street, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 5221f, which provide the Texas Department of Labor and Standards with the authority to promulgate any and all reasonable rules and regulations which may be necessary for the purpose of enforcing the provisions of this Act.

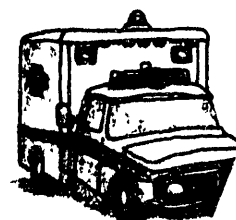
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on October 1, 1985.

TRD-859085 Allen Parker, Sr.  
Commissioner  
Texas Department of  
Labor and Standards

Earliest possible date of adoption:  
November 8, 1985, 1985  
For further information, please call  
(512) 475-0155.

★ ★ ★



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

**Chapter 61. School Districts  
Subchapter F. Responsibilities  
and Powers for Operation**

**★ 19 TAC §61.161**

The Texas Education Agency proposes an amendment to §61.161, concerning time sessions for school operation. This section requires school districts to establish an annual school calendar and to schedule at least seven hours for each school day, of which not less than six hours must be devoted to instruction. Primary grades may be dismissed somewhat earlier. Schools having to use half-day sessions must obtain permission from the commissioner of education. The proposed amendment deletes obsolete references to Texas Education Agency sections as well as administration titles which have been rendered incorrect by the agency's recent reorganization.

Richard Bennett, assistant commissioner for state funding, 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. Bennett and Dr. Beverly J. Bardsley, director for policy development, 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 deletion of obsolete material from agency rules. 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 Dr. Beverly J. Bardsley, Director for Policy Development, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8692. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 days after notice of a proposed change in sections has been published in the *Texas Register*.

This amendment is proposed under the Texas Education Code, §21.004, which requires that school be taught for at least seven hours each day, including intermissions and recesses, and the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for administration of the Foundation School Program.

**§61.161. Time Sessions for School Operation.**

(a) [Policy.] Each school district shall establish annually a school calendar which

includes time periods for instruction, as prescribed by law and State Board of Education rules. [accreditation standards, and for fiscal accounting as defined by law, policies, and administrative procedures (see §117.1 of this title (relating to Requirements of Pupil Attendance Accounting for State Funding Purposes)). (Reference Texas Education Code, Chapter 21, Subchapter A.)]

(b) [Administrative procedure.] Each school district shall submit [submits] its school calendar, showing not less than 175 days of available instruction, to the Central [Texas] Education Agency. School shall be [is] in session at least seven hours each day, of which not less than six hours shall be devoted to instruction. The primary grades may be dismissed somewhat earlier than the other grades. School districts having to use half-day sessions must obtain permission to operate with the shortened day from the [deputy] commissioner of education [for administrative services of the Texas Education Agency].

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-859046

W.N. Kirby  
Commissioner of  
Education

Earliest possible date of adoption:  
November 8, 1985

For further information, please call  
(512) 463-9882.

★ ★ ★



**Subchapter K. Mineral Leases by  
School Districts**

**★ 19 TAC §§61.271-61.273**

The Texas Education Agency proposes amendments to §§61.271-61.273, concerning mineral leases by school districts.

The Texas Education Code, §23.29, requires the commissioner of education to approve the sale or leasing of minerals by independent school districts based on criteria established by the State Board of Education.

Sections 61.271-61.273 implement this section of the Texas Education Code. The proposed amendments clarify the approval process for mineral leases and answer questions frequently posed by school districts during the approval process.

The proposed amendment to §61.271 changes this title from "Policy" to "General Provisions." There is no change in the text.

The proposed amendment to §61.272 clarifies for common school districts that revenues derived from mineral leases or sales must be used for expenditures authorized by the Texas Education Code, §22.10. Mineral leases executed by common school districts do not require the approval of the commissioner of education.

Section 61.273 concerns mineral leases by independent school districts. The proposed amendment to subsection (a) clarifies that expenditures from revenues from mineral leases or sales must be for purposes authorized by the Texas Education Code, §23.29(d). The proposed amendment to subsection (b)(1) requires that the time at which bids will be considered must be at least three days after the last newspaper publication of the notice that bids will be taken. This proposed amendment establishes a reasonable time period for notice which is not clearly stated in statute. The proposed amendment to subsection (b)(2) clarifies that same notice provisions apply both to leases or sales by sealed bid and by public auction. The proposed amendment to subsection (b)(3) clarifies the elements required in the local school board resolution authorizing the mineral lease. The requirement that the consideration of terms of the lease be included in the resolution is deleted; however, the resolution must incorporate the lease agreement by reference and a copy of the agreement must be attached to the resolution. This change ensures that all essential information concerning the lease is available, without requiring inclusion of the same information in two different documents. The proposed amendment to subsection (c)(3) establishes that a mineral lease may not be extended beyond

15 years without public competitive bidding. The proposed amendment to subsection (d) prohibits leases which include in-kind payments. Many printed lease forms submitted for approval contain provisions for an in-kind payment. Such payments are prohibited by the Texas Natural Resources Code, §71.009, which requires a sum certain royalty. The proposed amendment to subsection (c) deletes the requirement that the letter from the school district, requesting approval, be signed by the president of the board of trustees. The requirement for verified proof of publication of notices as required in subsection (b)(1) is clarified by indicating that a publisher's affidavit is required.

Richard Bennett, assistant commissioner for state funding, 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.

Dr. Beverly J. Bardsley, director for policy development, and Mr. Bennett, 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 clarification of procedures to be followed in seeking approval for mineral leases. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Dr. Beverly J. Bardsley, Director for Policy Development, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9682. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

These amendments are proposed under the Texas Education Code, §23.29, which requires the commissioner of education to approve the sale or leasing of minerals by independent school districts based on criteria established by the State Board of Education.

**§61.271. General Provisions [Policy].** The commissioner of education shall approve mineral leases for certain school districts in accordance with the Texas Education Code, §23.29, and the Texas Natural Resources Code, Chapter 71, Subtitle F.

**§61.272. Common School Districts.** Mineral leases executed by common school districts and rural high school districts classified as common shall be in accordance with the Texas Education Code, §22.10(b), and the Texas Natural Resources Code, Chapter 71, Subtitle F. The right to lease

rests with the governing board of trustees (subject to the approval of the county school trustees or county board of education having jurisdiction over the district). Approval of such leases by the commissioner of education is not required. The revenues derived from such lease or sale shall be restricted to the expenditure purposes stated in the Texas Education Code, §22.10.

**§61.273. Independent School Districts.**

(a) Approval. Mineral leases executed by independent school districts shall be in accordance with the Texas Education Code, §23.29, the Texas Natural Resources Code, Chapter 71, Subtitle F, and these sections. Approval of such leases by the commissioner of education is required and shall be granted upon satisfactory compliance by the district with the criteria, conditions, and procedures in [subsection (b) of] this section. The revenues derived from such lease or sale shall be restricted to the expenditure purposes stated in the Texas Education Code, §23.29(d).

(b) General requirements. General requirements shall be as follows:

(1) Competitive bidding. The board of trustees shall give notice of its intention to lease any lands owned by the district by publishing a notice in a [some] newspaper published and having a general circulation in the county where the lands are situated once a week for a period of three consecutive weeks, describing the lands to be leased and designating the time and place after the last [such] publication where the board shall receive and consider bids for such mineral leases as the board may determine to make. The published time at which such bids will be considered shall not be less than three calendar days following the date of the last newspaper publication. On the date specified in said notice, the board shall receive and consider any and all bids submitted for the leasing of said lands or any portions thereof which are advertised for leasing and in the discretion of the board shall award each lease to the highest and best bidder submitting a bid therefor, provided that if in the judgment of the board the bids submitted do not represent the fair value of any such lease, the board may reject the same and again give notice and call for additional bids, but no lease shall in any event be made except upon public hearing and consideration of said bids and after the notice as herein provided unless granted by public auction as provided in paragraph (2) of this subsection.

(2) Public auction. In the alternative to competitive bidding the specified in paragraph (1) of this subsection, the board of trustees may grant mineral leases by public auction. The same publication and notice provisions applicable to sealed bid leases or sales shall apply to sales or leases by public auction.

(3) Board resolution. All leases shall be authorized by resolution of the

board of trustees, which resolution shall contain a legal description of the land leased and shall specify the number of acres of land involved, the trustee authorized to execute the lease on behalf of the school district, and the name of the successful bidder to whom [and the consideration of terms under which] the land is being leased. The resolution shall incorporate the lease agreement by reference and shall attach a copy of the lease agreement. A copy of the resolution shall be attached to the lease and made a part thereof. Such copy shall be certified by the secretary of the board of trustees.

(4) (No change.)

(c) Oil, gas, and sulphur leases. In addition to the general requirements in [of] subsections (a) and (b) of this section, the following rules shall apply to all leases for oil, gas, or sulphur:

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

(3) Primary term. No lease, other than for coal or lignite, may be for a primary term of more than 10 years from the date of execution and approval of the lease by the commissioner of education. A renewal option based upon payment of additional delay rentals or bonus, or other monies shall not be approved to extend the primary term beyond five additional years to the stated primary term.

(d) Coal and lignite leases. In addition to the general requirements of subsections (a) and (b) of this section, the following rules shall apply to all leases for coal and lignite:

(1) (No change.)

(2) No in kind payments. Leases permitting royalty payments to be made in kind shall not be approved.

(3)[(2)] Primary term. No lease for coal and lignite may be for a primary term of more than 35 years from the date of execution.

(e) Applications for approval. Mineral leases executed by independent school districts shall be submitted for approval by the commissioner of education in accordance with the following procedure:

(1) When a mineral lease has been fully executed by all parties thereto, the school district [president of the board of trustees] shall request approval of the same by letter to the Commissioner of Education, 1701 North Congress Avenue [201 East 11th Street], Austin, Texas 78701, enclosing the original and one copy of the lease with attached copies of the board resolution authorizing the lease. The request letter should state whether the lease was awarded as a result of competitive bidding or granted by a public auction, and should contain sufficient information for the commissioner to determine whether the bidding or auction requirements of this section have been met, including a publisher's affidavit certifying the dates and a copy of the published announcement that was published in a newspaper in compliance with this section [veri-



fied proof of the publication of notice required by subsection (b) of this section].

(2) (No change.)

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

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W. N. Kirby  
Commissioner of  
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For further information, please call  
(512) 463-9682.



## Chapter 69. Proprietary Schools and Veterans Education

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

#### ★ 19 TAC §69.126

*(Editor's note: The text of the following rule proposed for repeal will not be published. The rule may be examined in the offices of the Texas Education Agency, 1701 North Congress Avenue, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas Education Agency proposes the repeal of §69.126, concerning appeals procedures relative to proprietary schools. Provisions for such appeals are now contained in proposed §157.67, relating to hearings held pursuant to the Texas Proprietary School Act. To avoid duplication in the rules, §69.126 is proposed for repeal.

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

Mr. Bennett and Dr. Beverly J. Bardsley, director for policy development, have determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is the elimination of a redundant section of the Texas Administrative Code. There is no anticipated economic cost to individuals as a result of the repeal.

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

tor for Policy Development, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9682. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

The repeal is proposed under the Texas Education Code, §32.22, which authorizes the State Board of Education to adopt policies, regulations, and rules necessary for carrying out the provisions of the law relative to proprietary schools in Texas after consultation with the Proprietary School Advisory Commission.

#### §69.126. Appeals Procedure.

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) 463-9682.



## Chapter 77. Comprehensive Instruction

### Subchapter W. Driver Education

#### ★ 19 TAC §77.474

The Texas Education Agency proposes amendments to §77.474, concerning course requirements for driver education.

In July of 1985 the State Board of Education approved the awarding of one-half unit of credit toward state graduation requirements for driver education. Two semester-length (80 hour) state-approved driver education courses are available. One course includes both in-class instruction and behind-the-wheel training and prepares the student to qualify for a driver's license. The other course does not include behind-the-wheel training and prepares the student to qualify for a learner's permit. School districts may also offer a course for no credit or for local credit only.

The proposed amendments to §77.474 are designed to strengthen the driver education program, since state credit may now be awarded for taking it. The course designed to prepare students for a dri-

ver's license must provide at least 56 hours of classroom instruction, seven hours of in-car observations, and seven hours of behind-the-wheel instruction. The course designed to prepare students for the learner's permit must provide at least 56 hours of classroom instruction in driver education and 24 hours of safety education. Courses offered for no credit or for local credit only must provide at least 32 hours of classroom instruction, seven hours of behind-the-wheel instruction, and seven hours of in-car observation.

Richard Bennett, assistant commissioner for state funding, 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. Bennett and Dr. Beverly J. Bardsley, Director for Policy Development, 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 will be to strengthen instruction in driver education in Texas public schools. 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 Dr. Beverly J. Bardsley, director for policy development, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9682. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

These amendments are proposed under the Texas Education Code, §21.102, which directs the Central Education Agency to develop a program of organized instruction in driver education and traffic safety for public school students.

#### §77.474. Course Requirements.

(a) To be approved under these standards, driver education courses shall be provided under one or more of the following plans: [Courses of driver and traffic safety education, in order to meet the standards of these sections consist of two phases: class instruction and laboratory experience. The basic requirements are 32 clock hours of classroom instruction, six clock hours of behind-the-wheel instruction, and six clock hours of in-car observation.]

(1) a minimum of 32 clock hours of classroom instruction, seven hours of behind-the-wheel instruction, and seven hours of in-car observation. Under this plan, students may receive only local credit for the course;



(2) a minimum of 80 clock hours covering the essential elements in §75.121(a) of this title (relating to Driver Education) and consisting of a minimum of 56 clock hours of driver education classroom instruction, seven hours of behind-the-wheel instruction, and seven hours of in-car observation. Under this plan, students may receive one-half unit state credit counting toward graduation;

(3) a minimum of 80 clock hours of classroom instruction covering the essential elements in §75.121(b) of this title (relating to Driver Education) and consisting of a minimum of 56 clock hours of driver education classroom instruction and 24 clock hours of safety education. Under this plan, students may receive one-half unit state credit counting toward graduation.

(b) Schools may use multimedia systems, simulators, and multicar driving ranges for instruction in the driver education program. All simulators, including the filmed instructional programs, and all plans for multicar driving ranges must meet state specifications. Specifications for simulators and driving ranges have been developed by the Texas Department of Public Safety and the Central [Texas] Education Agency and are available from the agency.

(c)(b) Course content, minimum instruction requirements, and administrative guidelines for each phase must conform to the state-approved curriculum guide appropriate for each phase of instruction: *Driver Education Classroom and In-Car Instruction*, *Driver Education Simulation and In-Car Instruction*, *Driver Education Multicar Driving Range Instruction*.

(d)(c) Four periods of at least 55 minutes of instruction in a simulator may be substituted for one clock hour of in-car instruction. Two periods of at least 55 minutes of multicar driving range instruction may be substituted for one clock hour of in-car instruction relating to elementary of city driving lessons. However, a minimum of three clock hours must be spent in actual in-car instruction.

(e)(d) Learning systems that have programs correlated with the course content of the *Curriculum Guide for Driver Education* may be used in class instruction.

(f)(e) Class instruction courses conducted through the medium of television must conform to the *Guide for Educational Television in Driver Education for Texas Schools* (Texas Education Agency, 1964, and including subsequent revisions).

(g)(f) Multiphase driver education programs that include at least the minimum required simulator and in-car instruction may be taught with less than 32 clock hours of class instruction under the following provisions:

(1)-(4) (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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(512) 463-9882.

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## Chapter 89. Adaptations for Special Populations

### Subchapter G. Special Education Clarification of Provisions in Federal Regulations and State Law

★ 19 TAC §§89.213, 89.215, 89.221,  
89.223, 89.232-89.234

The Texas Education Agency (TEA) proposes amendments to §§89.213, 89.215, 89.221, 89.223, and 89.232-89.234, concerning the clarification of provisions in federal regulations and state law relative to special education.

Section 89.213 concerns qualifications of special education personnel. House Bill 72, 68th Legislature, 2nd Called Session, 1984, amended the Texas Education Code, §16.056(f), to require that Texas-licensed speech language pathologists be hired in preference to those holding a TEA speech and hearing certificate. The proposed amendment clarifies the new requirement that persons holding a TEA certificate may be employed to provide speech therapy only if no acceptable holder of a valid state license as a speech language pathologist is available.

Section 89.215 concerns special education related services personnel. The amendment to §89.215(b)(2) requires that audiological services be provided by a professional who holds a valid state license as an audiologist. The authorization to employ persons holding only certification by the American Speech Language Hearing Association is deleted.

The second proposed amendment to §89.215(b) deletes paragraph (15), which included speech therapy as a related service. The Texas Education Code, §16.151(b), considers speech therapy to be an instructional arrangement. Deletion of speech therapy from the related services category will enable all speech therapy personnel to be considered as instructional personnel for funding and career ladder purposes.

Section 89.221 concerns the functions of the admission, review, and dismissal (ARD) committee. House Bill 72 amended the Texas Education Code, §21.503, to add to the definition of a learning-disabled student the specification that such students must need special services other than those provided under compensatory education programs. The amendment to §89.221(b)(4) requires the ARD committee to review other services available to students referred for special education, specifically including services in regular and compensatory education programs for which the student is eligible.

The 69th Legislature amended the Texas Education Code, §21.920, concerning student absences for extracurricular or other activities, to direct the ARD committee to determine whether a student's handicap significantly interferes with a student's ability to meet regular academic standards and, if so, to establish standards in the student's individual education plan (IEP) which the student must meet to be eligible to participate in extracurricular activities. The addition of new §89.221(b)(6) reflects this change in the Texas Education Code, §21.920. New §89.221(b)(11) requires the ARD committee to review a student's IEP if the student has not passed in all content areas for two consecutive six-weeks reporting periods.

Section 89.223 concerns the content of the IEP. The amendment to §89.223(a)(4)(D) is similar to the amendment to §89.221. It requires that the IEP specify criteria for determining a student's academic progress and eligibility for extracurricular activities. Proposed new §89.223(a)(4)(E) requires that the IEP specify whether the student is exempt from some or all of the student assessment of basic skills tests.

Section 89.232, concerning referral for comprehensive assessment, requires documentation of previous educational efforts and strategies provided or considered for the student and includes a specific reference to consideration of compensatory education programs offered by the district.

Section 89.233 concerns the comprehensive individual assessment. The proposed amendment requires identification of special modifications of instructional content, settings, methods, or material required by the student to progress both in special education and in regular classes or other special and compensatory education programs, including participation in extracurricular activities. The amendment also adds a new §89.233(f)(4) which requires as part of the assessment the inclusion of information on levels at which students should be expected to perform to receive passing grades in each subject area.

The proposed amendment to §89.234, concerning identification of learning disabled students, implements the new provisions of the Texas Education Code, §21.503, and requires the determination that the student cannot be appropriately served through regular or compensatory education alone. The assessment team must identify those services needed by the student that are available only from special education.

Richard Bennett, assistant commissioner for state funding, 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. Bennett and Dr. Beverly J. Bardsley, director for policy development, have also 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 improvement of special education identification and placement procedures to ensure more appropriate placement in both compensatory and special education programs; provision of a means for establishing eligibility criteria for special education students to participate in extracurricular activities; and establishment of a procedure for exemptions from the Texas assessment of minimum skills tests for special education students for whom such exemptions are appropriate. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Dr. Beverly J. Bardsley, Director for Policy Development, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9682. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

The amendments are proposed under the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for the administration of the Foundation School Program, and the Texas Education Code, §16.151, which includes special education as part of the Foundation School Program.

**§89.213. Qualifications of Special Education Personnel.**

- (a)-(c) (No change.)
- (d) Teachers who hold a special education certificate, an academic teaching field or specialization, or endorsement may be assigned to any level of a basic special education instructional program serving students between the ages of three and 21, except for the following:

- (1) **Persons [Teachers] assigned to provide speech therapy instructional services must hold a valid Central Education Agency certificate in speech and hearing therapy or speech and language therapy, or a valid state license as a speech language pathologist. Persons holding a Central Education Agency certificate may be employed to render such services only if an acceptable applicant who holds a valid state license as a speech language pathologist is not available.** [(See §89.215(b)(15) of this title (relating to Related Services Personnel) for related services assignment.)]

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

**§89.215. Related Services Personnel.**

- (a) (No change.)
- (b) Related services personnel shall meet the following certification or licensure requirements:

- (1) (No change.)

- (2) Audiological services shall be provided by a professional who holds a **valid state license as an audiologist** [certification as an audiologist by the American Speech Language Hearing Association].

(3)-(14) (No change.)

- (15) Speech therapy, as a related service only, shall be provided by a professional who holds one of the following:

- [(A) a valid Texas Education Agency certificate as a speech and hearing therapist; or

- [(B) a certificate of clinical competence in speech-language pathology from the American Speech-Language-Hearing Association.]

- (15)[(16)] Visual training therapy shall be provided by a professional who is a Texas-licensed eye specialist with special professional preparation in visual training.

(c) (No change.)

**§89.221. The Admission, Review, and Dismissal (ARD) Committee.**

- (a) (No change.)

- (b) The ARD committee shall perform the following functions for each student considered for special education:

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

- (4) ensure that alternatives, **including services in regular and compensatory education programs for which the student is eligible**, are reviewed and additional services are discussed;

(5) (No change.)

- (6) **identify the content areas in which the student's handicap significantly interferes with the student's ability to meet regular academic mastery level standards;**

- (7)[(6)] develop the individual educational plan;

- (8)[(7)] provide for educational placement in the least restrictive environment appropriate to meet the needs of the student;

- (9)[(8)] determine each student's continuing eligibility and need for special education based on the comprehensive three-year reappraisal; [and]

- (10)[(9)] review all special education assignments at least annually to determine the need for continuation, change, reappraisal, or termination; and

- (11) review the individual educational plan (IEP) if the student has not received passing grades, as specified by criteria in the IEP, in all content areas for two consecutive six-weeks reporting periods.

(e)-(h) (No change.)

**§89.223. Content of the Individual Educational Plan (IEP).**

- (a) The individual educational plan developed by the admission, review, and dismissal committee for each student shall include all of the elements required by federal regulations and the following additional information:

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

- (4) The IEP shall specify the following:

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

- (C) modifications necessary for the student to be successful in the regular, remedial, or supportive program, if any; [and]

- (D) **criteria and [a] schedule for evaluating the progress of the student which allows for determining the student's eligibility for participation in extracurricular activities each grading period; and**

- (E) **exemptions from some or all of the student assessment of basic skills tests, as appropriate. Modifications of regular classroom procedures which are provided for handicapped students by the local district, as specified in the student's IEP, shall be provided during the assessment process in accordance with §101.3 of this title (relating to exemptions).**

(5) (No change.)

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

**§89.232. Referral for Comprehensive Assessment.**

- (a) (No change.)

- (b) In order to refer a student for comprehensive individual assessment, the following information must be submitted in writing with the referral to special education:

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

- (3) documentation of previous educational efforts and strategies provided or considered for the student and the results of those efforts, including participation in or consideration for other special and compensatory education programs operated by the district;

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

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

**§89.233. Comprehensive Individual Assessment.**

- (a)-(e) (No change.)

- (f) Assessment of performance levels and competencies. The purpose of the assessment of educational performance is:

- (1) (No change.)

- (2) to provide information about

the student's strengths and weaknesses; [and]

(3) to identify the specific modification of instructional content, setting, methods, or material required by the student to achieve and maintain satisfactory progress, including those that can only be provided through special education services, and those adaptations necessary for the student's progress in regular classes and other special and compensatory education programs, including participation in extra curricular activities; and

(4) to provide information relative to the appropriate mastery level or levels at which the student should be expected to achieve in order to receive passing grades in all content areas of instruction.

(g)-(h) (No change.)

§89.234. *Learning Disabled Students: Criteria for Determining the Existence of a Severe Discrepancy Between Achievement and Intellectual Ability.*

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

(e) The team shall determine that services available through regular and compensatory education are insufficient for the student to make satisfactory progress and shall identify the services which are necessary for the student to make satisfactory progress which are available only in special education.

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

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TRD-859050 W. N. Kirby  
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For further information, please call  
(512) 463-9682.

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## Chapter 145. Professional Environment

### Subchapter C. Employment Assurances

#### ★ 19 TAC §145.44

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

The Texas Education Agency proposes an amendment to §145.44, concerning the 45-minute planning and preparation period for teachers which is required by the Texas Education Code, §13.902. The proposed amendment provides that school districts which extend the school

day beyond the required seven-hour minimum for instructional purposes may include the 45-minute planning and preparation period for teachers within the extended school day. Preparation and planning periods must be scheduled within the time that students are being instructed in regularly scheduled classes. Districts shall not extend the school day solely to provide time for the preparation and planning period

This amendment has been adopted on an emergency basis.

Richard Bennett, assistant commissioner for state funding, 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.

Dr. Beverly J. Bardsley, director for policy development, and Mr. Bennett 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 to allow school districts which have an extended instructional day greater flexibility in scheduling planning and preparation periods for teachers within the instructional day. 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 Dr. Beverly J. Bardsley, Director for Policy Development, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9682. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in sections has been published in the *Texas Register*.

This amendment is proposed under the Texas Education Code, §13.902, which provides for the 45-minute planning and preparation period, and the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for administration of the Foundation School Program

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

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For further information, please call  
(512) 463-9682.

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## Chapter 149. Education Personnel Development

### Subchapter D. Teacher Career Ladder

#### ★ 19 TAC §149.71

The Texas Education Agency proposes an amendment to §149.71, concerning the teacher career ladder.

In July 1985 the State Board of Education amended §§78.63, 78.69, 78.103, and 78.122, to create a new vocational program in technical education internship. This program places students on the job as interns with business and industry involved in high technology.

The proposed amendment to §149.71, concerning the teacher career ladder, would provide that, for the technical education internship teacher/coordinator, up to two hours of on-the-job supervision per day may be counted as classroom teaching to meet the minimum teaching requirement for career ladder purposes

Richard Bennett, assistant commissioner for state funding, 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.

Dr. Beverly J. Bardsley, director for policy development, and Mr. Bennett 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 to ensure that teachers in the technical education internship program are not penalized for performing the on-the-job supervision which is an essential part of the internship program. 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 Dr. Beverly J. Bardsley, Director for Policy Development, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9682. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

This amendment is proposed under the Texas Education Code, §16.057, which provides for career ladder salary supplements; the Texas Education Code, §§13.301-13.322, which establishes the teacher career ladder; and the Texas Education Code,

§16.005, which authorizes the State Board of Education to make rules for the implementation of the Foundation School Program.

§149.71. *Assignment to the Teacher Career Ladder.*

(a) (No change.)

(b) Eligibility by job assignment. Eligibility for assignment to the teacher career ladder shall include a certified person who teaches or provides instructionally-related services to students at least four hours each day or not less than 60% of the school day.

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

(4) At the option of the local school district, the following instructionally related services may be counted as classroom teaching to meet the minimum teaching requirement for career ladder purposes:

(A) up to two hours of on-the-job supervision per day for the degreed vocational cooperative education teacher or the technical education internship teacher/coordinator;

(B)-(E) (No change.)

(5)-(7) (No change.)

(c)-(l) (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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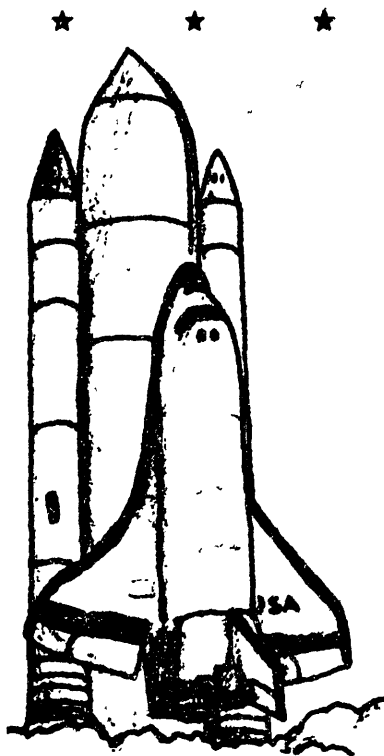
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(512) 463-9882.



## TITLE 22. EXAMINING BOARDS Part XV. Texas State Board of Pharmacy Chapter 283. Licensing Requirements for Pharmacists

### ★22 TAC §283.11

The Texas State Board of Pharmacy proposes an amendment to §283.11, concerning licensing requirements for pharmacists. The amendment addresses preceptor requirements.

Fred S. Brinkley, Jr., R.Ph., executive director/secretary, 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. Brinkley also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be insurance that all applicants meet the requirements to qualify as a preceptor. 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 Fred S. Brinkley, Jr., R.Ph., 211 East Seventh Street, Suite 1121, Austin, Texas 78701.

The amendment is proposed under Texas Civil Statutes, Article 4542a-1, §283.11, which provide the Texas State Board of Pharmacy with the authority to determine the necessary qualifications of any preceptors used in any internship or other program.

#### §283.11. *Preceptor Requirements.*

(a) (No change.)

(b) The preceptors are required to be approved and certified by the board. [The board shall approve and certify preceptors for a three-year period]

(c) Any preceptor approved and certified by the board shall be approved and certified for a three-year period commencing on the date of such approval and certification.

(d)[(c)] In externship programs, a preceptor may supervise only one pharmacist-intern at any given time.

(e)[(d)] No pharmacist may serve as a preceptor if his or her license to practice pharmacy has been the subject of an order of the board imposing any penalty set out in the Act, §28(a), during the period he or she is serving as a preceptor or within the three-year period immediately preceding application for approval as a preceptor. Provided, however, a pharmacist who has been the subject of such an order of the board

may petition the board in writing for approval to act as a preceptor.

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-859077

Fred S. Brinkley, Jr.  
Executive  
Director/Secretary  
Texas State Board of  
Pharmacy

Earliest possible date of adoption:

November 8, 1985

For further information, please call  
(512) 478-9827.

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## Chapter 291. All Classes of Pharmacies Institutional Pharmacy (Class C)

### ★22 TAC §291.75

The Texas State Board of Pharmacy proposes an amendment to §291.75, concerning record-keeping requirements in a Class C (institutional) pharmacy. The amendment provides for other records to be maintained by a pharmacy.

Fred S. Brinkley, Jr., R.Ph., executive director/secretary, 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. Brinkley 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 further insurance of the public health, safety, and welfare by specifying requirements for other records to be maintained by a Class C pharmacy. 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 Fred S. Brinkley, Jr., R.Ph., 211 East Seventh Street, Suite 1121, Austin, Texas 78701.

The amendment is proposed under Texas Civil Statutes, Article 4542a-1, which provide the Texas State Board of Pharmacy with the authority to establish by rule the standards that each pharmacy and its employees or personnel involved in the practice of pharmacy shall meet to qualify for the licensing or relicensing as a pharmacy in each classification.

#### §291.75. *Records.*

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

(d) Other records to be maintained by a pharmacy:

(1) Copy 3 of DEA order form (DEA 222c) which has been properly dated, initialed, and filed, and all copies of each unaccepted or defective order form and any attached statements or other documents;

(2) suppliers' invoices of dangerous drugs and controlled substances upon which is clearly recorded the actual date of receipt of the controlled substances by the pharmacist or other responsible individual;

(3) suppliers' credit memos for controlled substances and dangerous drugs;

(4) biennial inventory of controlled substances required by the Drug Enforcement Administration and inventory records required by §291.17 of this title (relating to Controlled Substances Inventory Requirements);

(5) Drug Enforcement Administration and/or Texas Department of Public Safety and Texas State Board of Pharmacy reports of theft or significant loss of controlled substances;

(6) reports of surrender or destruction of controlled substances and/or dangerous drugs to an appropriate state or federal agency;

(7) Schedule V nonprescription register book;

(8) If a pharmacy distributes controlled substances to another pharmacy or a practitioner, the following records:

(A) If for Schedule III, IV, or V controlled substances, invoices showing the actual date of distribution; the name, strength, and quantity of controlled substances distributed; the name address, and DEA registration number of the distributing pharmacy, and the name, address, and DEA registration number of the pharmacy or practitioner to whom the controlled substances are distributed;

(B) If for Schedule I or II controlled substances, copy 1 of DEA order form (DEA 222c), furnished by the pharmacy or practitioner to whom the controlled substances are distributed, shall be maintained by the distributing pharmacy showing the quantity of controlled substances distributed and the actual date of distribution;

(9) records of controlled substances listed in Schedules I and II shall be maintained separately from all records of the pharmacy; records of controlled substances listed in Schedules III-V shall be maintained separately from all other records of the pharmacy. If controlled substances, dangerous drugs, and/or nonprescription items are listed on the same record, the controlled substances shall be asterisked, red-lined, or in some other manner readily identifiable apart from all other items appearing on the record.

(e) Permission to maintain central records. Any pharmacy that uses a centralized record-keeping system provided in subsection (d)(2) of this section must first submit written notification by registered or certified mail to the regional director of the

Drug Enforcement Administration as required by 21 Code of Federal Regulations §1304(a), and submit a copy of this written notification to the Texas State Board of Pharmacy. Unless the registrant is informed by the regional director of the Drug Enforcement Administration that permission to keep central records is denied, the pharmacy may maintain central records commencing 14 days after receipt of notification by the regional director. A copy of the previously mentioned notification shall be maintained by the pharmacy.

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-850078

Fred S. Brinkley, Jr.  
Executive Director/  
Secretary  
Texas State Board of  
Pharmacy

Earliest possible date of adoption:

November 8, 1985

For further information, please call  
(512) 478-9827.

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## TITLE 34. PUBLIC FINANCE

### Part I. Comptroller of Public Accounts

#### Chapter 3. Tax Administration

##### Subchapter L. Motor Fuels Tax

###### ★34 TAC §3.182

The Comptroller of Public Accounts proposes an amendment to §3.182, concerning motor fuel transporting documents. The amendment reflects a change in the law regarding cargo tank calibrations and provides for the loading of fuel at different locations.

Dale Craymer, director of revenue estimating for the comptroller, has determined that for the first five-year period there will be no fiscal implications for state or local government as a result of enforcing or administering the section. The amendment is promulgated under the Texas Tax Code, Title 2, and no statement of the fiscal implications for small businesses is required.

Mr. Craymer also has determined that the public benefit is improved documentation of the blending of fuel in cargo tanks. There are no costs to individuals who are required to comply with the proposed section.

Comments on the proposal should be submitted to Joe Greco, Director, Tax Administration, P.O. Box 13528, Austin, Texas 78711.

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

###### §3.182. Motor Fuel Transporting Documents.

(a) (No change.)

(b) Information required. The cargo manifest shall be issued in not less than duplicate and shall contain:

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

(4) the temperature and [or] quantity in temperature adjusted gallons when the sale of gasoline or diesel fuel must comply with §3.190 of this title (relating to Temperature Adjustment Conversion Table);

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

(10) the method of transportation; (A) if by truck, the license or unit number [or tank calibration number];

(B)-(C) (No change.)

(c) (No change.)

(d) Delivery of manifest. One copy of the transporting document shall be delivered to the purchaser at the time of fuel delivery, one copy retained by the seller, and if delivered by common or contract carrier, the carrier must retain one copy.

(1) If the cargo is being loaded at different locations, a notation must be made on the cargo manifest or a separate manifest issued covering the fuel or blend material loaded at each location. [Transportation of motor fuel by a person in his own cargo tank for a purpose other than his own use shall be covered by a cargo manifest].

(2) (No change.)

(3) Transportation of motor fuel by a person in his own cargo tank for a purpose other than his own use shall be covered by a cargo manifest.

(e)-(f) (No change.)

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

Issued in Austin, Texas, on October 2, 1985.

TRD-850119

Bob Bullock  
Comptroller of Public  
Accounts

Earliest possible date of adoption:

November 8, 1985

For further information, please call  
(512) 463-4606.

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###### ★34 TAC §3.190

The Comptroller of Public Accounts proposes an amendment to §3.189, concerning temperature adjustment conversion table. The purpose of the amendment is to require the metering of gasoline and diesel fuel as a basis for computing

taxes and to require that the temperature must be taken at the time cargo tanks are loaded, as a basis for volume adjustments. The provision will also require testing of meters and thermometers.

Billy Hamilton, director of revenue estimating for the comptroller, 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 governments as a result of enforcing or administering the section. This section is promulgated under the Tax Code, Title 2, therefore no analysis of the effect on small businesses is required.

Mr. Hamilton also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section is the deletion of an obsolete section, so that the comptroller's rules reflect only current law. 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 D. Carolyn Busch, Director, Tax Administration, P.O. Box 13528, Austin, Texas 78711.

The amendment is proposed 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 motor fuels tax.

**§3.190. Temperature Adjustment Conversion Table.**

(a) Basis for temperature adjustment. For purposes of computation of tax, sales of gasoline or [and] diesel fuel, when purchased for resale in single deliveries of 5,000 gallons or more, must be temperature adjusted in volume to 60°F based on the gross metered gallons [of the cargo tank as determined from the authorized measurement certificate issued for the cargo tank.]

(b) (No change.)

(c) Metering.

(1) All sales or deliveries of gasoline or diesel fuel into cargo tanks must be metered except:

(A) deliveries by a person into his own cargo tank when the volume does not require temperature correction and the cargo tank is equipped with a meter to accurately measure in gallons the sale or delivery from the cargo tank;

(B) when deliveries are made as provided by §3.182 of this title (relating to Motor Fuel Transporting Documents); and

(C) deliveries into a cargo tank with a capacity of less than 5,000 gallons or into a compartmentalized tank from which no single delivery in excess of 5,000 gallons will be made. The capacity must be documented and determined by an independent party using generally accepted industry measurement standards.

(2) All permitted distributors of gasoline and suppliers of diesel fuel must compute and pay tax based on gross gallons metered except as provided by Texas Tax Code, §153.103, for gasoline and Texas Tax Code, §153.204, for diesel fuel or the number of gallons delivered into a measured cargo tank as authorized by subsection (c)(1)(C) of this section.

(d) Temperature. The temperature of gasoline or diesel fuel sold or delivered under the provisions of Texas Tax Code, §153.103 or §153.204, must be taken and recorded on the cargo manifest at the time of loading of the product. The temperature may be taken by either in-line thermometers or other devices designed to accurately measure the temperature of the delivered fuel at the time of loading.

(e) Testing and accuracy of meters and thermometers or other devices designed to accurately measure the temperature of fuel. Meters must be tested each 90 days or after five million gallons through-put, whichever occurs first. The accuracy of any meter being used must be maintained within 1/10 of 1.0% of correct volume during all loading or unloading operations. The tests of meters shall be determined by the methods provided by the American Society of Mechanical Engineers-American Petroleum Institute for the installation, proving and operation of meters in liquid hydrocarbon service. Thermometers or other devices designed to accurately measure the temperature of fuel must be tested each 90 days and must conform to standards set by the American Society of Mechanical Engineers-American Petroleum Institute or National Bureau of Standards.

(f) Records. A record of all tests must be maintained, open for examination by the comptroller, for a period of four years.

(g) Posting of results. The results of the most recent test on all meters and thermometers or temperature measuring devices being used must be posted in a conspicuous place at each terminal where the tests are required.

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-859024

Bob Bullock  
Comptroller of Public  
Accounts

Earliest possible date of adoption:

November 8, 1985

For further information, please call  
(512) 463-4806.

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## Subchapter V. Bingo Regulation and Tax

### ★34 TAG §3.547

*(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Comptroller of Public Accounts, 111 East 17th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Comptroller of Public Accounts proposes the repeal of §3.547, concerning books and records—bingo licensees. The section is proposed for repeal concurrent with the proposal of a substantially revised section. The proposed new section simplifies record-keeping requirements, sets minimum standards for record keeping, and allows organizations to maintain their records in a format of their own choosing, while still providing the comptroller with adequate information to substantiate the Texas bingo operator's quarterly report, which provides tax and statistical information on the conduct of bingo.

Dale Craymer, director of revenue estimating for the comptroller, has determined that the repeal of this section will not have any fiscal implications for state or local government or for small businesses.

Mr. Craymer also has determined that the public benefit is simplified record-keeping requirements established in the new section. There is no anticipated economic cost to individuals as a result of the repeal.

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

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

### §3.547. Books and Records—Bingo Licenses.

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 October 2, 1985.

TRD-859120

Bob Bullock  
Comptroller of Public  
Accounts

Earliest possible date of adoption:

November 8, 1985

For further information, please call  
(512) 463-4806.

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

Dale Craymer, director of revenue estimating for the comptroller, has determined that this simplification of record-keeping will have no fiscal implications for units of state or local government or for small businesses.

Mr. Craymer also has determined that the public benefit is simplified and clarified record-keeping requirements. There are no costs to individuals.

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

This new section is proposed under Texas Civil Statutes, Article 179d, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the Bingo Enabling Act.

### §3.547. Books and Records—Bingo Licenses.

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

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

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

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

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

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

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

amount of petty cash fund and any cash overages or shortages;

(vii) cash overages and shortages;

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

(ix) net bank deposit.

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

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

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

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

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

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

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

(A) Bingo bank account. Funds from the bingo account must be withdrawn by checks or withdrawal slips as provided in the Bingo Enabling Act, Texas Civil Statutes, Article 179d, §19a(b).

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

(C) Paid invoice file. Each licensee shall maintain a permanent file of paid invoices, contracts, or other papers

necessary to provide the disbursement of funds for bingo expenses or charitable contributions.

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

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

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

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 October 2, 1985.

TRD-859121

Bob Bullock  
Comptroller of Public  
Accounts

Earliest possible date of adoption:

November 8, 1985

For further information, please call  
(512) 463-4806.

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## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Services

#### Chapter 48. CCAD Eligibility

★ 40 TAC §48.2911, §48.2918

The Texas Department of Human Services proposes amendments to §48.2911 and §48.2918, concerning eligibility for family care and primary home care services in its Community Care for Aged and Disabled (CCAD) chapter. The amendments reflect an increase in the required score on the client needs assessment questionnaire. In addition to meeting other eligibility criteria, applicants/clients must score 23 or above to be eligible for primary home care or family care. The increase in scores is necessary to target in-home services to clients with a greater level of functional disability.

Clifton Martin, associate commissioner for programs, has determined that for the first five-year period the sections will be in effect there will be fiscal implications as a result of enforcing or administering

the sections. The reduction in cost to the state is estimated to be \$995,145 in fiscal year 1986, \$3,118,984 in fiscal year 1987; \$3,964,260 in fiscal year 1988; \$4,754,171 in fiscal year 1989; and \$5,497,693 in fiscal year 1990. There are no fiscal implications for units of local government or small businesses.

Mr. Martin has also determined that for each year of the first five-years the sections as proposed are in effect the public benefit will be the provision of community care services to clients with a greater level of functional disability. There are no economic costs to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be sent to Cathy Rossberg, Administrator, Policy Development Support Division—517, Texas Department of Human Services 153-E, P.O. Box 2960 Austin, Texas 78769, within 30 days of publication in the *Texas Register*.

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

#### §48.2921. Family Care.

(a) Family care applicants/clients are eligible for services if they score at least 23 [18] on the client needs assessment questionnaire. If eligible, an applicant/client may receive one or more of the following services: personal care, household tasks, meal preparation, and escort. The client is eligible for no more than 20 hours of family care services a week. [Clients receiving family care services on August 1, 1984, continue to be eligible for family care services until August 31, 1985. After August 31, 1985, these clients must meet the score established for family care to continue receiving services.]

(b) (No change.)

§48.2918. Eligibility for Primary Home Care. Applicants for primary home care services must meet the following criteria for program eligibility and medical need. The applicant must:

(1) [The applicant must] be eligible for Medicaid outside an institution;

(2) [The applicant must] score 23 [18] or above on the client needs assessment questionnaire;

(3) [The applicant must] have a medical need for the service. He must have a medical condition, substantiated by symptoms and a physician's diagnosis, which requires medically oriented tasks. The applicant must have an unmet need for partial or total help with personal care tasks. He must be oriented to time, place, and person unless the department regional nurse decides that he is not a threat to himself or others, or if someone is available to care for him when the attendant is not in the home;

(4) [The applicant must] have a physician's orders for primary home care.

The physician must sign and date the orders. The physician must include in his orders:

(A)-(I) (No change.)

(5) [The applicant must] have a service plan that links tasks to the applicant's unmet needs.

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 October 2, 1985.

TRD-850114

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Earliest possible date of adoption:

November 8, 1985  
For further information, please call  
(512) 450-3766.



## Chapter 85. General Licensing Procedures

### Subchapter S. Administrative Procedures

#### ★ 40 TAC §85.1801

The Texas Department of Human Services proposes new §85.1801, concerning criminal history checks, in its general licensing procedures chapter. The department is proposing this section to implement legislation passed by the 69th Legislature, 1985 Senate Bill 48 allows the department to obtain criminal history information records maintained by the Texas Department of Public Safety, the Federal Bureau of Investigation, and other law enforcement agencies when child-care facility owners, employees, volunteers, or applicants wish to be licensed, registered, certified, or employed. A new subchapter is being added to accommodate the new section, which affects both day-care and agency and institutional licensing procedures.

Cris Ros-Dukler, assistant commissioner for licensing, has determined that for the first five-year period the section will be in effect there will be fiscal implications as a result of enforcing or administering the section. The cost to the state is estimated to be \$133,219 in fiscal year 1986; \$138,135 in fiscal year 1987; \$87,744 in fiscal year 1988; \$93,618 in fiscal year 1989; and \$100,174 in fiscal year 1990. There will be no cost to local governments. The

cost to small business will be \$45,000 in fiscal year 1986; \$45,000 in fiscal year 1987; \$25,300 in fiscal year 1988; \$27,830 in fiscal year 1989; and \$30,613 in fiscal year 1990. The cost of compliance is based on charges by local law-enforcement agencies for conducting fingerprinting for FBI checks; this cost is expected to be proportional to the size of the business.

Ms. Ros-Dukler also has determined that for the first five years the section is in effect the public benefit anticipated as a result of enforcing the section as proposed will be increased assurance that people convicted of certain crimes will be prevented from being at child-care facilities unless proof of their rehabilitation has been established. There is no economic cost to individuals required to comply with the section as proposed.

A public hearing to accept comments on the proposal will be held at 10 a.m. on Wednesday, October 16, 1985, in the boardroom, Texas Department of Human Services, 701 West 51st Street, Austin. Comments may be sent to Cathy Rossberg, Administrator, Policy Development Support Division-581, Texas Department of Human Services 153-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in this *Texas Register*.

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

#### §85.1801. Criminal History Check.

(a) Regulated facilities, applicants, and persons requesting registration must send the department required identifying information about:

(1) employees or applicants for employment;

(2) adults who live at the facility but who are not employees or clients; •

(3) volunteers who are counted in the staff-child ratio; and

(4) applicants for a license, registration, or certificate.

(b) Identifying information about board members of corporations or associations is not required unless they are also staff or regular volunteers.

(c) The required information includes:

(1) name (last, first, middle), including any maiden or married name or alias;

(2) birthdate;

(3) sex; and

(4) race.

(d) Persons who have not lived in Texas continuously for at least three years immediately before the date the form is sent to the department must be checked by the Federal Bureau of Investigation (FBI). The FBI requires a qualified person to fingerprint the person being checked on a card provided by the department.



(e) The identifying information must be sent to the licensing representative on a department form:

- (1) when an unregulated facility sends an application or request to register;
- (2) when a regulated facility sends its next renewal application or request for re-registration after January 1, 1986;
- (3) no later than two weeks after a new person(s) is at the facility if criminal history check information is required but has not been sent.

(f) If the department obtains information from any law enforcement agency indicating that a person at a facility has a relevant criminal history, licensing staff will inform the governing body or administrator. The facility must take appropriate action as a result of this information.

(g) Information about criminal history records the department receives are privileged information for exclusive use by the department and people authorized to receive the records. Licensing staff must share the criminal history record with the facility within 10 workdays after receiving the record. Except on court order or with the consent of the person being investigated, the records may not be released to any other person or agency.

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 October 2, 1985.

TRD-859111      Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Resources

Earliest possible date of adoption:  
November 8, 1985

For further information, please call  
(512) 450-3786.

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### Subchapter III. Social Work Certification

★ 40 TAC §§85.6001, 85.6003,  
85.6004, 85.6007-85.6011, 85.6013,  
85.6015, 85.6018-85.6022,  
85.6024-85.6026

The Texas Department of Human Services proposes amendments to §§85.6001, 85.6003, 85.6004, 85.6007-85.6011, 85.6013, 85.6015, 85.6018-85.6022, 85.6024-85.6026, and new §§85.6027 and §85.6028, concerning social work certification, in its general licensing chapter. The amendments result from the expiration of the grandfathering clause, effective December 31, 1985. Under the law, new applicants for certification as certified social workers or social workers

must have a master's or bachelor's degree, respectively, in social work and must take and pass a written examination.

Cris Ros-Dukler, assistant commissioner for licensing, has determined that for the first five-year period the sections will be in effect there will be no implications for state or local government or small businesses as a result of enforcing or administering the sections as proposed.

Ms. Ros-Dukler also has determined that for the first five years the sections are in effect the public benefit is the enhanced quality of social work services because of higher educational qualifications. The cost to individuals required to comply with the sections as proposed is estimated to be \$17,500 in fiscal year 1986, and \$35,000 each year in fiscal years 1987-1990. This cost is based on the \$50 fee to take the required examination.

A public hearing to accept comments on the proposal will be held at 9 a.m. on Wednesday, October 23, 1985, in the boardroom, Texas Department of Human Services, 701 West 51st Street, Austin. Comments may be sent to Cathy Rosenberg, Administrator, Policy Development Support Division-544, Texas Department of Human Services 153-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in this *Register*.

The amendments are proposed under the Human Resources Code, Title 2, Chapter 50, which authorizes the department to regulate social work practitioners.

**§85.6001. General Rule.** Individuals identifying themselves to the public as social workers must have a social work certification according to the law and under the rules and procedures of the Texas Department of Human Services. The department will consider any public use of titles or initials in any combination, variation, or form that a reasonably prudent person would construe as indicating authorization to practice social work as the use of a title protected under the Human Resources Code, Chapter 50.

**§85.6003. Recognition.**

(a) The department recognizes persons as qualified for [to engage in] private practice or may grant [of social work and/or grants] an order of recognition [when it determines that a holder of a social work certificate is qualified] for specialty practice.

(b) Private practice—A private practitioner of social work is one who, on either a full- or part-time basis, is responsible for his own practice, establishes his own conditions of exchanges with his clients, and identifies himself as a social work practitioner in offering services. A social worker is considered in private practice if he provides social work services with sole responsibility for the client, regardless of the

organizational structure in which he provides the services.

(1) (No change.)  
(2) The requirements for recognition as an independent private practitioner are:

(A) (No change.)  
(B) five years of full-time social work practice in an agency, institution, or in the employment of an individual qualified as a private practitioner under these rules. The applicant [private practitioner] must have five years of experience after completing the requirements for certification as a certified social worker. He must meet the experience requirements in §85.6022 of this title (relating to Social Work Experience). (Completion of these requirements may predate actual certification under the law.)

(C) (No change.)  
(D) Documentation of continued participation in the social work profession.]

(3) (No change.)  
(4) Until August 31, 1987, the department may grant provisional recognition if the [as a] private practitioner has one year of full-time experience in the private practice of social work before March 1, 1983.

[(A) The requirements for provisional recognition are:

[(i) certification as a certified social worker under Human Resources Code, Chapter 50;

[(ii) one year of full-time experience in the private practice of social work before March 1, 1983; and

[(iii) documentation of continued participation in the social work profession.

[(B)] Applicants for provisional recognition as private practitioners must submit within 90 days of application an acceptable plan for completing the required five years of full-time social work experience beyond the C.S.W. by August 31, 1987. They must include in their plans a minimum of one hour per week of supervision by or consultation with a certified social worker approved by the department for the duration of the provisional recognition.

(c) Specialty practice—The use of the title advanced clinical practitioner or the initials ACP is restricted to those persons recognized in this specialty. [For the category of advanced clinical practitioner, a person may not use the names, titles, or related designations until he has received an order of specialty recognition.]

(1) (No change.)  
(2) An advanced clinical practitioner is a clinical social worker who:

(A) (No change.)  
(B) has five years of full-time clinical social work practice in an agency, institution, or in the employment of an individual qualified as a private practitioner under these rules. The applicant [clinical

practitioner] must have five years of experience after completing the requirements for certification as a certified social worker. He must meet the experience requirements in §85.6022 of this title (relating to Social Work Experience). (Completion of these requirements may predate actual certification under the law.);

(C) two years of these five years or 3,000 hours must have been completed under the supervision of an individual eligible for certification as a certified social worker with an order of recognition as an advanced clinical practitioner. [Until August 31, 1983, an applicant may substitute supervision by mental health clinical professional approved by the department.] (Completion of these requirements may predate actual certification under the law.);

[(D) Documentation of continued participation in the social work profession.

[(3) Until August 31, 1987, the department may waive the requirement that the five years of clinical social work experience must be in an agency or institutional setting or in the employment of an individual qualified as a private practitioner. This exception applies to applicants qualifying as a certified social worker before August 31, 1983.]

#### §85.6004. Fees.

(a) (No change.)

(b) Renewal fees are the same as the certification and roster fee. [If a certified social work associate is qualified for certification as a social worker under §85.6022 of this title (relating to Social Work Experience) on September 2, 1983, the department does not charge a fee for issuing the initial social worker certificate. The initial social worker certificate has the same expiration date as the social work associate certificate it replaces, and the renewal fee is the same as for the social worker certificate.] The reciprocity fee is the same as the fee for certification in the category for which reciprocity is sought.

#### §85.6007. Examination Requirement [Examinations].

[(a)] After December 31, 1985, the department will [may] require applicants for certification as social work associate, social worker, certified social worker, and certified social worker—advanced clinical practitioner to pass [take] an examination designated by the department unless otherwise exempted. Certificate holders whose certification has been expired for two or more years and certificate holders who are unable to meet renewal requirements will be required to pass an examination designated by the department. Applicants for private practice recognition may be required to take an examination designated by the department. Information on applying for the examination will be given to all applicants and others who request it. [The department may require an applicant for an order of recogni-

tion to take an examination appropriate to his specialty or otherwise be tested for competency. After December 31, 1985, the department may require a certificate holder who applies for a different type of certificate or order of recognition to take an examination or otherwise be tested for competency.

[(b) An applicant who partially completes work experience requirements for certification under these rules may, after completion of the required work experience, be issued the appropriate certificate without examination if:

(1) the department determines that all other requirements are met;

(2) at least half of the required work experience is completed by December 31, 1985; and

(3) the applicant notifies the department in writing not later than December 31, 1985, of his intention to apply for a certificate without examination.

[(c) Applicants must pay the examination fee before an examination is scheduled.

[(d) Applicants are entitled to written notification of the results of the examination within 30 days of the date the examination is administered, unless the examination is graded or reviewed by a national testing service. If the examination is graded or reviewed by a national testing service, written notification is sent to the applicant within 14 days of the date on which the department receives the results from the testing service. If examination results are delayed for longer than 90 days after the examination date, the applicant is entitled to written notification from the department of the reason for the delay before the 90th day.

[(e) If an applicant does not pass an examination, he may request in writing an analysis of his performance.]

#### §85.6008. Reciprocity.

(a) (No change.)

(b) To be granted reciprocity, applicants must [submit documentation to the department to establish that]:

(1) submit an application for certification; [requirements met in the other jurisdiction are substantially equivalent to or greater than those in Texas, and]

(2) pay appropriate [applicable] fees [have been paid.];

(3) provide documentation from the other jurisdiction to establish that the requirements met there are substantially equivalent to, or greater than, those in Texas. The applicant is responsible for providing documentation of meeting requirements not verified by the other jurisdiction.

#### §85.6009. Expiration and Renewal.

(a) Certificates expire annually on the last day of the month of the certificate holder's birth. [Certificate holders whose initial period of certification is less than 12 months are entitled to extend their certification for an additional year.] The depart-

ment prorates fees and continuing educational requirements if the initial period of certification is less than 12 months [in these cases]. Certificate holders must notify the department within 30 days of any changes in address or employment.

(b) (No change.)

(c) Within 30 days of [Before] the date of expiration, certificate holders [and those holding orders of recognition] must apply for renewal of the certification, pay applicable fees, and provide documentation of acceptable continuing education.

(d) [If the request for renewal is not received within 10 days of the expiration date, the certificate holder must reapply for certification, including re-examination if an examination was originally required, or:

[(1)] If the request for renewal is received from 30 to [within] 90 days after the expiration date, a penalty fee [the certificate or order of recognition may be renewed by paying to the department the required renewal fee and a fee that is] equal to 1/2 of the examination fee is required [for the certificate or order of recognition].

(e)[(2)] If a certificate [or order of recognition] has been expired for longer than 90 days, but less than two years, a penalty fee [the certificate or order of recognition may be renewed by paying all unpaid renewal fees and a fee that is] equal to all unpaid renewal fees plus the examination fee for the certificate is required [the examination fee for the certificate or order of recognition].

[(e)] Certificate holders may request to be placed in an inactive status [category] rather than renew their certification if they are not currently employed as a social worker or are living [and practicing] outside of Texas. The fee for the inactive status category is half that of certification. Inactive status is granted for a 12-month period and may not extend beyond 24 consecutive months. In addition, the certificate holder must provide documentation of continuing involvement with the social work profession for renewal of the inactive status. The department does not require continuing education during the period of inactive status.

#### §85.6010. Denial Notification.

(a) Applicants who are denied are entitled to notification that includes:

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

(4) a copy of the rules and the appeal procedures.

(b) (No change.)

#### §85.6011. Request for Reconsideration.

(a) (No change.)

(b) [If the applicant requests reconsideration of his application, then the decision on his request constitutes the decision on his application. The time limit for requesting an appeal, if appropriate, begins from the date the applicant is notified of the decision on the reconsideration of the application.]

**[(c)]** The applicant is entitled to notification in writing of the decision following the director's reconsideration of the application. [If an appeal has been requested, the applicant must make the request for reconsideration before the appeal board convenes.]

**§85.6013. Violations.**

**(a)** Violation of one or more of the provisions of Human Resources Code, Chapter 50, the regulations of the department, or conviction of a felony is grounds for:

- (1)-(2)** (No change.)
- (3)** revocation; [or]
- (4)** suspension of the certificate; or
- (5)** issuance of a letter of reprimand.

**(b)** Unless proof of rehabilitation is established, the department may deny an applicant for certification, refuse to renew a certificate, or revoke or suspend a certification if a certificate holder is convicted of:

- (1)** a felony in [under] Texas [Civil Statutes or the Texas Penal Code];
- (2)** a felony in another state or jurisdiction which would also be considered a felony under Texas law [Civil Statutes or the Texas Penal Code];
- (3)** (No change.)

**(c)** Certificate holders or persons with pending applications must notify the department in writing within 30 days of conviction of a felony. The certificate holder or applicant may request consideration on the basis of the relevance of the conviction to his continued certification for social work practice. Felony conviction is grounds for revocation, denial, or refusal to renew; however, the department reviews all felony convictions on an individual basis to determine if proof of rehabilitation is established.

**§85.6015. Procedures for Establishing Proof of Rehabilitation.**

**(a)** Applicants who have been denied certification because of prior felony convictions may offer [establish] proof of rehabilitation to qualify for certification. The applicant must submit [make a request] in writing to the director [of social work certification to establish] proof of rehabilitation. An applicant must supply information documenting rehabilitation which may include, but is not limited to:

- (1)-(11)** (No change.)

**(b)** The director reviews the information and seeks consultation as needed. The director decides whether proof of rehabilitation has been established. [Once a disposition has been made concerning the request,] The applicant or certificate holder is entitled to be notified in writing of the decision.

**§85.6018. Code of Ethics.** Social workers certified by the department must observe and comply with the [a] code of ethics. Engaging in unethical conduct or

conduct that discredits the profession of social work is grounds for disqualification of a certificate holder. Violation of any of the following principles of ethics may be regarded as engaging in unethical conduct or conduct which discredits the profession of social work.

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

**(4)** A social worker must provide [be responsible for providing] a clear description of what the client may expect in the way of services, reports, fees, billing, and schedules.

- (5)-(7)** (No change.)

**(8)** A social worker must not violate a position of trust by [mishandling funds or] committing any [other] act detrimental to a client [and beneficial to the social worker].

**(9)** If a social worker engages in advertising, [he must present] services and credentials must be presented factually.

**(10)** A social worker must report any violation of the law or rules [this rule by a person certified under the Human Resources Code, Chapter 50, to the Texas Department of Human Services, Social Work Certification Program.

**§85.6019. Certified Social Worker.**

**[(a)]** The minimum qualification [qualifications] for examination for certification as a certified social worker is [are] a master's degree in social work from an accredited college or university. [or one of the following combinations of education and experience:

**[(1)]** a doctoral or master's degree from an accredited college or university in a field other than social work and the successful completion of two years' actual and active social work experience approved by the department;

**[(2)]** a bachelor's degree from an accredited college or university in social work or a related field and the successful completion of five years' actual and active social work experience approved by the department. The department considers related field on a case-by-case basis depending on actual course work completed;

**[(3)]** a bachelor's degree from an accredited college or university in a field other than social work or a related field and successful completion of 10 years' actual and active social work experience approved by the department.

**[(b)]** After December 31, 1985, the department considers a master's degree in social work from an accredited college or university as the minimum qualification for certification as a certified social worker.

**[(c)]** For experience to be approved by the department as meeting the requirements for a certificate as a certified social worker, the applicant must document:

**[(1)]** that the position(s) is ordinarily filled by a person with a doctoral or master's degree in social work;

**[(2)]** that the position(s) requires competencies covered in doctoral or

master's level social work training;

- [(3)]** that the position(s) included:

**[(A)]** two years or 3,000 hours of social work supervision by a person qualified for certification as a certified social worker; or

**[(B)]** two years or 3,000 hours of a consultation, training, or employment relationship with persons qualified for certification as certified social workers;

**[(4)]** identification with the profession of social work.]

**§85.6020. Social Worker.**

**[(a)]** The minimum qualification [qualifications] for examination for certification as a social worker is [are] a bachelor's degree, in social work from an accredited college or university. [or one of the following combinations of education and experience:

**[(1)]** a bachelor's degree from an accredited college or university in a field other than social work and the successful completion of five years' actual and active social work experience approved by the department;

**[(2)]** an associate degree or its equivalent from an accredited college or university and the successful completion of 10 years' actual and active social work experience approved by the department;

**[(3)]** a high school diploma or its equivalent (G.E.D.) and the successful completion of 15 years' actual and active social work experience approved by the department.

**[(b)]** After December 31, 1985, the department considers a bachelor's degree in social work from an accredited college or university as the minimum qualification for certification as a social worker.

**[(c)]** For experience to be approved by the department as meeting the requirement for a certificate as a social worker, the applicant must document:

**[(1)]** that the position(s) is ordinarily filled by a person with a bachelor's degree in social work;

**[(2)]** that the position(s) requires competencies covered in bachelor's level social work training;

**[(3)]** identification with the profession of social work.]

**§85.6021. Social Work Associate.**

**[(a)]** The minimum qualifications for examination for certification as a social work associate are:

**(1)** education—high school diploma or its equivalent; and

**(2)** experience—applicants with bachelor's degrees must have one year of actual and active social work experience approved by the department. Applicants with associate degrees must have three years of experience; those with high school diplomas must have five years of experience.

**[(b)]** For experience to be approved by the department as meeting the requirements for a certificate as a social work associate,

the applicant must document that the experience is commensurate with the type of positions generally considered as professional social work.]

**§85.6022. Social Work Experience.** For experience to be approved by the department as meeting the requirements for a certificate as a social work associate, [social worker, certified social worker, an] order of recognition, or recognition as an independent private practitioner, the applicant must provide:

(1) documentation of employment by an agency, institution, or qualified independent private practitioner. The applicant must ensure that his employment by an independent private practitioner meets the following requirements. [Document that work experience offered to fulfill the requirement was successfully performed. The department determines the acceptability of documentation submitted and may request further information.]

(A) The qualified independent private practitioner must have administrative authority over the provision of social work services.

(B) The applicant's compensation for services must be paid by the independent private practitioner.

(C) The independent private practitioner must ensure that all advertising, informational material, and written policy reflect the employment relationship.

(2) employers' names and addresses. [have been employed in a full- or part-time paid position meeting at least the experience required for the certificate for which he is applying. The applicant must have been so employed within the five years before the date of application. If he was not employed within the past five years, the period during which he was not engaged in actual and active social work practice may not exceed his previous employment in social work.]

(A) Full time is defined as at least 30 hours per week.

(B) Part-time experience is counted as a percentage of full-time experience.]

(3) dates of employment. [have been employed by an agency, institution, or qualified independent private practitioner. The applicant must ensure that his employment by an independent private practitioner meets the following requirements.

(A) The qualified independent private practitioner must have administrative authority over the provision of social work services.

(B) The applicant's compensation for services must be paid by the independent private practitioner.

(C) The independent private practitioner must ensure that all advertising, informational material, and written policy reflect the employment relationship.]

(4) job description;

(5) approximate hours per week in social work activities;

(A) full time is defined as at least 30 hours per week;

(B) part-time experience is counted as a percentage of full-time experience;

(6) documentation that the work-related assignments involved social work services as defined by Human Resources Code, Chapter 50, Section §50.001(3);

(7) documentation that work-related experience offered to fulfill the requirements was successfully performed.

**§85.6024. Public Notice.**

(a) A certificate holder must display the certificate in a prominent place in his place of business. A certificate holder must also indicate his certification status in all professional uses of his name.

(b) A certificate holder [(a) Each person who has a social work certification, other than an emeritus certification,] must display a consumer information sign at all times in his place of business. A [The] certificate holder must ensure that the consumer information sign:

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

(c)[(b)] Each person holding a social work certification must make available to clients copies of information of consumer interest supplied by the department.

**§85.6025. Continuing Education Requirements.** A certificate holder must meet continuing education requirements to renew a certificate [or order of recognition]. A certificate holder [who applies to renew a certificate or an order of recognition during calendar year 1984] must complete 30 [have completed at least 20] hours of continuing education including at least one continuing education unit (C.E.U.) granted by an authorized accrediting body. One C.E.U. is counted as 10 hours of training. [during the 12 months before the date the current certificate expires. During calendar year 1985 and thereafter, a certificate holder who applies to renew a certificate or an order of recognition must have completed at least 30 hours of continuing education during the 12 months before the date the current certificate expires. During calendar year 1985 and thereafter, the 30 hours of continuing education must include at least one continuing education unit that is counted as 10 hours of training. The sponsoring organization or the certificate holder's supervisor must verify the continuing education.]

**§85.6026. Revocation and Suspension.** A certificate holder is entitled to be notified by certified mail of [before] the department's decision to suspend or revoke [department suspends or revokes] his certification. The certificate holder is entitled to be:

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

(5) provided a copy of the rules and the appeal 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 October 2, 1985.

TRD-859112

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Earliest possible date of adoption:

November, 1985

For further information, please call  
(512) 450-3766.



★40 TAC §85.6027, §85.6028

The new sections are proposed under the Human Resources Code, Title 2, Chapter 50, which authorizes the department to regulate social work practitioners.

**§85.6027. Exemption from Examination.** The department may grant an exemption from the examination requirement to an applicant:

(1) who completes at least half of the required experience and who notifies the department in writing by December 31, 1985, of his intent to be certified without examination;

(2) who provides documentation of successfully completing in another jurisdiction an examination for licensing, certification, or registration of social work in a category comparable to that sought from the department;

(3) whose certification has been expired less than two years and who has paid all past due fees plus penalties and meets all other requirements for renewal.

**§85.6028. Letters of Reprimand.** The department may issue a letter of reprimand. The letter of reprimand is sent to the certificate holder by certified mail. The certificate holder is entitled to information about:

(1) reason(s) for the reprimand;  
(2) further disciplinary actions that may result from future violations'

(3) his right to request an administrative review within 30 days of the letter of reprimand.

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 October 2, 1985.

TRD-859113

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Earliest possible date of adoption:  
November 8, 1985  
For further information, please call  
(512) 450-3768.

★ ★ ★

**TITLE 43.**  
**TRANSPORTATION**  
**Part I. State Department of**  
**Highways and Public**  
**Transportation**  
**Chapter 21. Right of Way**  
**Division**  
**Control of Outdoor Advertising**  
**Signs**

★ 43 TAC §21.143

*(Editor's note: The text of the following section proposed for repeal will not be pub-*

*lished. The section may be examined in the offices of the State Department of Highways and Public Transportation, 11th and Brazos, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The State Department of Highways and Public Transportation proposes the repeal of §21.143, concerning control of outdoor advertising signs. The repeal of this section is required due to a conflict with the Texas Litter Abatement Act, Texas Civil Statutes, Article 4477-9a, §4.03(a).

L. E. Clarke, right of way engineer, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. Clarke also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is that the section will no longer be in conflict with the state statute. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to L. E. Clarke, Right of Way Division, State Department of Highways and Public Transportation, P.O. Box 5075, Austin, Texas 78763-5075.

The repeal is proposed under Texas Civil Statutes, Article 44767-9a and 6252-13a,

which provide the State Highway and Public Transportation Commission with the authority to promulgate rules for control of outdoor advertising along the Interstate and federal-aid primary systems of highways.

§21.143. *Controlled Areas.*

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-859025

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

Earliest possible date of adoption:  
November 8, 1985  
For further information, please call  
(512) 475-2141.

★ ★ ★



# Withdrawn

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

## TITLE 16. ECONOMIC REGULATION Part I. Railroad Commission of Texas

### Chapter 9. LP-Gas Division Subchapter B. Basic Rules

#### ★16 TAC §9.31

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed amendments to §9.31 submitted by the Railroad Commission of Texas have been automatically withdrawn, effective October 1, 1985. The amendments as proposed appeared in the March 29, 1985, issue of the *Texas Register* (10 TexReg 1056).

TRD-859180  
Filed: October 1, 1985

★ ★ ★

#### ★16 TAC §9.32

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed repeal of §9.32 submitted by the Railroad Commission of Texas has been automatically withdrawn, effective October 1, 1985. The notice of the proposed repeal appeared in the March 29, 1985, issue of the *Texas Register* (10 TexReg 1056).

TRD-859179  
Filed: October 1, 1985

★ ★ ★



## TITLE 22. EXAMINING BOARDS Part XXIV. State Board of Veterinary Medical Examiners Chapter 573. Rules of Professional Conduct

#### ★22 TAC §573.26

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed new §573.26 submitted by the State Board of Veterinary Medical Examiners has been automatically withdrawn, effective October 1, 1985. The amendments as proposed appeared in the March 29, 1985, issue of the *Texas Register* (10 TexReg 1060).

TRD-859178  
Filed: October 1, 1985

★ ★ ★

# Adopted

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

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

## TITLE 19. EDUCATION

### Part II. Texas Education

#### Agency

#### Chapter 75. Curriculum

#### Subchapter G. Other Provisions

##### ★ 19 TAC §75.168

The Texas Education Agency adopts an amendment to §75.168, without changes to the proposed text published in the June 21, 1985, issue of the *Texas Register* (10 TexReg 2061).

This section has been amended by adding funding provisions for summer school programs for children of limited English proficiency who will be entering kindergarten or first grade in the fall. The 69th Legislature, 1985, appropriated \$5.7 million for this program for 1986 and \$5.9 million for 1987. Approximately \$5.6 million were available for programs this summer. Approximately 43,688 children are eligible for the program.

Funds will be allocated on a unit basis, in a system designed to ensure a student/teacher ratio of not more than 18 to one. The minimum number of students required to earn a unit, and the allocation per unit, will be determined by the commissioner of education. Any district required by law to offer the program but which has fewer than 10 students who desire to participate is not required to operate the program. However, such districts must demonstrate that they have aggressively attempted to encourage student participation.

No comments were received regarding the adoption of the amendment.

This amendment is adopted under the Texas Education Code, §21.458, which authorizes the State Board of Education to make rules for summer school programs for children of limited English speaking ability who will be entering kindergarten or first grade in the fall.

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-859054

W. N. Kirby  
Commissioner of  
Education

Effective date: October 21, 1985  
Proposal publication date: June 28, 1985  
For further information, please call  
(512) 463-9682.

★ ★ ★

#### Chapter 89. Adaptations for Special Populations

#### Subchapter C. Educational Programs for Gifted and Talented Students

##### ★ 19 TAC §§89.51-89.56

The Texas Education Agency adopts amendments to §§89.51-89.56, without changes to the proposed text published in the June 28, 1985, issue of the *Texas Register* (10 TexReg 2106).

House Bill 1393, 69th Legislature, 1985, changed the funding provisions for programs for gifted and talented students from a funding system based on competitive grants for exemplary programs to one that flows funds per student for programs that meet state requirements for approval.

The sections require that state-funded programs must be developed and operated in accordance with the guidelines in the Texas state plan and guidelines for the education of the gifted and talented. Districts may apply for operational funding or for development funding to establish or expand services. Districts that do not have a state-approved program must begin their planning at the kindergarten or elementary level. Developmental funding will be provided only for those grade levels where students have not yet served by a state-approved operational program. Districts may count for operational funding only those students identified and served by a full-year program.

No comments have been received regarding the adoption of the amendments.

These amendments are adopted under the Texas Education Code, §21.654, which directs the State Board of Education to adopt sections for the approval of programs for gifted and talented students.

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-859053

W. N. Kirby  
Commissioner of  
Education

Effective date: October 21, 1985  
Proposal publication date: June 21, 1985  
For further information, please call  
(512) 463-9682.

★ ★ ★

##### ★ 19 TAC §89.57

The Texas Education Agency adopts the repeal of §89.57, without changes to the proposed text published in the June 28, 1985, issue of the *Texas Register* (10 TexReg 2106).

This section concerns the Gifted and Talented Education Advisory Committee, which was abolished September 30, 1984. Because the committee no longer exists, the section concerning its organization and function is repealed.

No comments were received regarding adoption of the repeal.

This repeal is adopted under the Texas Education Code, §21.654, which directs the State Board of Education to adopt sections for the approval of programs for gifted and talented students, and the Texas Education Code, §11.25(d), which authorizes the Central Education Agency to establish advisory committees.

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-959055

W. N. Kirby  
Commissioner of  
Education

Effective date: October 21, 1985  
Proposal publication date: June 28, 1985  
For further information, please call  
(512) 463-9682.



## Chapter 137. Teacher Education

### Subchapter C. Standards for Teacher Education Institutions

#### ★ 19 TAC §137.41

The Texas Education Agency adopts an amendment to §137.41, without changes to the proposed text published in the June 21, 1985, issue of the *Texas Register* (10 TexReg 2061).

The State Board of Education delayed implementation of the new 1984 teacher education standards until the board had a chance to review the new standards and make any adjustments needed in light of the education reforms enacted in House Bill 72, 68th Legislature, 2nd Called Session, 1984.

The amended section establishes the new 1984 standards for teacher education as one of the set of standards under which an institution may choose to operate and be approved. The previous options of the 1955 and the 1972 standards, as described in the section are retained as options, pending review of the 1984 standards by the State Board of Education.

No comments were received regarding the adoption of the amendment.

This amendment is adopted under the Texas Education Code, §13.032, which authorizes the State Board of Education to establish standards and procedures for the approval or disapproval of colleges and universities offering programs of teacher education.

The Texas Education Agency adopts an amendment to §137.41, without changes to the proposed text published in the June 21, 1985, issue of the *Texas Register* (10 TexReg 2061).

The State Board of Education delayed implementation of the new 1984 teacher education standards until the board had a chance to review the new standards and make any adjustments needed in light of the education reforms enacted in House Bill 72, 68th Legislature, Second Called Session, 1984.

The amended section establishes the new 1984 standards for teacher education as one of the set of standards under which an institution may choose to operate and be approved. The previous options of the 1955 and the 1972 standards, as described in the section are retained as options, pending review of the 1984 standards by the State Board of Education.

No comments were received regarding the adoption of the amendment.

This amendment is adopted under the Texas Education Code, §13.032, which authorizes the State Board of Education to establish standards and procedures for the approval or disapproval of colleges and universities offering programs of teacher education.

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-859056

W. N. Kirby  
Commissioner of  
Education

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For further information, please call  
(512) 463-9682.



## Subchapter K. 1984 Standards for Approval of Institutions Offering Undergraduate Teacher Education Programs for Certification

#### ★ 19 TAC §137.512

The Texas Education Agency adopts an amendment to §137.512, without changes to the proposed text published in the June 21, 1985, issue of the *Texas Register* (10 TexReg 2062).

The State Board of Education delayed implementation of the new 1984 teacher education standards until the board had a chance to review the new standards and make any adjustments needed in light of the education reforms enacted in House Bill 72, 68th Legislature, 2nd Called Session, 1984.

The effective date of this subchapter is to be set after review by the State Board of Education. Until the board has established a date by which all institutions must be in compliance with a single set of standards, the standards in Chapter 137, Subchapter K, are one optional set of standards in accordance with which

institutions may operate. Other options are listed in §137.41.

No comments were received regarding the adoption of the amendment.

This amendment is adopted under the Texas Education Code, §13.032, which authorizes the State Board of Education to establish standards and procedures for the approval or disapproval of colleges and universities offering programs of teacher education.

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-859057

W. N. Kirby  
Commissioner of  
Education

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For further information, please call  
(512) 463-9632.



## Subchapter L. 1984 Standards for Approval of Institutions Offering Graduate Professional Education Programs for Certification

#### ★ 19 TAC §137.542

The Texas Education Agency adopts an amendment to §137.542, without changes to the proposed text published in the June 21, 1985, issue of the *Texas Register* (10 TexReg 2062).

The State Board of Education delayed implementation of the new 1984 teacher education standards until the board had a chance to review the new standards and make any adjustments needed in light of the education reforms enacted in House Bill 72, 68th Legislature, 2nd Called Session, 1984.

All institutions approved to offer graduate teacher education programs must be in compliance with the institutional standards described in this subchapter on a date set by the State Board of Education. Until that time, institutions may choose to be in compliance with these standards. However, other options for institutions will continue to be available, including compliance with the 1955 and the 1972 teacher education standards.

No comments were received regarding the adoption of the amendment.

This amendment is adopted under the Texas Education Code, §13.032, which authorizes the State Board of Education to establish standards and procedures



for the approval or disapproval of colleges and universities offering programs of teacher education.

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-859058

W. N. Kirby  
Commissioner of  
Education

Effective date: October 21, 1985  
Proposal publication date: June 21, 1985  
For further information, please call  
(512) 463-9882.

★ ★ ★



**Subchapter M. 1984 Program  
Requirements for Preparation  
of School Personnel for  
Provision Certificates and  
Endorsements**

**★19 TAC §137.560**

The Texas Education Agency adopts an amendment to §137.560, without changes to the proposed text published in the June 21, 1985, issue of the *Texas Register* (10 TexReg 2063).

The State Board of Education delayed implementation of the new 1984 teacher education standards until the board had a chance to review the new standards and make any adjustments needed in light of the education reforms enacted in House Bill 72, 68th Legislature, 2nd Called Session, 1984.

The amendment to §137.560(a) provides that the effective date of Subchapter M shall be set after review by the State Board of Education. Under amended §137.560(c), effective September 1, 1985, if institutions operate in compliance with the program standards in this subchapter, no students may be admitted to provisional certification or endorsement programs based on previous standards.

No comments were received regarding the adoption of the amendment.

This amendment is adopted under the Texas Education Code, §13.032, which authorizes the State Board of Education to establish standards and procedures for the approval or disapproval of colleges and universities offering programs of teacher education.

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-859058

W. N. Kirby  
Commissioner of  
Education

Effective date: October 21, 1985  
Proposal publication date: June 21, 1985  
For further information, please call  
(512) 463-9882.

★ ★ ★



**TITLE 22. EXAMINING  
BOARDS  
Part XV. Texas State Board  
of Pharmacy  
Chapter 283. Licensing  
Requirements for Pharmacists**

**★22 TAC §283.13**

The Texas State Board of Pharmacy (TSBP) adopts an amendment to §283.13, without changes to the proposed text published in the June 21, 1985, issue of the *Texas Register* (10 TexReg 2065).

This amendment further ensures that all applicants meet the requirements to qualify for licensing by reciprocity.

The amendment removes the requirement that all applicants for reciprocity must appear in person before the board to be considered for licensure by reciprocity.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4542a-1, §22, which provides the TSBP with the authority to specify the qualifications and applicant must meet to qualify for a license to practice pharmacy by reciprocity.

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 28, 1985.

TRD-859079

Fred S Brinkley, Jr.  
Executive Director/  
Secretary  
Texas State Board of  
Pharmacy

Effective date: October 22, 1985  
Proposal publication date: June 21, 1985  
For further information, please call  
(512) 478-9827.

★ ★ ★

**Chapter 291. All Classes of  
Pharmacy  
Community Pharmacy (Class A)**

**★22 TAC §291.32, §291.34**

The Texas State Board of Pharmacy adopts an amendment to §291.34, with changes to the proposed text published in the June 21, 1985, issue of the *Texas Register* (10 TexReg 2065). Referencing §291.34(b)(2)(A), the language was changed from unique "prescription" number to unique "identification" number, for consistency and clarity. Section 291.32 is adopted without changes will not be republished.

The amendments ensure the public health, safety, and welfare by specifying requirements for the maintenance of prescription records maintained in a Class A pharmacy.

The amendments address the labeling requirements of any prescription dispensed by a pharmacy pursuant to a prescription drug order and make labeling and record-keeping requirements consistent with requirements contained in the Texas Drug Laws.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 4542a-1, §17, which provide the Texas State Board of Pharmacy with the authority to specify minimum standards for the maintenance of prescription drug records and the labeling of prescription drugs.

**§291.34. Records.**

(a) Prescriptions. The term "prescription drug order" means a written order from a practitioner or verbal order from a practitioner or his authorized agent to a pharmacist for a drug or device to be dispensed.

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

(3) All prescriptions shall bear:

- (A)-(C) (No change.)
- (D) directions for use of such controlled substance or dangerous drug;
- (E) date of issue; and
- (F) unique identification number of the prescription.

(b) Original prescription records.

(1) (No change.)

(2) If a pharmacy maintains prescription records in a data processing system, the original written prescription or a hard copy of an oral prescription shall be retained on file in numerical order for a period of two years from the date of dispensing or the date of the last refill dispensed. "Hard copy prescription orders," as used in this and any other subsection, means the original written prescription order or original oral prescription order reduced to writing (manually or electronically reproduced) by the pharmacist and shall include the following:

(A) unique identification number of the prescription;

(B)-(G) (No change.)

(3) (No change.)

(c)-(j) (No change.)

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

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

TRD-859080

Fred S. Brinkley, Jr.,  
Executive Director/  
Secretary, Texas State  
Board of Pharmacy

Effective date: October 22, 1985

Proposal publication date: June 21, 1985

For further information, please call  
(512) 478-9827.



## Class C (Institutional) Pharmacy

### ★ 22 TAC §291.75

The Texas State Board of Pharmacy (TSBP) adopts an amendment to §291.75, without changes to the proposed text published in the June 21, 1985, issue of the *Texas Register* (10 TexReg 2066).

The amendment further ensures the public health, safety, and welfare by specifying requirements for the maintenance of records in a Class C pharmacy.

This amendment changes the statutory reference in subsection (b) to comply with the new reference in the Texas Controlled Substances Act.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4542a-1, §29, which provides the TSBP with the authority to establish by rule the standards that each pharmacy and its employees or personnel involved in the practice of pharmacy shall meet to qualify for the licensing or relicensing as a pharmacy in each classification.

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-859081

Fred S. Brinkley, Jr.  
Executive Director/  
Secretary  
Texas State Board of  
Pharmacy

Effective date: October 22, 1985

Proposal publication date: June 21, 1985

For further information, please call  
(512) 478-9827.



## Chapter 309. Generic Substitution

### ★ 22 TAC §309.5

The Texas State Board of Pharmacy adopts an amendment to §309.5, without changes to the proposed text published in the June 21, 1985, issue of the *Texas Register* (10 TexReg 2066).

The amendment further ensures the public health, safety, and welfare by specifying labeling requirements on the dispensing container of any prescription dispensed by a pharmacy pursuant to a prescription drug order.

The amendment requires a unique identification number of the prescription on the label of the prescription and makes the labeling requirements consistent with the requirements contained in the Texas Drug Laws.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4542a-1, §17, which provide the Texas State Board of Pharmacy with the authority to specify minimum standards for the maintenance of prescription drug records and the labeling of prescription drugs.

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-859082

Fred S. Brinkley, Jr.  
Executive Director/  
Secretary  
Texas State Board of  
Pharmacy

Effective date: October 22, 1985

Proposal publication date: June 21, 1985

For further information, please call  
(512) 463-9682.



## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part III. Texas Air Control Board

#### Chapter 101. General Provisions

##### ★ 31 TAC §101.1

The Texas Air Control Board (TACB) adopts an amendment to §101.1, with changes to the proposed text published in the July 16, 1985, issue of *Texas Register* (10 TexReg 2275).

The amendment to §101.1 makes the definition of major facility/stationary

source consistent with that of major modification. Both terms are used by the TACB solely to determine the applicability of new source review under provisions of the Federal Clean Air Act. The definition of major modification has contained for some time a qualifying statement which specifies the condition and now the definition of major facility/stationary source contains the same qualifier.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires the categorization of comments as being for or against a proposal. A commenter who suggested any changes in the proposal is categorized as against the proposal, while a commenter who agreed with the proposal in its entirety is categorized as being for the proposal.

Two commenters testified concerning the proposed amendments to §101.1. No one commented specifically in favor of the proposal. Those commenting against that proposal were Conoco, Inc., and Phillips Petroleum Company.

Conoco contended that the federal and state definitions for major sources should be identical. The term major facility/stationary source, as defined in §101.1, is applicable only to nonattainment area new source review (NSR) under provisions of the Federal Clean Air Act. The TACB proposed to clarify this use by adding a parenthetical clause to that effect. Phillips Petroleum Company recommended the addition of the term nonattainment area to the clause to further clarify its meaning and to make a distinction between nonattainment area NSR and attainment area NSR under the Prevention of Significant Deterioration of Air Quality (PSD) Program. The PSD Program has different emissions limits and other criteria and the definitions used under that program are included within the rules governing the program. The proposed section has been revised to add the words nonattainment area to the proposed clause to further clarify the definition. Likewise, this clarification could be added to the definition of major modification for consistency during a future rule-making process.

This amendment is adopted under Texas Civil Statutes, Article 4477-5, §3.09(a), which provide TACB with the authority to make rules and regulations consistent with the general intent and purposes of the Texas Clean Air Act and to amend any rule or regulation the TACB makes.

**§101.1. Definitions.** Unless specifically defined in the Act or in the rules of the board, the terms used by the board have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms which are defined by Texas Civil Statutes, Article 4477-5, the following terms when used in this part (31 TAC Part III) shall have the following meaning

unless the context clearly indicates otherwise.

**Major facility/stationary source (used solely for the purpose of determining the applicability of nonattainment area new source review under provisions of the Federal Clean Air Act)**—Any facility/stationary source which emits, or has the potential to emit, 100 tons per year or more of any air contaminant (including volatile organic compounds) for which a national ambient air quality standard has been issued.

This agency hereby certifies that the rules 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 30, 1985.

TRD-859026 Bill Stewart, P.E.  
Executive Director  
Texas Air Control Board

Effective date: October 21, 1985  
Proposal publication date: July 16, 1985  
For further information, please call  
(512) 451-5711, ext. 354.

★ ★ ★

### ★31 TAC §101.24, §101.25

The Texas Air Control Board (TACB) adopts new §101.24, with changes to the proposed text published in the July 19, 1985, issue of the Texas Register (10 Tex Reg 2313). Section 101.25 is adopted without changes and will not be republished.

The Texas Clean Air Act (TCAA), §3.29, was amended by the 69th Legislature, 1985, to require TACB to collect fees for inspections performed in enforcement of the TCAA and rules adopted by the board under the TCAA. New §101.24, concerning inspection fees, requires accounts with emissions greater than 50 tons per year (tpy) to remit an annual inspection fee. The method and schedule of payment, information to be provided, and additional fees to be charged for late payment are specified in the new section.

The TCAA, §3.28 and §3.29, were amended by the 69th Legislature, 1985, to require registration and payment of a registration fee by all facilities which are operating without permits or exemptions, because they were constructed prior to the implementation of the board's permitting program. New §101.25, concerning fees for registration of nonpermitted facilities, requires the payment of registration fees by nonpermitted, nonexempted facilities during registration with TACB as required by the TCAA.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being for or against a proposal. A commenter who suggested

any changes in the proposal is categorized as against the proposal, while a commenter who agreed with the proposal in its entirety is categorized as being for the proposal.

Twenty commenters testified concerning proposed new §101.24. Those commenting in favor were Corpus Christi Petrochemical Company (CCPC) and the American Lung Association (San Jacinto area). Those commenting against the proposal were Conoco, Inc., Gulf States Utilities Company; Texas Hot Mix Asphalt Pavement Association; Chevron USA, Inc.; Phillips Petroleum Company; Cities Service Oil and Gas Corporation; J. L. Davis; Exxon Company USA; Texas Oil and Gas Corporation; El Paso Natural Gas Company; Tennessee Gas Pipeline; Texas Utilities Generating Company (TUGCO); Electric Reliability Council of Texas (ERCOT); Texas Chemical Council (TCC); ARCO Transportation Company; Diamond Shamrock Chemicals Company; Brown, Maroney, Rose, Barber and Dye, attorneys; and Texaco, Inc.

Eight commenters testified concerning the proposed new §101.25. Those commenting in favor were the Texas Hot Mix Asphalt Pavement Association, the Sierra Club-Lone Star Chapter, and the American Lung Association (San Jacinto area). Those commenting against the proposal were Conoco, Cities Service, Exxon, Texas Oil and Gas, and Brown, Maroney.

A complete summary of comments and a discussion of issues will follow. Copies of the written testimony and of the hearing transcript are available for inspection at the TACB offices, 6330 US Highway 290 East, Austin, Texas 78723. Testimony on §101.24 and §101.25 is discussed as follows and testimony on §101.24 has been subdivided further into three specific categories and one general category. Comments on the possibility of collecting fees in excess of the budgetary requirements, comments on the selection of an appropriate fee schedule, comments on the basis for fee calculation, and miscellaneous comments. A great number of comments and suggestions were received regarding TACB's administration and implementation of the fee sections, but did not address any specific sections in the proposal. In addition, several comments were submitted concerning issues and section changes which are beyond the scope of this rule-making process. These last two groupings of comments will not be discussed.

One significant issue discussed by several commenters was the need for TACB to obtain the required revenue while avoiding the collection of fees in excessive amounts. Any excess funds collected would fall into the general revenue fund.

The TCC proposed that TACB adopt a two-step procedure for the collection of inspection fees. The first payment would

be 70% of the projected fees and the second payment would be adjusted after six months, higher or lower, to bring the total collections up or down to the projected totals. The ERCOT suggested that a two-stage annual collection system for inspection fees would allow adjustment to avoid both over-collections and under-collections. The Houston Chamber of Commerce urged that a review of the fee system be conducted in one year. Dow Chemical opposed the generation of excess fees but made no suggestion for avoiding it. The CCPC supported a review of the entire fee system after one year.

Diamond Shamrock and Brown, Maroney supported the TCC proposal. Exxon urged the prevention of deficits and excesses by designing the inspection fee schedule with tiers which are adjustable by percentages.

An annual review of the system with adjustments, as needed, to improve the accuracy of the fee calculations, would respond to the concerns regarding collection of excess revenue in years following the first year without the administrative burden of the two-step collection plan. Proposed §101.24 has been revised to require a review of the results of the first year of operation of the new fee system. Additional rule-making action will be taken to increase fees or expand applicability of the fee system if the review indicates a shortfall from the projections so great as to produce a deficit in the agency legislatively budgeted operating funds. Collection of funds in excess of the agency budgeted amount will be reviewed during the first year of operation of the fee system and appropriate adjustments to the fee schedule could be made prior to the second year.

In reviewing the positive and negative features of a single staggered payment vs a two-phased uniformly scheduled payment, positive features of the early payment concept of the two-step schedule are apparent. Texas Oil and Gas recommended that there be one deadline for payment of all inspection fees. Receipt of fee payments within the first half of the fiscal year, rather than staggered throughout the middle of the year, will provide for better agency planning based on more certain knowledge of funds available for expenditure. Thus, proposed §101.24 has been amended to establish a fee payment schedule that provides for all fees to be remitted in December and January.

Another significant issue which resulted from the public hearing was the choice between the two proposed fee schedules for collection of inspection fees (the tiered schedule as it was proposed in §101.24(a) and the incremental schedule described in the preamble to §101.24). The following is a list of those commenters who specifically supported one or the other of the two schedules and any reasons they gave for their choices.

Nine commenters favored the §101.24 tiered schedule. Chevron preferred this schedule, because the incremental schedule would be too burdensome in requiring an annual emissions inventory to be compiled. Exxon stated that the four-tiered schedule is easier to calculate, keep records on, and administer. The ERCOT stated that this schedule provides a more stable basis for TACB to estimate fee revenues, it is more equitable for electric generating facilities from the standpoint of lower maximum fees, and it better reflects, in general, the level of TACB time and effort required to inspect/monitor/enforce at a wide variety of facilities. The TCC, CCPC, Dow Chemical, and Brown, Maroney stated that this option is easier to administer, because it is a simple tiered schedule with a less complicated means of determining specific fees. Also, it is easier for the regulated community to understand. The Houston Chamber of Commerce stated that, while the two options will generate about the same revenue, this option is less complicated and provides a maximum fee more representative of actual TACB costs. The TUGCC indicated that this option is the lesser of two evils and that the other is not acceptable, especially without a maximum fee.

Seven commenters supported the alternative incremental schedule. El Paso Natural Gas stated that the incremental schedule with a low maximum fee is preferred.

Phillips Petroleum and Cities Service supported the smooth transition between emission categories but recommended a maximum fee of \$7,500 be added to make it consistent with the tiered schedule. Tennessee Gas Pipeline and Texas Oil and Gas indicated that this option would mitigate the potential inequities of the tiered system and still would be simple to administer. The American Lung Association (San Jacinto area) stated that this option more equitably deals with the vast differences between large and small producers and in some way encourages reduction of emissions. Sierra Club stated that this option provides much more equitable application of fees.

Based on review of testimony received, proposed §101.24 has been revised to include an incremental fee schedule with a specific maximum fee of \$10,000. Adjustments have been made to the base fee amounts and to the incremental amounts for each range of emissions levels. The schedule has four emissions ranges, corresponding to the four categories in the original tiered schedule. The average fees paid by companies each size range closely correspond to fees in the original tiered schedule; however, there is now a smooth transition between size categories.

A third major issue brought out at the hearing is the basis for calculation of the

inspection fee. At least six commenters submitted comments relating to the type and amounts of emissions data, the timeliness of the data, and the manner of specification in the section. The Texas Hot Mix Asphalt Pavement Association recommended use of hard data (measured emissions), not vague, assumed emissions factors and suggested documentation should be the emissions calculated on the TACB application form. Chevron suggested the emissions inventory for one of the two previous calendar years prior to implementation of the §101.24 be used for the 1985 calculation of fees. Cities Service recommended that the §101.24 specify which time period is to be used for selection of the highest pollutant emissions and that the basis be the previous year's inventory of actual emissions of the single pollutant emitted at the greatest rate. The TUGCO and ERCOT recommended use of actual emissions from the most recent emissions inventory for fee calculations. Texas Oil and Gas recommended documentation to be required for only one pollutant (the highest) for the basis of fee calculation rather than creating a new emissions inventory each year.

The proposal did specify that fee calculations were to be based on actual emissions of the highest single pollutant but included provisions for total emissions of each pollutant to be documented and failed to specify the year basis for these calculations. For ease of auditing fee submittals, all fees should be based on the same year emissions data but documentation could be restricted to submittal of only a statement of the total actual emissions of the single highest pollutant for the designated year. The statement could then be checked against the TACB emissions data for the account and significant discrepancies negotiated on a case-by-case basis with the companies being required to provide whatever documentation is necessary to justify their statement of emissions. In this respect, information on other pollutant emissions and documentation of highest pollutant emissions would not be required with the submittal of the fee. Proposed §101.24 has, therefore, been revised to require only the submittal of such a statement.

With regard to the year to be designated as the base year for fee calculations, use of the most recent emissions inventory year for each account would not provide for a consistent basis of calculation since different accounts are inventoried in different years. Proposed §101.24 has been revised to require calculations based on the most recent complete calendar year prior to the beginning of the payment cycle to provide a consistent base while giving companies adequate time to determine the emissions values.

El Paso Natural Gas stated that all facilities constructed prior to September

1, 1967, are exempted by the TCAA from payment of inspection fees. Although the TCAA currently exempts all such facilities from the requirement to be permitted, it does not exempt these facilities from inspections or from payment of fees for inspections.

The ARCO Transportation Company commented that the basis for an inspection fee should be the impact of a facility on the environment and that facilities in nonattainment areas should pay higher fees. The 1985 revisions to the TCAA require TACB to collect inspection fees in order to recover part of the agency costs for permitting and enforcement activities. These costs are similar across the state regardless of geographic locations of facilities.

Texaco suggested that exempted facilities be excluded from the requirement to pay an inspection fee since TACB enforcement expenses are negligible for exempt facilities when compared with those related to permitted facilities. Texas Oil and Gas asserted that exempted facilities should not be inspected and that fees should be charged only for inspections actually performed. While the TCAA does not exempt any facilities from inspections and the payment of inspection fees, certain accounts are not routinely inspected. Since the purpose of §101.24 is to recoup costs associated with agency permitting and enforcement programs, it would be inappropriate to collect fees for sites containing only nonpermitted, nonregulated facilities and for which notices of violation have not been issued. An exemption has been added to §101.24(a) which excludes from applicability those accounts which contain only nonregulated, nonpermitted facilities with clean compliance records during the most recent five years.

Conoco and Gulf States Utilities both suggested that an inspection fee be set at a level commensurate with the TACB cost to inspect. Gulf States Utilities explained that the cost of conducting an inspection should not be the basis of emission rates, but, rather, on the number and complexity of facilities. A fee system based on the number of facilities was developed by TACB and reviewed by many representatives of the regulated community. The overall conclusion was that such a system would be very cumbersome to administer and implement, that it would be inequitable to the owners of small facilities, and that a precise and reasonable, but universal definition of facility as applied to fee calculations would be difficult to develop and apply. The currently proposed system is based on the highest single emission rate at an account. A single account may include any number of facilities, but only one fee is required. This system is considered to be more equitable and fair to a greater number of facility owners.

Chevron recommended the inclusion of guidelines (formulas and/or factors) for estimating actual emissions from sources to minimize differences which could occur in the fee amounts paid by similar accounts. The factors contained in the federal AP-42 publication are used throughout the industry and by air quality control agencies and will continue in use by TACB for estimation of emissions where direct measurement is not feasible or cost-effective. In cases where neither AP-42 calculation procedures nor direct measurement are applicable, the auditing procedures implemented by the TACB staff should minimize significant inconsistencies in reported emissions for similar facilities.

Chevron, in addition, suggested that upset and fugitive emissions not be considered in the basis for fee calculations. These emissions are part of the actual emissions from a property within a given year. Although these emissions must be calculated as estimates, calculation is important in that these emissions may represent a significant percentage of the actual emissions. Inclusion of these emissions in emissions totals for calculation of fees is necessary if fees are to be assessed based on actual emissions total assuming that these totals tend to approximate the complexity of the inspection effort for the property.

Phillips Petroleum and J. L. Davis recommended clarification of the term potential emissions. Phillips Petroleum suggested a reference to the definition of potential to emit in §101.1 could be added to the term. Potential emissions, as the term is used in §101.24, are emissions calculated as described in the definition of potential to emit. Specific reference to this definition could be confusing, however, since the definition states that it applies to new source review determinations for major stationary source/facility.

The TUGCO suggested the inspection fee section contain a provision which allows a facility to pay the maximum fee and not submit any emissions documentation. Such a provision, similar to that of §116.11(b)(4), has been added to §101.24(b).

Brown, Maroney suggested that some key phrases taken from the TCAA be added to §101.24 to address the aggrega-

tion of facilities at an account. Aggregation of facilities at accounts for purposes of payment of inspection fees has been accomplished within the section by requiring payment of one inspection fee per account.

Finally, the TACB staff determined that the first sentence of §101.24(d), was too restrictive in requiring the inspection fee payment to be postmarked for delivery by the U.S. Postal Service by the last day of the month in which due. The sentence has been modified to remove the postmark requirement and to require, instead, that an inspection fee payment must be received by the TACB by the 10th day of the month following the month in which due. This change serves to clarify the intent of the subsection and it allows more options for methods of payment.

Exxon recommended the inclusion of guidelines on exemptions and a definition of the term facility in §101.25. Texas Oil and Gas requested clarification in §101.25 of those facilities which are required to register. Brown, Maroney suggested that some key phrases taken from the TCAA be added to this section to address the aggregation of facilities for registration purposes.

The term facility is defined in the TCAA as amended by the 69th Legislature, 1985. Exemptions from the grandfather source registration and aggregation of facilities for registration purposes are also specified within the TCAA. In addition, specific delineation of these exemptions and a description of the aggregation of functionally integrated facilities were included in the grandfather source registration notices published by TACB in accordance with requirements of the TCAA.

The new sections are adopted under Texas Civil Statutes, Article 4477-5, §3.09(a), which provide the TACB with the authority to make rules and regulations consistent with the general intent and purposes of the Texas Clean Air Act and to amend any rule or regulation the TACB makes.

#### **§101.24. Inspection Fees.**

(a) **Applicability.** The owner or operator of each account, as defined in this subsection, for which actual emissions of total suspended particulate (TSP), nitrogen

oxides, volatile organic compounds (VOC), or any other air contaminant equal or exceed 50 tons per year (tpy) and for which potential emissions of TSP, nitrogen oxides, VOC, or any other air contaminant equal or exceed 100 tpy, shall remit to the Texas Air Control Board (TACB) an annual fee for inspections performed in enforcement of the Texas Clean Air Act (TCAA) and the rules of the board. A separate fee is required for each account. The amount of the fee shall be determined by the highest aggregate emission rate of any air contaminant at an account applied to the following table. For purposes of this section, an account shall be defined as all of the facilities located at a property. Where contiguous properties or properties contiguous except for intervening roads, railroads, rights-of-way, canals, watercourses, and the like are under common ownership but contain separate operations, or are managed independently, or are carried on the records of this agency under separate account numbers, a separate fee will be charged and collected for each such account. Provisions of this section shall not apply to those accounts which contain only nonregulated, nonpermitted facilities which have received no TACB notices of violation (NOVs) within the most recent five-year period. In this context, non-regulated means that facilities are not subject to any of the requirements of Chapters 111-113 of this title (relating to Control of Air/Pollution from Visible Emissions and Particulate Matter, Control of Air Pollution from Sulfur Compounds, and Control of Air Pollution from Toxic Materials); Chapter 115 of this title (relating to Control of Air Pollution from Volatile Organic Compounds); Chapter 117 of this title (relating to Control of Air Pollution from Nitrogen Compounds); and Chapter 119 of this title (relating to Control of Air Pollution from Carbon Monoxide). Nonpermitted means that facilities have not been issued a construction permit, special permit, special exemption, or operating permit pursuant to the requirements of Chapter 116 of this title (relating to control of Air Pollution by Permits for New Construction or Modification). By May 31, 1986, the executive director shall review the fees assessed and the costs recovered pursuant to this section and present to the board a report of the results of such review which shall include recommended changes to the section as may be appropriate.

**Emission Rate  
(tpy rounded down  
to the nearest ton)**

**Base Fee**

**Incremental Fee\***

50-99	\$ 500	\$12.00/ton
100-249	1,100	9.00/ton
250-999	2,450	3.00/ton
1,000 up**	4,700	1.50/ton

\*incremental fee to be applied to each ton in excess of the initial tonnage in that category  
 \*\*Maximum fee is \$10,000

(b) **Payment.** Fees shall be remitted in the form of a check or money order made payable to the Texas Air Control Board and delivered to the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723. A completed inspection fee form shall accompany fees remitted. The inspection fee form shall include at least the company name, property address, TACB account number, and statement of the aggregate emission rate for that single air contaminant which is emitted in the largest quantity at the account during the calendar year preceding the beginning of the December through January payment cycle. The maximum fee shall be required if no statement of the aggregate emission rate is included with the inspection fee form. All fees paid pursuant to this section shall be remitted in accordance with the schedule provided in subsection (c) of this section.

(c) **Schedule.** Fees shall be due and payable according to the following schedule. The last numeric character of the TACB account number indicates the month in which payment is due.

Last numeric character of account number	Month in which fees are due
1, 2, 3, 4, or 5	December
6, 7, 8, 9, or 0	January

(d) **Additional fees.** An additional fee shall be paid by the owner or operator of an account for each inspection fee payment received by the tenth day of the month following the month due. The additional fee to be remitted shall be 10% of the unpaid fee for the first month, or part thereof, after the month the inspection fee is due. Thereafter, failure to have remitted the full inspection fee may result in action under the

TCAA, \$4.041 or \$4.02. Each day the fee remains unpaid shall be considered a separate violation.

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-859058

Bill Stewart, P.E.  
Executive Director  
Texas Air Control Board

Effective date: October 21, 1985  
 Proposal publication date: July 19, 1985  
 For further information, please call  
 (512) 451-5711, ext. 354.

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## Chapter 116. Permits

### ★31 TAC §116.7, §116.11

The Texas Air Control Board (TACB) adopts an amendment to §116.11, with changes to the proposed text published in the July 16, 1985, issue of the *Texas Register* (10 TexReg 2276). Section 116.7 is adopted without changes and will not be republished.

The amendment to §116.7, concerning special permits, deletes the phrase, from subsection (f), which excludes applications for permits, under §116.7, from requirements to pay permit fees. This exclusion is removed so that TACB may charge permit fees for review of applications for special permits. The amendments to §116.11, concerning permit fees, expand the applicability of permit fees to include special permits and permit amendments, increase the maximum project cost for fee calculation, and increase the maximum fee to be paid.

These changes and the accompanying fee increases are adopted in response to recent changes to the Texas Clean Air Act

(TCAA). The TCAA, as amended by the 69th Legislature, 1985, requires TACB to recover at least 50% of the agency's permitting and enforcement expenses through permit and inspection fees and establishes a new maximum fee that can be charged by TACB. In addition, some wording changes are adopted to improve readability and to remove any obsolete references to special exemptions.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires the categorization of comments as being for or against a proposal. A commenter who suggested any changes in the proposal is categorized as against the proposal, while a commenter who agreed with the proposal in its entirety is categorized as being for the proposal.

Four commenters testified concerning the proposed amendment to §116.7. Those commenting in favor were Brandt Mannchen, Corpus Christi Petrochemical Company (CCPC), and the American Lung Association (San Jacinto Area). Conoco, Incorporated commented against the proposal.

Conoco, Incorporated objected to the charging of permit fees for special permits. However, the TCAA, as amended by the 69th Legislature, 1985, requires TACB to collect fees for special permits. These wording changes to §116.7 and §116.11 now allow TACB to collect permit fees for special permits.

Ten commenters testified concerning the proposed amendments to §116.11. Those commenting in favor were the Texas Hot Mix Asphalt Pavement Association and CCPC. Those commenting against the proposal were Brandt Mannchen, Conoco, Exxon, Texas Utilities Generating Company (TUGCO), the Texas Chemical Council (TCC), the Houston Chamber of Commerce, the Sierra Club-Lone Star Chapter, and the American Lung Association.

Six commenters (Exxon, CCPC, Electric Reliability Council of Texas (ERCOT), TCC, Houston Chamber of Commerce, and Dow Chemical) recommended retention of the current permit fee maximum amount of \$7,500. Generally, the justifications for not changing the current structure were that inspection fee revenue should be adequate to meet legislated re-



quirements without increasing permit fees, that higher permit fees could cause excessive collections overall, and that inspection fees are more dependable and predictable than permit fees which are variable and economy dependent. In addition, Exxon and TUGCO commented that special permits should have a lower fee amount than construction permits. The CCPC suggested that the maximum fee amount be returned to the current level if, during the first year, excessive revenues occur overall. Both the Sierra Club and the American Lung Association recommended raising the maximum permit fee amount to the statutory limit of \$50,000.

Although revenue generated from fees associated with permit review are more variable than those associated with inspection activity, fees charged for permit review should be sufficient to recover a significant percentage of the cost of that activity. The 69th Legislature, 1985, provided for this by increasing the maximum amount for permit fees from \$7,500 to \$50,000. The \$25,000 maximum fee proposed by TACB represented a mid-range value that could have provided additional revenue to be generated from fees charged for permit review. However, as pointed out by the Sierra Club, this mid-range value does not implement the full fee collection authority granted to TACB by the 69th Legislature, 1985, and does not have a firm basis. The proposed rule has been revised to incorporate the statutory maximum of \$50,000 for permit fees. The proposed section has also been revised to require a review of the fees collected during the first year of operation with the new fee system. Based on the results of this review, decreases in this maximum fee may be appropriate.

Provisions for calculating fees for special permits different from those charged for construction permits cannot be justified on a general basis. The TACB resources to review and process a special permit may be equivalent to those necessary to review and process a construction permit when comparing any two specific applications. Therefore, categorical differences in calculations of the fees to be charged for these services would seem inappropriate.

The amendments are adopted under Texas Civil Statutes, Article 4477-5, §3.09(a), which provide the TACB with the authority to make rules and regulations consistent with the general intent and purposes of the Texas Clean Air Act and to amend any rule or regulation the TACB makes.

#### §116.11. Permit Fees.

(a) Applicability. Any person who applies for a permit to construct a new facility or to modify an existing facility pursuant to §116.1 of this title (relating to Construction Permit) shall remit, at the time of

application for such permit, a fee based on the estimated capital cost of the project. The fee will be determined as set forth in subsection (b) of this section (relating to Determination of Fees). By May 31, 1986, the executive director shall review the fees assessed and the costs recovered pursuant to this section and present to the board a report of the results of such review which shall include recommended changes to the section as may be appropriate.

#### (b) Determination of fees.

(1) (No change.)

(2) The following fee schedule may be used by a permit applicant to determine the fee to be remitted with a permit application.

(A) (No change.)

(B) If the estimated capital cost of the project is \$300,000 to \$50 million, the fee is 0.1% of the estimated capital cost of the project.

(C) If the estimated capital cost of the project is over \$50 million, the fee is \$50,000.

(3) An application for a construction permit, special permit, or permit amendment for which the fee is calculated according to the schedule included in paragraph (2) of this subsection shall include a certification that the estimated capital cost of the project as defined in paragraph (1) of this subsection is less than or equal to the cost estimate used to determine the required fee if the estimated capital cost of the project is less than \$50 million. Certification of the estimated capital cost of the project may be spot-checked and evaluated for reasonableness during permit processing. The reasonableness of project capital cost estimates used as a basis for permit fees shall be determined by the extent to which such estimates include fair and reasonable estimates of the capital value of the direct and indirect costs listed in subparagraphs (A) and (B) of this paragraph.

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

(4) A fee of \$50,000 shall be required if no estimate of project capital cost is included with a permit application.

(c) Payment of fees. All permit fees will be remitted in the form of a check or money order made payable to the Texas Air Control Board and delivered with the application for construction permit, special permit, or permit amendment to the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723. Required fees must be received before the agency will begin examination of the application.

(d) (No change.)

(e) Fees not required. Fees will not be charged for operating permits, permit revisions, standard exemptions, site approvals for permitted portable facilities, changes of ownership, or changes of location of permitted facilities.

(f) Return of fees. Fees must be paid at the time an application for construction permit, special permit, or permit amend-

ment is submitted. If no permit or amendment is issued by the agency or if the applicant withdraws the application prior to issuance of the permit or amendment, one-half of the fee will be refunded except that the entire fee will be refunded for any such application for which a standard exemption is allowed. No fee will be refunded after a permit or amendment has been issued by the agency.

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 30, 1985.

TRD-859028

Bill Stewart, P.E.  
Executive Director  
Texas Air Control Board

Effective date: October 21, 1985  
Proposal publication date: July 16, 1985  
For further information, please call  
(512) 451-5711, ext. 354.

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## TITLE 34. PUBLIC FINANCE

### Part I. Comptroller of Public Accounts

#### Chapter 3. Tax Administration

#### Subchapter L. Motor Fuels Tax

#### ★34 TAC §3.178

The Comptroller of Public Accounts adopts an amendment to §3.178, without changes to the proposed text published in the July 26, 1985, issue of the *Texas Register* (10 TexReg 2406). The purpose of the amendment is to increase the fuel supply tank capacity from 42 gallons to 60 gallons as adopted by the legislature. This change was effective August 26, 1985.

No comments were received regarding adoption of the amendment.

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

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

Issued in Austin, Texas, on October 2, 1985.

TRD-859122

Bob Bullock  
Comptroller of Public  
Accounts

Effective date: October 23, 1985  
Proposal publication date: August 26, 1985  
For further information, please call  
(512) 463-4608.

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★ 34 TAC §3.181

The Comptroller of Public Accounts adopts the repeal of §3.181, without changes to the proposal published in the July 12, 1985, issue of the *Texas Register* (10 TexReg 2223). This section is repealed because the provisions concerning calibration of cargo tanks were repealed during the recent session of the legislature. This section is therefore unnecessary.

No comments were received regarding adoption of the repeal.

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

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

Issued in Austin, Texas, on October 2, 1985.

TRD-859123 Bob Bullock  
Comptroller of Public  
Accounts

Effective date: October 23, 1985  
Proposal publication date: August 26, 1985  
For further information, please call  
(512) 483-4808

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★ 34 TAC §3.185

The Comptroller of Public Accounts adopts an amendment to §3.185, without changes to the proposed text published in the June 21, 1985, issue of the *Texas Register* (10 TexReg 2067). The amendment reflects a new vehicle class and rate adopted by the legislature. The new class and rate was effective August 26, 1985.

No comments were received regarding adoption of the amendment.

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

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

Issued in Austin, Texas, on October 2, 1985.

TRD-859124 Bob Bullock  
Comptroller of Public  
Accounts

Effective date: October 23, 1985  
Proposal publication date: June 21, 1985  
For further information, please call  
(512) 483-4808.

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**TITLE 40. SOCIAL SERVICES AND ASSISTANCE**  
**Part I. Texas Department of Human Services**  
**Chapter 35. Pharmacy Services**  
**Subchapter H. Reimbursement**

★ 40 TAC §35.708

The Texas Department of Human Services (DHS) adopts an amendment to §35.708, with changes to the proposed text published in the April 16, 1985, issue of the *Texas Register* (10 TexReg 1225).

The amendment is justified to incorporate the department's interpretation of this section and is expected to clarify further clarify DHS policy in the area of usual and customary price.

The section will functions by requiring that any discounts given to a segment (category) of non-Medicaid customers must be applied to the usual and customary price for Medicaid customers in the same segment (category).

During the 30-day comment period, written comments were received opposing the proposed section from the Texas Pharmaceutical Association, the National Association of Chain Drug Stores, Inc., Revco D.S., the Texas Senior Citizens Association, Kroger, Hilleys, and Eckerd. Additionally, one individual requested clarification of information in the preamble. Two of the commenters requested a public hearing, but later withdrew their requests. The following is a summary of the comments received and the department's responses to each comment.

One corporation had several comments about subsection (a) of the section. It was suggested that the phrase "in the same quantity" be added to the sentence, "The usual and customary price is the price the provider most frequently charges the general public for the same drug." The commenter felt that comparing all prices for the same drug did not take into account the differences in the price of drugs sold in different quantities. The department disagrees with this suggestion. Ideally, the usual and customary price of a prescription is determined by comparing prescriptions of the same quantity. Since it is rarely possible, however, to limit comparisons to prescriptions of the same quantity, the price per dose is used to make comparisons in the determination of usual and customary price.

The same corporation objected to the department's provision for applying discounts only to the usual and customary price charged particular segments of the general public. The corporation suggested that the general public should not be divided into segments in determining usual and customary price. The depart-

ment disagrees with this comment. A contracted provider in the Texas Vendor Drug Program agrees to "provide pharmaceutical services to Medicaid recipients in the same manner and to the same degree as they are provided to the general public." Medicaid recipients, like all members of the general public, fall into other, more distinct categories. When a pharmacy provider provides discounts or other promotional benefits to specific categories of the general public, based on age, condition, profession, or any other definition, Medicaid recipients who are defined as a part of that group should share equally in those benefits. The department does not, however, wish to apply these discounts to all Medicaid recipients when determining usual and customary price, as this might cause some Medicaid recipients to receive a greater benefit than comparable members of the general public.

One corporation expressed concern about the application of subsection (a)(2) to free gifts. The corporation suggested that the example as stated is unclear in the context of determining usual and customary price. The department agrees with this comment. To avoid confusion in this area, the words "free gift" have been deleted from subsection (a)(2).

Four corporations and one association expressed concern that the proposed regulations pre-empt senior citizens from receiving the benefits of senior citizen's discount plans. Three commenters feared Medicaid recipients would be unable to benefit from the discounts on over-the-counter products provided through these plans which are not covered by the Medicaid Vendor Drug Program. They believed the department's proposal discriminated against Medicaid recipients. The department does not intend to prevent Medicaid recipients from participating in any plan or benefiting from any services for which they are otherwise eligible. It is the intent of these rules to ensure that through the Vendor Drug Program all Medicaid recipients benefit from all appropriate discounts and promotions which are applicable to the products covered by the Medicaid program. The department hopes that any contractors considering discontinuing senior discount programs will consider the overall benefits of these programs to senior citizens and not just those pharmaceutical products provided to Medicaid recipients through the Vendor Drug Program.

One commenter suggested that cash discount prices were not appropriate to use in the calculation of usual and customary price for purposes of the Medicaid Vendor Drug Program. The commenter referenced a national study on all third party programs which indicated a claim cost for these programs similar to the cost of credit card and charge account claims. The department disagrees with this comment. Department staff are unaware of



any study verifying the referenced cost indications for the Texas Medicaid Program. Further, the contracted pharmacy is largely able to control claims processing costs in the Vendor Drug Program by the efficiency of its own claims processing system.

One association objected to the requirement in subsection (c) that the provider must disclose records on the charges to the general public. The association contended that there are costs inherent in identifying these records or permitting the department or the attorney general to view the de-identified records. The department disagrees with this comment. The section does not require de-identification of the records; it only allows the provider to de-identify the records. Additionally, if the provider's records are not available, another method will be used in determining usual and customary price. The alternate method is also explained in subsection (c).

One association expressed general opposition to the proposed change on the basis that "criteria established by pharmacies to determine discounts should apply to purchases by the Department of Human Services as well as purchases by the general public." The department agrees with this comment. It is the purpose of this amendment, however, to ensure that discounts available to the general public are applied to purchases made by the department. No change is necessary in the proposed section to address the expressed concern.

In addition, one corporation expressed support for subsection (a)(1), which excludes third party payors from the definition of the general public. This language has been retained in the adopted section. Finally, one individual questioned what was meant by the first five-year period rule and asked if any pharmacists were consulted on customary charges. The first five years the rule as amended is in effect begins with the effective date of the rule and includes the next five 12-month periods. The proposed section incorporates clarifications concerning the determination of usual and customary price which have been used by participating pharmacists for several years.

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs.

**§35.708. Usual and Customary Price.**

(a) The usual and customary price is the price the provider most frequently charges the general public for the same drug. If the department cannot determine a most frequent price, the median price is used. Items which the provider must consider when determining the usual and customary price include:

(1) the term general public does not include any person whose prescriptions are paid by third-party payors including health insurers, governmental entities, and the Texas Medical Assistance Program (Medicaid).

(2) when a discount is given (including but not limited to cash rebate, monetary price discount, coupon of value) or advertised for any segment of the general public, the discount must be included in the usual and customary price determination for Medicaid prescriptions if the Medicaid customer would otherwise have qualified as a member of that same segment of the general public. Some providers give discounts to non-Medicaid customers based on requirements similar to those specified in subparagraphs (A) and (B) of this paragraph. Providers must not use these types of requirements as reasons to disqualify Medicaid customers as members of the same segment of the general public receiving the discount:

(A) possessing or presenting a special identification card or document, or making a verbal request for a discount;

(B) paying for the prescription by a particular method, such as cash.

(b) If a provider utilizes one pricing policy for cash customers and a different pricing policy for charge customers, the lower of the two pricing policies will be the provider's usual and customary price.

(c) The provider must keep adequate records showing how the usual and customary charge to the general public was determined according to the requirements as stated in this section. The provider must disclose the records (which may be de-identified only as to the name and address of non-Medicaid customers) to representatives of the following agencies upon request: the Texas Department of Human Services, the Texas attorney general's Medicaid Fraud Control Unit, and the United States Department of Health and Human Services. If the provider does not keep the records for the time period specified in his contract with the department, then the usual and customary price determination includes all discounts given or advertised by the provider, regardless of whether the Medicaid customer would or would not have qualified as a member of the general public receiving the discount.

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 October 2, 1985.

TRD-859118      Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: October 23, 1985  
Proposal publication date: April 16, 1985  
For further information, please call  
(512) 450-3766.

## Chapter 69. Purchased Social Services

### Subchapter F. Regional Monitoring and Management

#### ★40 TAC §69.94

The Texas Department of Human Services adopts an amendment to §69.94, without changes to the proposed text published in the August 20, 1985, issue of the *Texas Register* (10 TexReg 3166).

The adoption of the amendment is justified to implement House Bill 2259, 69th Legislature, 1985, which excludes competitively procured contracts from nonrenewal and reduction requirements and from the appeal provisions applicable to contracts funded by block grants.

The adopted section enhances the effectiveness of the delivery of contracted services to clients and to improve the contracting process.

No comments were received regarding the adoption of the amendment.

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

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

Issued in Austin, Texas, on October 2, 1985.

TRD-859115      Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: October 23, 1985  
Proposal publication date: August 20, 1985  
For further information, please call  
(512) 450-3766.

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## Chapter 79. Legal Services

### Subchapter F. Contract Administration

#### ★40 TAC §79.501

The Texas Department of Human Services adopts amendments to §79.501 and §79.1603, without changes to the proposed text published in the August 20, 1985, issue of the *Texas Register* (10 TexReg 3166).

The adoption of the amendments is justified to implement House Bill 2259, 69th Legislature, 1985, which excludes competitively procured contracts from nonrenewal and reduction requirements and from the appeal provisions applicable to contracts funded by block grants.

The adopted sections will function to enhance the effectiveness of the delivery

of contracted services to clients and to improve the contracting process.

No comments were received regarding the adoption of the amendments.

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

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

Issued in Austin, Texas, on October 2, 1985.

TRD-859116  
Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: October 23, 1985  
Proposal publication date: August 20, 1985  
For further information, please call  
(512) 450-3766.

### Subchapter Q. Contract Appeals

★ 40 TAC §79.1603

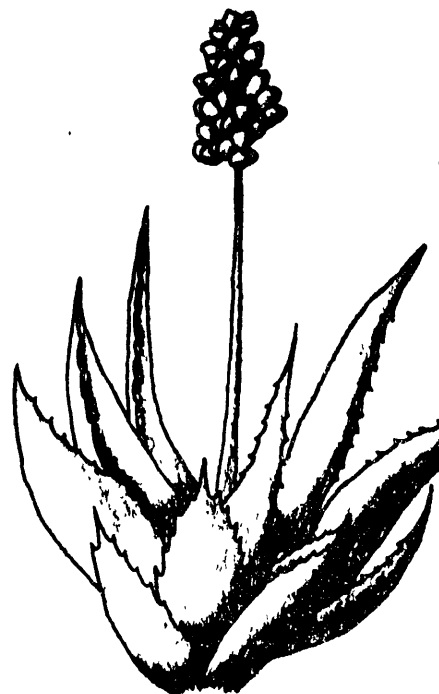
The amendment is adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

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

Issued in Austin, Texas, on October 2, 1985.

TRD-859117  
Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: October 23, 1985  
Proposal publication date: August 20, 1985  
For further information, please call  
(512) 450-3766.



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## State Board of Insurance Exempt Filings

### State Board of Insurance Notifications Pursuant to the Insurance Code, Chapter 5, Subchapter L

*(Editor's note: As required by the Insurance Code, Article 5.96 and Article 5.97, the Register publishes notices of actions taken by the State Board of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure and Texas Register Act, and the final actions printed in this section have not been previously published as proposals.)*

*These actions become effective 15 days after the date of publication or on a later specified date.*

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

The State Board of Insurance has adopted amendments to the *Texas Automobile Manual*. The manual, §G, Rule 38, has been amended to include a new subsection 15, reading as follows:

15. Drivers License Training School—Driver Improvement Program.

(a) An auto afforded personal auto coverage shall be subject to a credit of 10% applied to the rate otherwise applicable, provide satisfactory evidence (certificate of completion or photostat thereof issued by Drivers License Training School) is presented to the company

that the principal operator of such auto has successfully completed the Drivers License Training School-Driver Improvement Program.

(b) If the policy insures two or more autos, the credit shall apply only to the autos principally operated by the person awarded the Drivers License Training School-Driver Improvement Program certificate of completion.

(c) The credit shall apply for a period of 36 months subsequent to the date of issuance of the certificate of completion. Following such 36-month period to again qualify for such credit, the course must be successfully completed and evidence again presented to the company. The credit shall only apply if the certificate of completion is issued on or after January 1, 1986.

This amendment is effective January 1, 1986.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

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

TRD-859003  
James W. Norman  
Chief Clerk  
State Board of  
Insurance

Effective date: January 1, 1986  
For further information, please call  
(512) 475-2950.

The State Board of Insurance has adopted amendments to the *Texas Automobile Manual*. The *Texas Automobile Manual* §G, Rule 38, has been amended to include a new subsection 14, reading as follows:

14. Drivers Training Center's—Driver Improvement Program.

(a) An auto afforded personal auto coverage shall be subject to a credit of 10% applied to the rate otherwise applicable, provide satisfactory evidence (certificate of completion or photostat thereof issued by Driver Training Center) is presented to the company that the principal operator of such auto has successfully completed the Driver Training Center's Driver Improvement Program.

(b) If the policy insures two or more autos, the credit shall apply only to the autos principally operated by the person awarded the Driver Training Center's Driver Improvement Program certificate of completion.

(c) The credit shall apply for a period of 36 months subsequent to the date of issuance of the certificate of completion. Following such 36-month period to again qualify for such credit, the course must be successfully completed and evidence again presented to the company. The credit shall only apply if the certificate of completion is issued on or after January 1, 1986.

This amendment is effective January 1, 1986.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

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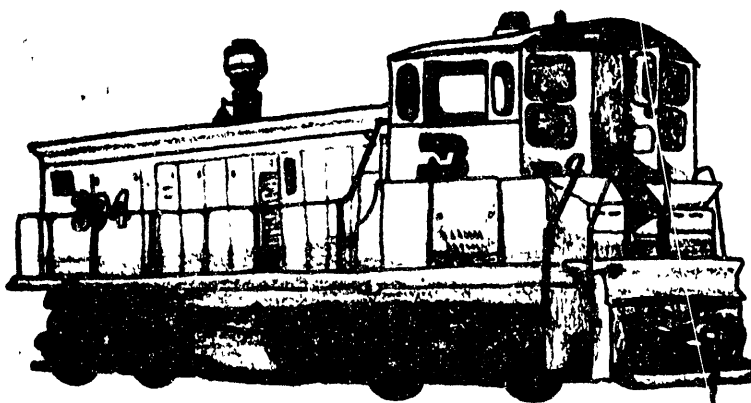
Issued in Austin, Texas, on September 27, 1985.

TRD-859004

James W. Norman  
Chief Clerk  
State Board of  
Insurance

Effective date: January 1, 1986  
For further information, please call  
(512) 475-2950.

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# Open Meetings

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

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

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

## Texas Department of Agriculture

**Friday, October 18, 1985, 1 p.m.** The Texas Department of Agriculture will meet in Suite 103, 1801 North Lamar, Dallas. According to the agenda, the department will conduct a hearing to review possible violation of the Texas Agriculture Code, §76.116(a)(1), by John Seay, doing business as Texas Crop Dusters and Sprayers.

**Contact:** Deborah Brown, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

**Filed:** October 3, 1985, 9:14 a.m.  
TRD-859173

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## Texas Commission on Alcohol and Drug Abuse

**Thursday, October 10, 1985, 10:30 a.m.** The Finance Committee of the Texas Commission on Alcohol and Drug Abuse will meet in the conference room, 1705 Guadalupe Street, Austin. According to the agenda, the committee will discuss staff proposal for use of additional money to be allocated to treatment and rehabilitation services.

**Contact:** Larry Goodman, 1705 Guadalupe Street, Austin, Texas 78701, (512) 475-2577.

**Filed:** October 2, 1985, 3:45 p.m.  
TRD-859166

**Saturday, October 19, 1985, 9:30 a.m.** The Commission Members of the Texas Commission on Alcohol and Drug Abuse will meet in the conference room, 1705 Guadalupe Street, Austin. Items on the agenda include approval of the 1986 fiscal year budget; approval of facilities to receive court commitments; proposed complaints rule; executive director's report; chairman's report; public comment; and executive session.

**Contact:** Becky Davis, 1705 Guadalupe Street, Austin, Texas 78701, (512) 475-2577.

**Filed:** October 2, 1985, 3:45 p.m.  
TRD-859167

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## Texas Board of Chiropractic Examiners

**Thursday, October 10, 1985, 1 p.m.** The Texas Board of Chiropractic Examiners will meet in Suite 245, Building C, 1300 East Anderson Lane, Austin. Items on the agenda include administration of the oath of office to recently appointed board members; approval of minutes of July 17-19, 1985, board meeting; board election of officers; board approval of amendment to October 27-29, 1983, minutes to reflect the change of fee structure for renewal and reciprocity fees; board appointment of Peer Review Executive Committee; board appointment of Regional Peer Review Committees; board adoption of Peer Review Training guidelines and procedures; discussion of agency operating budget and general information of agency operations; and board chairman appointment of board committee members.

**Contact:** Bobbye Ferris, 1300 East Anderson Lane, Building C, Suite 245, Austin, Texas 78752, (512) 835-2006.

**Filed:** October 1, 1985, 3:47 p.m.  
TRD-859096

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## Texas Department of Community Affairs

**Thursday, October 24, 1985, 9 a.m.** The Older Worker Task Force of the Texas Department of Community Affairs will meet at 8317 Cross Park Drive, Austin. According to the agenda summary, the committee will cover the program progress report, update the demonstration project activities, discuss the continuing role of task force, and hear a briefing by Evaluation Consultants.

**Contact:** Clyde McQueen, 8317 Cross Park Drive, Walnut Creek Business Park, Austin, TX 78711, (512) 834-6090.

**Filed:** October 1, 1985, 10:50 a.m.  
TRD-859072

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## Texas State Board of Dental Examiners

**Thursday-Saturday, October 10-12, 1985, 8 a.m.** The Texas State Board of Dental Examiners will meet at the Marriott Hotel, 6121 North IH 35 at 290, Austin. According to the agenda, the board will discuss legal representation, and a reinstatement request from Dr. Neveille Williams.

**Contact:** William S. Nail, 411 West 13th Street, Suite 503, Austin, Texas 78701, (512) 475-2443.

**Filed:** October 2, 1985, 2:10 p.m.  
TRD-859141

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## Texas Education Agency

The Advisory Committee for Examination for Certification of Educators in Texas (EX-CET) of the Texas Education Agency will meet at the Driskill Hotel, Mezzanine, 117 Seventh Street, Austin. Days, times, and agendas follow.

**Monday, October 7, 1985, 8:30 a.m.** An emergency meeting to review items to be tested on the Examination for Certification of Educators in Texas (EXCET) to be administered in May 1986, and thereafter; work sessions, starting at 9:30 a.m., in which actual test items were reviewed, were be closed in accordance with Texas attorney general Opinions H-484 (1974) and H-780 (1976). The emergency status was necessary to enable the committee to review test items for the initial certification testing of teachers in time to keep to the schedule for adoption of certification tests.

**Contact:** Pam Tackett, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9525.

**Filed:** October 1, 1985, 4:45 p.m.  
TRD-859105

**Wednesday, October 9, 1985, 8:30 a.m.** A review of items to be tested on the Examination for Certification of Educators in Texas

(ExCET) to be administered in May 1986, and thereafter. Work sessions, starting at 9:30 a.m., in which actual test items will be reviewed, will be closed in accordance with Texas attorney general Opinions H-484 (1974) and H-780 (1976).

**Contact:** Pam Tackett, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9525.

**Filed:** October 1, 1985, 4:45 p.m.  
TRD-859106

**Thursday, October 10, 1985, 8:30 a.m.** A review of items to be tested on the Examination for Certification of Educators in Texas (ExCET) to be administered in May 1986, and thereafter; work sessions, starting at 9:30 a.m., in which actual test items will be reviewed, will be closed in accordance with the Texas attorney general Opinions H-484 (1974) and H-780 (1976).

**Contact:** Pam Tackett, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9525.

**Filed:** October 1, 1985, 4:46 p.m.  
TRD-859107

**Friday, October 11, 1985, 8:30 a.m.** The State Board of Education, Committee of the Whole, of the Texas Education Agency will meet at Robert E. Lee Youth Center, Fort Brown Memorial Civic Center, 600 International Boulevard, Brownsville. According to the agenda, the committee will consider goals and objectives for the State Board of Education's long-range plan.

**Contact:** W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

**Filed:** October 2, 1985, 2:20 p.m.  
TRD-859133

**Friday, October 11, 1985, 9 a.m.** The State Board of Education, Committee for Finance and Programs, of the Texas Education Agency will meet in Herbert L. Stokely Hall, Fort Brown Memorial Civic Center, 600 International Boulevard, Brownsville. Items on the agenda summary include review of permanent school fund (PSF) securities transactions; review of PSF investment portfolio; recommended PSF investment program for October; estimated funds from the PSF available for the October program; recommended approval of a contract with investment counsel for the state PSF; discussion of the investment advisory committee for the PSF; report of the investment officer regarding the PSF; mineral leases by school districts; proprietary schools; appeals procedure; special education; proprietary schools and veterans education; school-community guidance centers; secondary school vocational education; requirements for student attendance accounting for state funding purposes; school district annual performance report; allocation of person-

nel units to the Texas Department of Corrections; Windham Independent School District allotment; operation of school buses; transportation: regular student eligibility; contracted transportation; contract with transportation company or system; request for authorization to issue a request for proposals for education of the Handicapped Act, Part B, Handicapped Special Studies Program; approval of nonpublic schools for handicapped students for contracting purposes for school year 1985-1986; request to submit an application for funds for removal of architectural barriers—Education of the Handicapped Act, Part A, §607; Proposed Job Training Partnership Act, §123, 20% discretionary project; proposals for grants under Public Law 98-524, §441, bilingual vocational training; proposed allocation of \$2 million to regional education service centers for accreditation, curriculum, and training assistance to school districts; proposed allocation of state funds to regional education service centers; request for approval of fund discretionary grants under Public Law 98-377, Title II, math and science teacher excellence renewal; request for authority to continue participation in the Council on Migrant Education of the Education Commission of the States; establishment of vocational education technical committees; nominations for membership on the Information Systems Advisory Committee; recommendations for appointment to the Price Differential Index Advisory Committee; recommendations for appointment to the Accountable Cost Advisory Committee and the Research Advisory Committee; and the 1985 report of the commissioner of education concerning changes and corrections in textbooks.

**Contact:** W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

**Filed:** October 2, 1985, 2:19 p.m.  
TRD-859134

**Friday, October 11, 1985, 9 a.m.** The State Board of Education, Committee for Personnel, of the Texas Education Agency will meet at Robert E. Lee Youth Center, Fort Brown Memorial Civic Center, 600 International Boulevard, Brownsville. Items on the agenda summary include qualifications of special education personnel and related services personnel; preparation and planning time; teacher career ladder; in-service training in management skills for district administrators; teacher certification: certificate issuance procedures; duty-free lunch; assignment of personnel; state textbook committee: meetings, compensatory per diem, and expenses; paperwork reduction; evidence of educational attainment; testing program; approval of Texas examination for current administrators and teachers preparation materials; approval of Texas examination for current administrators and teachers administration fee for per-

sons not eligible to be examined at state expense; approval of scoring procedures for writing portion of the Texas examination for current administrators and teachers; statewide standards on the duties of a school board member; a report on the review of state appraisal planning effort with external experts; the 1985 report of the commissioner of education concerning changes and corrections in textbooks; statewide summary of results on the summer 1985 administration of the pre-professional skills test; scheduling for review and approval of test items for the Texas examination for current administrators and teachers.

**Contact:** W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

**Filed:** October 2, 1985, 2:20 p.m.  
TRD-859135

**Friday, October 11, 1985, 9 a.m.** The State Board of Education, Committee for Student of the Texas Education Agency will meet at Stillman Town Hall, Fort Brown Memorial Civic Center, 600 International Boulevard, Brownsville. Items on the agenda summary include materials available for use with textbooks; special education: clarification of provisions regarding age range for eligible handicapped students; special education: clarification of provisions in federal regulations and state law; driver education; time sessions for school operation; graduation requirements; kindergarten; discipline management; general educational development; special education: general program requirements; instructional resources: adoptions by reference; library media standards; bilingual education and other special language programs; proposed amendments to Proclamation 62 of the State Board of Education advertising for bids on textbooks; the 1985 report of the commissioner of education concerning changes and corrections in textbooks; comparison of national norm-referenced results to Texas educational assessment of minimum skills (TEAMS) test results and planning for reporting of TEAMS results; mid-term Texas educational assessment of minimum skills for migrant students; scheduling for review and approval of first grade TEAMS test.

**Contact:** W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

**Filed:** October 2, 1985, 2:20 p.m.  
TRD-859136

**Saturday, October 12, 1985, 8:30 a.m.** The State Board of Education of the Texas Education Agency will meet in the Fortress Room, Fort Brown Hotel, 1900 East Elizabeth Street, Brownsville. Items on the agenda summary include estimated funds from the permanent school fund available

for the October investment program; recommended approval of a contract with investment counsel for the state permanent school fund; mineral leases by school districts; proprietary schools: appeals procedure; special education; proprietary schools and veterans and education; school-community guidance centers; secondary school vocational education; requirements for student attendance accounting for state funding purposes; school district annual performance report; allocation of personnel units to the Texas Department of Corrections (repeal of existing rule); Windham Independent School District district allotment; operation of school buses; transportation: regular student eligibility; contracted transportation; contract with transportation company or system; request for authorization to issue a request for proposals for education of the Handicapped Act, Part B, Handicapped Special Studies Program; approval of nonpublic schools for handicapped students for contracting purposes for school year 1986-86; request to submit an application for funds for removal of architectural barriers—education of the Handicapped Act, Part A, §607; proposed Job Training Partnership Act (JTPA), §123, 20% discretionary project; proposals for grants under Public Law 98-524, §441, bilingual vocational training; proposed allocation of \$2 million to regional education service centers for accreditation, curriculum, and training assistance to school districts; proposed allocation of state funds to regional education service centers; request for approval to funds discretionary grants under Public Law 98-377, Title II, math and science teacher excellence renewal; request for authority to continue participation in the Council on Migrant Education of the Education Commission of the States; materials available for use with textbooks; special education: clarification of provisions regarding age range for eligible handicapped students; special education: clarification of provisions in federal regulations and state law; driver education; time sessions for school operation; graduation requirements; kindergarten; discipline management; general educational development; special education: general program requirement; instructional resources: adoptions by reference; library media standards; bilingual education and other special language programs; proposed amendments to Proclamation 62 of the State Board of Education Advertising for bids on textbooks; qualification of special education personnel and related services personnel; preparation and planning time; teacher career ladder; in-service training in management skills for district administrators; teacher certification: certificate issuance procedures; duty-free lunch; assignment of personnel; State Textbook Committee: meetings, compensatory per diem, and expenses; paperwork reduction; evidence of educational attainment; testing program; approval of Texas

examination for current administrators and teachers preparation materials; approval of Texas examination for current administrators and teachers administration fee for persons not eligible to be examined at state expense; approval of scoring procedures for writing portion of the Texas examination for current administrators and teachers.

**Contact:** W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

**Filed:** October 2, 1985, 2:20 p.m.  
TRD-859137

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### Office of the Governor

**Thursday, October 17, 1985, 1 p.m.** The Interagency Council on Nutrition and Fitness of the Office of the Governor will meet in Room G209, Texas Department of Health, Austin. Items on the agenda include chairman's report, special reports on pilot studies, carbohydrate levels in correctional facilities, and fitness subcommittee; consultant's report; and new business.

**Contact:** Janie Sieberg, Texas Department of Mental Health and Mental Retardation, Food Service, 45th and Lamar Boulevard, Austin, Texas 78701, (512) 465-4600.

**Filed:** October 2, 1985, 11:16 a.m.  
TRD-859129

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### University of Houston System

**Tuesday, October 8, 1985, 8:30 a.m.** The Board of Regents of the University of Houston will meet in Room 220, Ezekiel Cullen Building, 4800 Calhoun, Houston. Items on the agenda summary include banking resolution-constitutional appropriation bond series 1985; purchase of video tape machines; acquisition of real property; personnel review; Facilities Planning and Building Committee report and recommendation; Academic Affairs and Campus Relations Committee report and recommendations; Finance Committee report and recommendations; Regental Policy Committee report and recommendations; Investment Committee report and recommendations; appointment of committees and committee officers; and consent docket and president's report.

**Contact:** Michael T. Johnson, Suite 500, 4600 Gulf Freeway, Houston, Texas 77023, (713) 749-7545.

**Filed:** October 2, 1985, 1:59 p.m.  
TRD-859142

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### State Board of Insurance

**Friday, October 11, 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 9078—application of Charles Ray Porter, Dallas, for a Group I legal reserve life, health, and accident insurance agent's license.

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

**Filed:** October 2, 1985, 9:52 a.m.  
TRD-859126

**Friday, October 11, 1985, 1:30 p.m.** The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the section will conduct a public hearing in Docket 9082—application of Wayne Billy Neeley, Dallas, for a resident insurance adjusters agent's license.

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

**Filed:** October 2, 1985, 9:52 a.m.  
TRD-859127

**Monday, October 14, 1985, 2:30 p.m.** The State Board of Insurance will meet in Room 414, State Insurance Building, 1110 San Jacinto Street, Austin. According to the agenda, the board will conduct a meeting to make a decision on private passenger and commercial automobile insurance rates.

**Contact:** Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 463-6328.

**Filed:** October 2, 1985, 2:01 p.m.  
TRD-859144

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### Texas State Board of Medical Examiners

**Wednesday, October 16, 1985, 9 a.m.** The Ad Hoc Committee on Drugs of the Texas State Board of Medical Examiners will meet at 1101 Camino LaCosta, Austin. According to the agenda, the committee will discuss the memorandum of understanding and related issues, and meet in executive session possible under authority of Article 6252-17, as related to Article 4495b, 4.05(d), 5.06 (e)(1) and attorney general Opinion H-484, 1974, and Article 4459b, 3.05(d).

**Contact:** Jean Davis, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

**Filed:** October 3, 1985, 9:15 a.m.  
TRD-859171

**Wednesday, October 16, 1985, 1 p.m.** The Texas State Board of Medical Examiners will meet at 1101 Camino LaCosta, Austin. Items on the agenda summary include

orientation for new board members, including overview of board history and Act, goals, functions, meeting, rules, licensure, investigations, hearings, legal duties, finances, compliance by physicians, and committee structure and purposes; and meet in executive session possible under authority of Article 6252-17, as related to Article 4495b, 4.05(d), 5.06(e)(1), 3.05(d), and attorney general Opinion H-484, 1974.

Contact: Jean Davis, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: October 3, 1985, 9:15 a.m.  
TRD-859172

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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 made an emergency revision to the agenda for a meeting held in the boardroom, Administration Building, North Texas State University, Denton. According to the agenda, the board considered a faculty tenure appeal; an architect for Advanced Center remodeling; purchase of capital equipment items exceeding \$100,000; selection of bond advisor and/or managing underwriter; selection of bond counsel; authorizing the issuance and sale of consolidated university revenue refunding and improvement bonds and the payment thereof and the refunding and defeasance of certain outstanding bonds; authorization for the issuance and sale of Proposition 2 bonds sufficient to raise \$15 million; and a personnel change for the Texas College of Osteopathic Medicine. The board also met in executive session pursuant to Texas Civil Statutes, Article 6252-17 §2(e), legal; (f), real estate; and (g), personnel. The emergency status was necessary because a major financial development which had just occurred made it in the best interest of North Texas State University to gain board approval of the items listed.

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

Filed: October 2, 1985, 11:45 a.m.  
TRD-859131

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### State Occupational Information Coordinating Committee

Wednesday, October 30, 1985, 9 a.m. The State Occupational Information Coordinating Committee will meet in Room 644, Texas Employment Commission Building, 15th and Congress Avenue, Austin. Items

on the agenda summary include discussion of current projects, past and current operating budgets, and the status of the state plan for labor market information. The committee also will meet in executive session to elect a chairman.

Contact: Michael R. Fernandez, TEC Building, 12th and Trinity, Austin, Texas 78701, (512) 463-2399.

Filed: October 1, 1985, 2:16 p.m.  
TRD-859092

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### Board of Pardons and Paroles

Wednesday, October 2, 1985, 9:30 a.m. The Board of Pardons and Paroles made an emergency revision to the agenda for a meeting held at 8610 Shoal Creek Boulevard, Austin. Items on the agenda summary included the minutes of the August 28 and September 24, 1985, meetings; halfway house request for proposal; proposed contract for residential services; executive director report; status report on computer requisition; summons to administrative release revocation hearing; board policy regarding set-off; distribution of cases; proposed training program by TCHR; fiscal year 1986 operating budget; travel permits for halfway house cases; quarter house special conditions; and personnel matter. The emergency status was necessary to add a personnel matter to the agenda.

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

Filed: October 1, 1985, 4:14 p.m.  
TRD-859101

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### Texas Parks and Wildlife Department

Wednesday, October 9, 1985, 7 p.m. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at 400 West 15th Street, Austin. According to the agenda, the commission will have dinner and discuss items on the public hearing agenda scheduled for 9 a.m. on October 10, 1985.

Contact: Charles D. Travis, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4802.

Filed: October 1, 1985, 2:21 p.m.  
TRD-859087

Thursday, October 10, 1985, 9 a.m. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet in Building B, Parks and Wildlife

Headquarters Complex, 4200 Smith School Road, Austin. Items on the agenda include fish and wildlife valuations; implementation of legislation—law enforcement; nongame stamp program; and lead poisoning/steel shot.

Contact: Charles D. Travis, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4802.

Filed: October 1, 1985, 2:22 p.m.  
TRD-859088

Thursday, October 10, 1985, 9 a.m. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet in Building B, Parks and Wildlife Headquarters Complex, 4200 Smith School Road, Austin. Items on the agenda include approval of August 30, 1985, public hearing court reporter minutes; presentation of retirement certificates and service plaques; annual operation plan for Matagorda Island State Park and Wildlife Management Area; saltwater stamp contract and proposed and proposed stamp rules; request for renewal of pipeline easements on J. D. Murphree Wildlife Management Area; marking of vehicles transporting fish; Elephant Mountain Wildlife Management Area Advisory Committee; boat ramp program; and land acquisition—Calhoun County; and pending land offer.

Contact: Charles D. Travis, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4802.

Filed: October 1, 1985, 2:21 p.m.  
TRD-859089

Thursday, October 10, 1985, noon. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet in Building B, Parks and Wildlife Headquarters Complex, 4200 Smith School Road, Austin. According to the agenda, the commission will discuss potential acquisitions; settlement of pending litigation; and personnel matters.

Contact: Charles D. Travis, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4802.

Filed: October 1, 1985, 2:22 p.m.  
TRD-859090

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### State Pension Review Board

Wednesday, October 16, 1985, 10 a.m. The State Pension Review Board will meet in the Conference Room 403, fourth floor, Employees Retirement System Building, 18th and Brazos Streets, Austin. According to the agenda, the board will discuss committee assignments, actuarial contract with Milliman and Robertson, and hear a briefing for new board members by statewide system directors.



**Contact:** Benette Meadows, 18th and Brazos Streets, Room 501, Austin, Texas 78701, (512) 463-1736.

**Filed:** October 2, 1985, 2 p.m.  
TRD-859143

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### Texas State Board of Public Accountancy

**Wednesday, October 9, 1985, 9:30 a.m.** The Entry and Reentry Screening Committee of the Texas State Board of Public Accountancy will meet in Suite 340, 1033 La Posada, Austin. According to the agenda summary, the committee will review applications for reinstatement, nonroutine applications, conviction reports, statistics, plans for the November swearing-in ceremony, examination on rules of professional conduct, and other business as appropriate.

**Contact:** Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

**Filed:** October 1, 1985, 3:36 p.m.  
TRD-859094

**Wednesday, October 9, 1985, 10 a.m.** The Examination Committee of the State Board of Public Accountancy will meet in Suite 340, 1033 La Posada, Austin. According to the agenda summary, the committee will review information relating to the November examination: nonroutine applications, site assignments, statistical projections, proctor availability, temporary help at sites; review of other pertinent information. computerized application mailer, proctoring form, and service contract for candidate characteristics and performance report; discussion of proposed change in 22 TAC §511.21; and other business as appropriate.

**Contact:** Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

**Filed:** October 1, 1985, 3:36 p.m.  
TRD-859095

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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.

**Thursday, October 10, 1985, 11 a.m.** A prehearing conference in Docket 6524—application of Engel Utility Company for a rate increase.

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

**Filed:** October 1, 1985, 3:47 p.m.  
TRD-859097

**Friday, October 11, 1985, 9 a.m.** A prehearing conference in Docket 6482—petition of Mountain View Utility Company to terminate service within Johnson County.

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

**Filed:** October 1, 1985, 3:47 p.m.  
TRD-859098

**Friday, October 11, 1985, 1:30 p.m.** A hearing on the merits in Docket 6421—Application of Texas Commercial Investments, Inc. for a water certificate of convenience and necessity within Travis County.

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

**Filed:** October 1, 1985, 3:47 p.m.  
TRD-859099

**Wednesday, October 23, 1985, 10 a.m.** A prehearing in Docket 6468—application of the City of Kyle to amend its certificate of convenience and necessity to provide sewer service within Hays County.

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

**Filed:** October 2, 1985, 2:01 p.m.  
TRD-859145

**Friday, November 15, 1985, 10 a.m.** A hearing on the merits in Docket 6519—application of Trinity Valley Telephone Company to detariff its embedded mobile customer premises equipment.

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

**Filed:** October 1, 1985, 3:48 p.m.  
TRD-859100

**Wednesday, December 11, 1985, 10 a.m.** A hearing on the merits in Docket 6490—application of Waterwood Telephone Company for authority to change rates.

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

**Filed:** October 2, 1985, 2:01 p.m.  
TRD-859146

**Thursday, January 30, 1986, 9 a.m.** A hearing on the merits in Docket 6521—application of General Telephone Company of the Southwest for a new tariff offering 976 service.

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

**Filed:** October 2, 1985, 2:02 p.m.  
TRD-859147

**Thursday, February 6, 1986, 10 a.m.** A hearing on the merits in Docket 6518—application of Hill Country Telephone Cooperative, Inc., for a proposed new tariff—pass-through of local taxes.

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

**Filed:** October 2, 1985, 2:01 p.m.  
TRD-859148

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### Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons

**Thursday, October 10, 1985, 10 a.m.** The Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons will meet at 4800 North Lamar Boulevard, Austin. Items on the agenda include the introduction of visitors; acceptance of minutes; new products and services; price revisions; and new business.

**Contact:** Ron P. Mansolo, P.O. Box 12866, Austin, Texas 78711, (512) 475-6731.

**Filed:** October 1, 1985, 1:46 p.m.  
TRD-859084

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### Boards for Lease of State-Owned Lands

**Thursday, October 10, 1985, 4 p.m.** The Boards for Lease of Texas Parks and Wildlife Department of the Boards for Lease of State-Owned Lands will meet in Room 833, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board will approve minutes of the previous board meeting and consider easement applications.

**Contact:** Linda K. Fisher, 1700 North Congress Avenue, Room 837, Austin, Texas 78701, (512) 475-0219.

**Filed:** October 2, 1985, 4:05 p.m.  
TRD-859169

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## Structural Pest Control Board

**Thursday, October 17, 1985, 9 a.m.** The Structural Pest Control Board will meet in Suite 250, Building C, 1300 East Anderson Lane, Austin. Items on the agenda include approval of minutes of July 17 and 18, 1985, meetings; executive director's report; appearance of Roy W. Jones, doing business as Orkin Exterminating Company; appearance of Craig Goodwin and Michael Koehl, doing business as Orkin Exterminating Company; appearance of Maynard C. Strackbein, doing business as Orkin Exterminating Company; and miscellaneous matters.

**Contact:** David A. Ivie, 1300 East Anderson Lane, Building C, Suite 250, Austin, Texas 78752, (512) 835-4066.

**Filed:** October 1, 1985, 11:18 a.m.  
TRD-859073

**Friday, October 18, 1985, 8:30 a.m.** The Structural Pest Control Board will meet in Suite 250, Building C, 1300 East Anderson Lane, Austin. Items on the agenda include appearance of Dennis Green, doing business as Green's Tree Service; appearance of Jim Jolly, doing business as Austin City Pest Control; appearance of Hugh Whaley, doing business as Whaley Pest Control; 1986 examination dates; and miscellaneous matters. The board also will meet in executive session.

**Contact:** David A. Ivie, 1300 East Anderson Lane, Building C, Suite 250, Austin, Texas 78752, (512) 835-4066.

**Filed:** October 1, 1985, 11:18 a.m.  
TRD-859074

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## Texas Water Commission

**Friday, November 15, 1985, 9 a.m.** The Texas Water Commission will meet in Room 618, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider the application of the City of Leander, P.O. Box 319, Leander, Texas 78641, to the 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 plant which in turn would be expanded to an ultimate capacity of 3.75 million gallons.

**Contact:** Joseph W. O'Neal, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

**Filed:** October 2, 1985, 2:03 p.m.  
TRD-859149

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**Tuesday, December 10, 1985, 10 a.m.** The Texas Water Commission will conduct hearings in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Agendas follow.

Application by Charles L. Bengé for an amendment to Certificate of Adjudication 14-2549 to consolidate reporting and operational functions of Certificate of Adjudication 14-2548 and 14-2549 under one certificate, which would result in Certificate of Adjudication 14-2549, as combined, authorizing the diversion and use of 249 acre-feet of water per annum from the Colorado River to irrigate 149 acres of land. Applicant further seeks to amend Certificate of Adjudication 14-2549, to increase the annual appropriation from 249 acre-feet to 349 acre-feet of water; to increase the total irrigated acreage from 149 acres to 254 acres of land; and to increase the total area out of which irrigation can occur from 249 to 266.236 acres of land in Mills County, Texas.

Application by the Lower Colorado River Authority for a permit to modify an existing and reservoir located on Shaw Creek, tributary of Cummins Creek, tributary of the Colorado River, Colorado River Basin, and to impound therein not to exceed 762.73 acre-feet of water in Fayette County; to construct a dam and 375.8 acre-foot capacity reservoir on an unnamed tributary of Shaw Creek; and to use the water impounded in said reservoirs for in-place mining (sedimentation) purposes.

Application by City of Llano to amend Certificate of Adjudication 14-1650 to reduce the authorized storage capacity of the reservoir from 500 acre-feet to 317 acre-feet. Said 183 acre-feet of storage is to be transferred to City Lake authorized by Certificate of Adjudication 14-1655. The dam is located on the Llano River, Colorado River Basin.

Application by City of Llano to amend Certificate of Adjudication 14-1655 to increase the capacity of the reservoir to 383 acre-feet. The increase in storage is to be transferred from applicant's City Park Lake. The dam and reservoir are located on the Llano River, Colorado River Basin.

Application by John and Edith Burris for a permit to divert and use 150 acre-feet of water per annum from a 1.67 acre-foot capacity reservoir located on Lattas Creek and/or directly from Lattas Creek, tributary of San Fernando Creek, Trip of Cayo Deo Grullo, tributary of Baffin Bay, Nueces-Rio Grande Coastal Basin, for irrigation purposes.

Application by Harry and Hazel Tosh to maintain two existing dams and an exempt 55 acre-foot capacity reservoir on an unnamed tributary of Black Branch, tributary of One Eye Creek, tributary of Box Creek, tributary of Neches River, Neches River

Basin, and to divert and use therefrom not to exceed 30 acre-feet per annum for irrigation of 60 acres of land in Cherokee County.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** October 2, 1985, 2:04 p.m.  
TRD-859150-859155

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## Regional Agencies

### Meetings Filed October 1

**The Brazos River Authority**, Administrative Policy Committee, will meet at 4400 Cobbs Drive, Waco, on October 8, 1985, at 11 a.m. Information may be obtained from Mike Bukala, 4400 Cobbs Drive, Waco, Texas 76714-7555, (214) 776-1441.

**The Canadian River Municipal Water Authority**, Board of Directors, will meet in the Plainview Club, IH 27 and Southwest Third Street, Plainview, on October 9, 1985, at 10:30 a.m. Information may be obtained from John C. Williams, P.O. Box 99, Stanford, Texas 79078, (806) 865-3325

**The East Texas Council of Governments**, Executive Committee, met in emergency session 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 Lavaca County Central Appraisal District**, Board of Directors, will meet at 113 North Main, Hallettsville, on October 14, 1985, at 4 p.m. Information may be obtained from Joe Pat Davis, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396.

**The San Patricio County Appraisal District**, Board of Directors, will meet at the Courthouse Annex, Sinton, on October 11, 1985, at 9:30 a.m. Information may be obtained from Kathryn Vermillion, P.O. Box 938, Sinton, Texas 78387, (512) 364-5402.  
TRD-859083

### Meetings Filed October 2

**The Hays County Central Appraisal District Board of Directors**, Board of Review, will meet at Hays County Courthouse Annex, San Marcos, on October 16, 1985, at 9 a.m. Information may be obtained from Hays County Central Appraisal District, 102 LBJ Drive, San Marcos, Texas 78666, (512) 396-4777.

**The Lee County Appraisal District**, Board of Review, will meet at 218 East Richmond Street, Giddings, on October 10, 1985, at 9 a.m. Information may be obtained from Delores Shaw, 218 East Richmond, Giddings, Texas 78942, (409) 542-9618.  
TRD-859128.

# 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.

## State Banking Board Public Hearings

The hearing officer of the State Banking Board will conduct a hearing at 9 a.m. on Monday, November 25, 1985, at 2601 North Lamar, Austin, on the charter application for Hebronville State Bank, Hebronville, Jim Hogg County.

Additional information may be obtained from William F. Aldridge, Director of Corporate Activities, Banking Department of Texas, 2601 North Lamar, Austin, Texas 78705, (512) 475-4451.

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

TRD-859001 William F. Aldridge  
Director of Corporate Activities  
State Banking Board

Filed: September 30, 1985  
For further information, please call (512) 475-4451.

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The hearing officer of the State Banking Board will conduct a hearing at 9 a.m. on Tuesday, November 19, 1985, at 2601 North Lamar, Austin, on the charter application for Bank of Garland, Garland, Dallas County.

Additional information may be obtained from William F. Aldridge, Director of Corporate Activities, Banking Department of Texas, 2601 North Lamar, Austin, Texas 78705, (512) 475-4451.

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

TRD-859002 William F. Aldridge  
Director of Corporation Activities  
State Banking Board

Filed: September 30, 1985  
For further information, please call (512) 475-4451.

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## Texas Economic Development Commission Private Activity Bond Allocation Report

Private activity bonds (PABs) which were induced on or after June 19, 1984, are subject to a cap, as stipulated in the Federal Deficit Reduction Act of 1984. This cap is equal to \$150 per capita or approximately \$2.3 billion for the State of Texas for calendar year 1985.

House Bill 690 states that the procedure for allocating this cap will be on a first-come, first-served basis, with the Texas Economic Development Commission (TEDC) acting as the tracking agency for the program. The information that follows is a summary report of the allocation activity for the week of September 23-27, 1985.

Total unallocated principal amount of private activity bonds authorized to be allocated as per the Federal Deficit Reduction Act of 1984 through September 27, 1985:

\$1,575,488,332.12

Comprehensive listing of bond issues which have received a reservation date as per House Bill 690 during the week of September 23-27, 1985:

Issuer	User	Amount
Texas Small Business Industrial Development Corporation	Scott Environmental Technology, Inc.	\$400,000
Terrell Development Corporation	Southwest Associated Furniture Buyers, Ltd.	\$1.05 million
Tarrant County Industrial Development Corporation	Texas Cold Storage, Inc.	\$2.5 million
Brazos County Health Facilities Development Corporation	Butler-Paulos Partnership	\$6 million

Total principal amount of private activity bonds issued through September 27, 1985:

\$737,065,310.63

Comprehensive listing of bonds issued as per House Bill 690 during the week of September 23-27, 1985:

Issuer	User	Amount
Walker County Industrial Development Corporation	Star South Development	\$6 million
Harris County Industrial Development Corporation	Wayne Broyles Engineering Corporation	\$1.5 million
Texas Small Business Industrial Development Corporation	Michael J. Kenny Project	\$580,000
West Texas Higher Education Authority, Inc.	West Texas Higher Education Authority, Inc.	\$45 million
Greater East Texas Higher Education Authority, Inc.	Greater East Texas Higher Education Authority, Inc.	\$60 million

Trinity River Industrial Development Authority      Ramsey Laboratories, Inc.      \$2.2 million

Issued in Austin, Texas, on October 1, 1985.

TRD-859102      David V. Brandon  
Executive Director  
Texas Economic Development Commission

Filed: October 1, 1985  
For further information, please call (512) 472-5060.

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## Employees Retirement System of Texas Requests for Proposals

In accordance with the Insurance Code, Article 3.50-2, §4, as amended, and subject to the approval of the Board of Trustees (trustee), the Employees Retirement System of Texas (ERS) announces a request for proposal (RFP) to conduct an annual audit of the carrier authorized by the trustee to provide services and insurance to employees of the State of Texas under the Uniform Group Insurance Program. Such audit shall include, but not be limited to, claims administration, contract compliance, gross and net costs, administration costs, benefits, utilization of benefits, and the annual accounting specified under §9 of the previously cited statute. It will not entail an audit of the insurance carrier's financial records. Therefore, firms wishing to respond to the request should have superior, recognized expertise and specialization in the accounting and audit principles which deal with the review of employee benefit programs, State of Texas policies and procedures, group insurance contract administration, and insurance administration.

The RFP instructions which detail information regarding the project are available upon request at the Employees Retirement System, Group Insurance Division, 18th and Brazos Streets, Austin.

The deadline for receipt of the proposals in response to this request will be 5 p.m. on November 1, 1985.

The ERS reserves the right to accept or reject any or all proposals submitted. The ERS is under no legal requirement to execute a resulting contract on the basis of this advertisement. The ERS intends to use responses as a basis for further negotiations of specific project details. The ERS will base its choice on cost, demonstrated competence, superior qualifications, and evidence of conformance with the RFP criteria. However, since this is a continuation of a service previously performed, it is the intent of ERS to award the contract for the consulting services to the firm that previously performed the services unless a clearly superior proposal is received.

This RFP does not commit ERS to pay any costs incurred prior to execution of a contract. Issuance of this material in no way obligates ERS to award a contract or to pay any costs incurred in the preparation of a response. The ERS specifically reserves the right to vary all provisions set forth at any time prior to execution of a contract where ERS deems it to be in the best interest of the State of Texas.

For further information regarding this notice, or to obtain copies of the RFP instructions, please contact Henry D. Eckert, Employees Retirement System, Group Insurance

Division, 18th and Brazos, P.O. Box 13207, Austin, Texas 78711, (512) 476-6431, ext. 217.

Issued in Austin, Texas, on October 1, 1985.

TRD-859089      Clayton T. Garrison  
Executive Director  
Employees Retirement System of Texas

Filed: October 1, 1985  
For further information, please call (512) 476-6431, ext. 178.

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The Texas Employees Uniform Group Insurance Program (program) was established in 1975 by the 69th Legislature, 1985, to provide uniform group life, health, accident and disability coverage to state employees. The responsibility for the administration of the program is vested in the six-member board of trustees (hereinafter called trustee) of the Employees Retirement System of Texas (hereinafter called the system). Under the Texas Insurance Code, Article 3.50-2, the trustee may provide coverages directly from the employees life, accident, and health insurance and benefits fund and may contract with an administering firm to administer the claims arising from such coverages.

With regard to the insured coverages provided under the program, it is the desire of the trustee to have developed a contingency plan of self-insurance if no insurance carriers submit competitive bids or if bids submitted are not cost effective. Subject to the authorization and approval of the trustee, the system will enter into a contract with an independent, nationally recognized firm specializing in group insurance consulting/administration, particularly in the area of self-insurance, for the purpose of developing a contingency plan for self-insurance on a third-party administered basis. The firm will outline the steps to be taken to self-insure, estimate personnel and equipment requirements, perform a cost/benefit analysis comparing the present funding arrangement with various self-insured arrangements, and define the conditions under which the trustee should consider self-insurance.

The request for proposed (RFP) instructions which detail information regarding the project are available upon request at the Employees Retirement System, Group Insurance Division, 18th and Brazos Streets, Austin.

The deadline for receipt of proposals in response to this request will be 5 p.m. on November 1, 1985.

The system reserves the right to accept or reject any or all proposals submitted. The system is under no legal requirement to execute a resulting contract on the basis of this advertisement and intends to use responses as a basis for further negotiations of specific project details. The trustee will base its choice on cost, demonstrated competence, superior qualifications, and evidence of conformance with the RFP criteria.

This RFP does not obligate or commit the system to pay any costs incurred prior to execution of a contract, to award a contract, or to pay any costs incurred in the preparation of a response. The system specifically reserves the right to vary all provisions set forth at any time prior to execution of a contract where it is in the best interest to the state employees.

For further information regarding this notice, or to obtain copies of the RFP instructions, please contact Henry

D. Eckert, Employees Retirement System, Group Insurance Division, 18th and Brazos, P.O. Box 13207, Austin, Texas 78711, (512) 476-6431, ext. 217.

Issued in Austin, Texas, on October 1, 1985.

TRD-859070 Clayton T. Garrison  
Executive Director  
Employees Retirement System of Texas

Filed: October 1, 1985  
For further information, please call (512) 476-6431, ext. 178.

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## Texas Department of Health Intent to Revoke Certificates of Registration

The Bureau of Radiation Control, Texas Department of Health, is seeking the revocation of Certificate of Registration 5-11799, issued to Superior Meat and Provision Company, because the agency determined that the registrant is no longer located at 1414 Jones Street, Forth Worth, Texas 76102. 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 the *Texas Regulations for Control of Radiation*, Part 13.8, this notice affords the opportunity for a hearing to show cause why the certificate of registration should not be revoked. A written request for a hearing must be received within 30 days from the date of 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 27, 1985.

TRD-859078 Robert A. MacLean, M.D.  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Filed: October 1, 1985  
For further information, please call (512) 458-7236.

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The Bureau of Radiation Control, Texas Department of Health, is seeking the revocation of Certificate of Registration 10-12614, issued to Steve W. Kirk, D.D.S., because the agency determined that the registrant is no longer located 1535 Ninth Avenue, Port Arthur, Texas 77640. 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 the *Texas Regulations for Control of Radiation*, Part 13.8, this notice affords the opportunity for a hearing to show cause why the certificate of registration should not be revoked. A written request for a hearing must be received within 30 days from the date of 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 27, 1985.

TRD-859075 Robert A. MacLean, M.D.  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Filed: October 1, 1985  
For further information, please call (512) 458-7236.

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## Licensing Actions for Radioactive Materials

The Texas Department of Health has taken actions regarding licenses for the possession and use of radioactive materials as listed in the following table. The subheading labeled "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

### NEW LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Dallas	Donald L. Levene, M.D., F.A.C.C.	05-3817	Dallas	0	08/09/85
Dallas County	Dallas Water Utilities	05-3829	Dallas	0	08/29/85
Houston	Spring Branch Memorial Hospital	11-3820	Houston	0	08/28/85
Snyder	Midwestern Reclamation	04-3831	Snyder	0	08/16/85
Throughout Texas	Pro Wireline Services, Inc	11-3708	Pearland	0	08/16/85
Throughout Texas	Sunmount Corporation	05-3799	Arlington	0	08/22/85
Throughout Texas	J R Testing Lab, Inc	04-3836	Ablene	0	08/29/85

### AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Amarillo	Master Nuclear Pharmacy	01-3398	Amarillo	2	08/23/85
Arlington	Metroplex Hematology/Oncology Associates	05-3211	Arlington	15	08/20/85
Brenham	Saint Jude Hospital	06-3419	Brenham	5	08/26/85
College Station	Texas A & M University	06-456	College Station	13	08/16/85
College Station	Texas A & M University	06-448	College Station	56	08/16/85
College Station	Texas A & M University	06-448	College Station	57	08/23/85

Commerce	East Texas State University	05-604	Commerce	25	08/20/85	Throughout Texas	RAM Inspection, Inc.	12-3741	Odessa	2	08/22/85
Corpus Christi	Intec	08-3739	Corpus Christi	1	08/16/85	Throughout Texas	B & G Inspection	11-3695	Angleton	1	08/22/85
Dallas	Endocrine Associates of Dallas, P.A.	05-2668	Dallas	8	08/23/85	Throughout Texas	Texas Steel Company	05-163	Fort Worth	24	08/22/85
Dallas	North Dallas Diagnostic Center	05-3125	Dallas	12	08/20/85	Throughout Texas	Lin-San Inspection, Inc.	08-3577	Corpus Christi	3	08/22/85
El Paso	SEATT Corporation	99-3815	Downers Grove, IL	1	08/29/85	Throughout Texas	Rountree and Company	07-3412	Longview	7	08/22/85
El Paso	El Paso Cancer Radiation Treatment Center	03-1847	El Paso	17	08/28/85	Throughout Texas	Tri-State Labs, Inc.	11-3802	Freeport	1	08/22/85
El Paso	Hotel Dieu Hospital & Medical Center	03-2185	El Paso	16	08/20/85	Throughout Texas	M & M Wireline Services, Inc.	06-3604	San Marcos	4	08/22/85
El Paso	Providence Memorial Hospital	03-2353	El Paso	19	08/20/85	Throughout Texas	State Department of Highways and Public Transportation	06-197	Austin	33	08/22/85
Fort Worth	Moncrief Radiation Center	05-47	Fort Worth	20	08/02/85	Throughout Texas	Meyer-Lytton-Allen, Inc.	06-1820	Austin	17	08/22/85
Freeport	Badische Corporation	11-1021	Freeport	28	08/16/85	Throughout Texas	SIE, Inc.	05-747	Fort Worth	38	08/22/85
Houston	CRC Automatic Welding	11-3416	Houston	3	08/22/85	Throughout Texas	ARCO Exploration and Technology Company	05-134	Plano	34	08/29/85
Houston	Valco Instruments Company, Inc.	11-1572	Houston	10	08/29/85	Throughout Texas	CRC Wireline, Inc.	05-315	Grand Prairie	56	08/29/85
Houston	Parkway Hospital	11-1964	Houston	16	08/28/85	Throughout Texas	Gearhart Industries, Inc.	05-3284	Alvarado	9	08/29/85
Houston	Bellaire General Hospital	11-2038	Houston	10	08/28/85	Throughout Texas	City of Marshall	07-3237	Marshall	3	08/29/85
Irving	Nuclear Medical Laboratories	05-1376	Irving	40	08/16/85	Throughout Texas	Coastal Inspection Company	11-3716	Alvin	7	08/29/85
LaPorte	The Dow Chemical Company	11-510	LaPorte	34	08/21/85	Throughout Texas	D-Arrow Inspection, Inc.	11-3816	Houston	1	08/29/85
Longview	Texas Eastman Company	07-301	Longview	53	08/22/85	Throughout Texas	Applied Standards Inspection, Inc.	10-3072	Beaumont	6	08/29/85
Lubbock	Methodist Hospital	02-483	Lubbock	47	08/28/85	Throughout Texas	Micro Gage, Inc.	11-1611	Pearland	11	08/29/85
Lubbock	Texas Tech University	02-1536	Lubbock	32	08/29/85	Throughout Texas	Star-Jet Services, Inc.	08-2214	Corpus Christi	7	08/29/85
Lubbock	Texas Tech University	02-1869	Lubbock	34	08/23/85	Throughout Texas	E I Du Pont de Nemours and Company, Inc.	10-517	Beaumont	44	08/29/85
McAllen	Rio Grande Regional Hospital	08-3288	McAllen	9	08/28/85	Throughout Texas	Tom Hansen Company	05-684	Granbury	36	08/29/85
Muleshoe	Wheelabrator Coal Services Company	0-2672	Amarillo	9	08/29/85	Throughout Texas	Texas Industries, Inc.	05-1421	Dallas	17	08/29/85
San Antonio	Humana Women's Hospital South Texas	09-3656	San Antonio	2	08/27/85	Throughout Texas	East Texas Testing Laboratory	07-1423	Tyler	16	08/29/85
Seminole	Seminole Memorial Hospital	12-3118	Seminole	26	08/16/85	Throughout Texas	De Tar Hospital	08-1630	Victoria	20	08/16/85
St. Louis, MO	Mallinckrodt, Inc.	05-3580	St. Louis, MO	2	08/20/85	Throughout Texas	E I du Pont de Nemours and Company, Inc.	08-386	Victoria	45	08/29/85
Throughout Texas	Well Surveys International, Inc.	05-3563	Plano	1	08/16/85	Wichita Falls	Wichita General Hospital	04-350	Wichita Falls	26	08/29/85
Throughout Texas	Houston Gamma Ray Company	11-2932	Barker	8	08/16/85	<b>TERMINATIONS OF LICENSES ISSUED:</b>					
Throughout Texas	Ultrasonic Specialist, Inc.	11-1774	Houston	25	08/16/85	Location	Name	License #	City	Amend-ment #	Date of Action
Throughout Texas	GEO Vann, Inc.	11-1671	Houston	13	08/19/85	Houston	Edna Wood Laboratories, Inc.	11-1840	Houston	4	08/23/85
Throughout Texas	The Analysts, Inc.	11-3352	Sugarland	3	08/19/85	Jacksonville	Travis Clinic Association	07-1953	Jacksonville	10	08/16/85
Throughout Texas	Tracer Laboratory of Midland	12-3298	Midland	7	08/19/85	Longview	R. Cargill and Company, Inc.	07-2005	Longview	18	08/21/85
Throughout Texas	Glitch Field Services, Inc.	05-334	Dallas	23	08/16/85	Odessa	Wallace Depth Control	12-3554	Odessa	1	08/23/85
Throughout Texas	Maxim Engineers, Inc.	05-2653	Dallas	6	08/16/85	Throughout Texas	Owners Inspection & Testing Lab., Inc.	05-3000	Dallas	1	08/20/85
Throughout Texas	Gearhart Industries	05-442	Fort Worth	63	08/21/85	Throughout Texas	Edwards Incorporated	04-2509	Abilene	3	08/29/85
Throughout Texas	Buchanan/Soil Mechanics, Inc.	06-1783	Bryan	10	08/21/85	In issuing new licenses and amending and renewing existing licenses, the Texas Department of Health, Bureau of Radiation Control, has determined that the applicants are qualified by reason of training and experience to use the material in question for the purposes requested in accordance with <i>Texas Regulations for Control of Radiation</i> in such a manner as to minimize danger to public health and safety or property and the environment; the					
Throughout Texas	Gearhart Industries, Inc.	05-2113	Fort Worth	40	08/21/85						
Throughout Texas	B-F Inspection Services	12-3546	Odessa	3	08/20/85						
Throughout Texas	Radian Corporation	06-1692	Austin	18	08/23/85						
Throughout Texas	Nuclear Sources and Services, Inc.	11-2991	Houston	10	08/23/85						
Throughout Texas	Mobil Research and Development Corporation	05-194	Farmers Branch	25	08/23/85						
Throughout Texas	Austin Testing Engineers, Inc.	06-1765	Austin	16	08/23/85						
Throughout Texas	Texas Industrial X-Ray, Inc.	10-1851	Lufkin	31	08/22/85						

applicants' proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property and the environment; the issuance of the license(s) will not be inimical to the health and safety of the public or the environment; and the applicants satisfy any applicable special requirements in the *Texas Regulations for Control of Radiation*.

This notice affords the opportunity for a hearing on written request of a licensee, applicant, or person affected within 30 days of the date of publication of this notice. A person affected is defined as a person who is resident of a county, or a county adjacent to the county, in which the radioactive materials are or will be located, 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 licensee, applicant, or 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 78756-3189.

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.

Copies of these documents and supporting materials are available for inspection and copying at the office of the Bureau of Radiation Control, Texas Department of Health, 1212 East Anderson Lane, Austin, from 8 a.m. to 5:00 p.m. Monday-Friday (except holidays).

Issued in Austin, Texas, on September 30, 1985.

TRD-859125 Robert A. MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Filed: October 2, 1985  
For further information, please call (512) 835-7000.

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## Public Hearing

The Texas Department of Health will conduct public hearings on the following solid waste disposal site applications:

(1) Application 1716 of Segro Company has been filed for a permit to operate a proposed Type IV municipal solid waste disposal site (for brush, construction-demolition waste, and rubbish only) to be located north of Arlington, on the south side of and adjacent to the Rock Island Railroad, approximately 0.75 mile east of FM Road 157, in the southwest quadrant of the intersection of Colloway Cemetery Road and Eules Main Street, in Tarrant County.

The public hearing will be held at 9:30 a.m. on Monday, November 4, 1985, at the office of Bagby, Ross, Arnn & Hartley, 517 Texas Commerce Tower, 500 East Border Street, Arlington.

(2) Application 1732 of the City of Brady has been filed for a permit to operate a proposed Type I municipal solid waste disposal site to be located approximately four miles northwest of Brady, approximately 1.4 miles northwest of the junction of U.S. Highway 87 and U.S. High-

way 283, and on the south side of U.S. Highway 87, in McCulloch County. The hearing is scheduled for 9 a.m. on Thursday, November 14, 1985, at the Civic Center, San Angelo Highway, Brady.

Issued in Austin, Texas, on September 30, 1985.

TRD-859108 Robert A. MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Filed: October 2, 1985  
For further information, please call (512) 458-7271.

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## Texas Department of Human Services Consultant Proposal Request

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Human Services (DHS) invites all interested parties to submit proposals to provide consultant services to this agency.

**Description of Services.** The purpose of the proposed contract is to provide expertise to the case consultation team of DHS Region 04. The goal is to ensure that a permanent plan is accomplished within one year for all children entering DHS conservatorship in DHS Region 04. The consultant will provide input on a case plan based on professional experience and case planning, and input to the worker/supervisor on techniques for implementing case plans and ensuring that the formulated plans are measurable, time framed, and realistic.

**Contract Term.** The contract will begin January 1, 1986, and will end December 31, 1986. Payments under the contract shall not exceed \$20,000.

**Procedure for Selecting Consultant.** The selection committee will select and award the contract on the basis of demonstrated competence, knowledge, and experience, such as, but not limited to, history of similar work, references, knowledge of child development, and knowledge of child placement resources.

**Contact Person.** For additional information or to notify the department of intent to make a proposal, contact Louie Jones, regional contract specialist, Texas Department of Human Services, P.O. Box 6635, Abilene, Texas, 79608, (915) 698-3656.

**Closing Date.** All bids must be received by DHS no later than 5 p.m. on October 17, 1985. This consulting service is a continuation of a service previously performed by a private contractor. DHS intends to award the contract to the previous contractor unless a better offer is submitted.

Issued in Austin, Texas, on October 2, 1985

TRD-859110 Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Services

Filed: October 2, 1985  
For further information, please call (512) 450-3766.

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## Texas Savings and Loan Department Application for Change of Control of an Association

Texas Civil Statutes, Article 852a, §11.20, require any person who intends to acquire control of a state-chartered savings and loan association to file an application with the savings and loan commissioner for approval of the transaction. A hearing may be held if the application is denied by the commissioner.

On September 27, 1985, the savings and loan commissioner received an application for approval of the acquisition of control of Kleberg County Savings Association, Kingsville, by Robert L. Corson of Houston.

Any inquiries may be directed to the Texas Savings and Loan Department, 1004 Lavaca, Austin, Texas 78701, (512) 475-7991.

Issued in Austin, Texas, on September 30, 1985.

TRD-858998            Russell R. Oliver  
                                 General Counsel  
                                 Texas Savings and Loan Department

Filed: September 30, 1985  
For further information, please call (512) 475-7991.

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## Southwest Texas State University Invitation to Bid

Southwest Texas State University intends to contract with a private consultant to assist with job analysis using the guidelines oriented job analysis (GOJA) method for approximately 143 occupation titles and 568 employees, and to provide a computer program to maintain the GOJA system. The scope of the contracted services shall include providing orientation to university employees on the purpose of the job analysis study and the classification processes; conducting the GOJA job analysis process on the identified positions/classifications; developing class concepts and classification specifications; implementing a review process whereby the consultant will evaluate the university's concerns on position allocation recommendations; identifying occupational series and determining appropriate classification levels; identifying positions that can be flexibly staffed; developing position titling concepts and common classification terminology and definitions; training university staff on GOJA implementation methodology and related implementation phases of the project; establishing a job analysis data base designed to be integrated into an IBM-PC (with additional mass storage device) to produce a classification description, selection plan, test matrix, performance appraisal, and supplemental application form. Offers of consulting services specifying a definite fee separate from the computer program costs are invited.

Southwest Texas State University has purchased a license agreement for GOJA system. This license and accompanying documentation are available for inspection at the Personnel Office, Southwest Texas State University, 210 J. C. Kellman Building, San Marcos.

Offers may be submitted to John E. McBride, Director of Personnel, Southwest Texas State University, 210 J. C. Kellman Building, San Marcos, Texas 78666.

Closing date for receipt of offers is 5 p.m. on October 15, 1985.

The contract for this consulting service will be awarded on the basis of extensive experience with and documented expertise in GOJA implementation and maintenance. Substantial evidence must be demonstrated by the consultant of successful implementation of GOJA not limited to the educational institution environment. A list of at least three references who have worked with the consultant on GOJA projects must accompany the offer as a separate attachment. Resumes of all consultant's staff to be involved with the project and their experience with GOJA must accompany the offer as a separate attachment. Two example sets of a job description, selection plan, test matrix, performance appraisal, and supplemental application developed from GOJA must accompany offer as separate attachments. Southwest Texas State University reserves the right to choose not to award this contract. Recommendations for the award will be made by the director of personnel to the vice president for finance and management.

Issued in San Marcos, Texas, on September 13, 1985.

TRD-858999            John E. McBride  
                                 Director of Personnel  
                                 Southwest Texas State University

Filed: September 30, 1985  
For further information, please call (512) 475-2358.

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## Texas Water Commission Applications for Waste Disposal Permits

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of September 23-27, 1985.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 475-2678.

Listed is the name of the applicant and the city in which each facility is located; type of facility; location of the facility; permit number; and type of application—new permit, amendment, or renewal.

**Period of September 23-27, 1985**

City of Taylor; wastewater treatment plant; approximately 0.6 mile south of the intersection of U.S. Highway 79 and FM Road 112 and just east of Mustang Creek, southeast of the City of Taylor in Williamson County; 10299-01; amendment

McMahan North Belt Venture, Houston; wastewater treatment plant; on the north side of North Belt and approximately ¼ mile west of John F. Kennedy Boulevard in Harris County; 12169-01; amendment

City of San Juan; wastewater treatment plant; approximately 1.9 miles south of U.S. Highway 83 Business Route at the south end of San Antonio Road in the City of San Juan, Hidalgo County; 11512-01; amendment

Markham Municipal Utility District; wastewater treatment plant; 500 feet southwest of the intersection of FM Road 1468 and FM Road 2431 in Matagora County; 10580-01; amendment

Petromax Refining Company, Inc., Houston; gasoline blending plant; approximately 1½ miles south of the intersection of Sheldon Road and IH 10, in Harris County; 02419; renewal

White Oak Owners Association, Inc., Houston; sewage treatment plant; on the north side of White

Oak Drive, approximately 1,700 feet west of Houston Avenue in the City of Houston, Harris County; 12132-01; renewal

Crozier-Nelson Chemicals and Containers, Inc., Houston; oil reclamation and wholesale chemical distribution; 2505 Collingsworth in the City of Houston; Harris County; 02801; new

The Brookshire Municipal Water District; wastewater treatment plant; immediately south of IH 10, approximately 500 feet west of Brookshire Creek in Waller County; 10001-01; amendment

H. Walter Pye, Jr., Houston; wastewater treatment facility; approximately 2700 feet west of the intersection of IH 45 and Almeda-Genoa Road, between Rowett Road and Minnesota Street in Harris County; 13194-01; new

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

TRD-859034

Mary Ann Hefner  
Chief Clerk  
Texas Water Commission

Filed September 30, 1985

For further information, please call (512) 463-7898.

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